

1977 Assembly Bill 640

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**CHAPTER 224, Laws of 1977**

AN ACT to repeal 70.335; to renumber 29.61; and to amend 26.03 (1) (a), 26.11 (3), 26.12 (title), (1), (2), (4), (5), (6) (b) and (7), 26.13 (1) and (3), 26.20 (7), 26.205, 28.035 (2), 29.225 (2), 70.113 (2) (b) (intro.) and (3) and 77.06 (2) of the statutes, relating to making various language changes and revising deadlines for action by the department of natural resources (suggested as remedial legislation by the department of natural resources).

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 26.03 (1) (a) of the statutes is amended to read:

26.03 (1) (a) Before any person ~~shall cut~~ cuts, or ~~cause~~ causes to be cut any logs, piling, poles, posts, pulpwood, Christmas trees or other forest products, except fuel wood for personal home consumption, in, upon or adjoining any forest or wild land area ~~he the~~ person shall pay all delinquent taxes ~~thereon on the land~~ and each year shall mail a notice in the English language giving his or her name and post-office address, and listing all the lands upon which ~~such~~ cutting is to be done, designating the same lands upon which cutting is to be done by each 40 acre governmental subdivision or fraction ~~thereof~~ of a 40 acre governmental subdivision with the proper section, town and range, by registered letter addressed to the county clerk of each county in which the land is located; ~~and the~~. The county clerk shall mail a copy of ~~such the~~ notice to the ~~district area~~ forest ranger and the town chairman of each town in which ~~said~~ lands upon which ~~such~~ forest products are to be cut under this paragraph are located, and to the county treasurer, who shall forthwith determine whether the county holds tax certificates or tax deeds to any of the land listed in the notice, and if ~~he the~~ county treasurer so finds, ~~he the~~ county treasurer shall take action to collect the unpaid taxes represented by county-owned tax certificates or to prevent cutting on land to which the county holds a tax deed or tax certificate. This section shall not apply to cutting for the purpose of clearing ~~such the~~ land for agricultural use or to a person who may cut up to 5 Christmas trees on ~~his the~~ person's own property for his or her own use, providing that he or she can prove that his or her real estate taxes for the previous calendar year have been paid.

SECTION 2. 26.11 (3) of the statutes is amended to read:

26.11 (3) The department shall direct and give suitable instructions to and obtain reports as directed from, the entire fire warden force of the state whether in officially established forest protection ~~districts~~ areas or elsewhere, and it may move about or concentrate the fire warden force as occasion demands.

SECTION 3. 26.12 (title), (1), (2), (4), (5), (6) (b) and (7) of the statutes are amended to read:

**26.12 (title) Forest protection areas, organization, emergency fire wardens, county cooperation, setting fire.** (1) (title) ESTABLISHMENT OF AREAS. Whenever it appears to the department from investigation, hearing or otherwise that areas in the state are in need of protection from forest fires, the department may by rule establish an intensive or an extensive forest protection ~~district area~~ in such the areas. The limits of each ~~such~~ forest protection ~~district area~~ shall be defined, and public notice of its establishment shall be published in the local press of the region affected as a class 1 notice, under ch. 985, and given ~~such any~~ any other publicity as the department deems necessary.

(2) ORGANIZATION. The department shall organize each forest protection ~~district area~~ area so as to most effectively prevent, detect and suppress forest fires, and to that end may employ experienced wardens or forest rangers to have charge of its efforts in each ~~such district area~~; may subdivide each ~~district area~~ into patrol areas; may establish lookout towers, construct ranger stations, telephone lines, purchase tools for fire fighting as well as other necessary supplies or equipment, and carry on all other activities considered necessary to effectively protect the ~~district area~~ from such forest fires, including the promulgation of rules ~~and regulations~~ for the payment of fire fighters, the preparation of notices and forms for publication and the disposition and use of all fire-fighting equipment or property. All property or equipment purchased by the state shall be owned by the state, but counties or towns may purchase and own equipment for fire suppression, and the ~~same~~ equipment shall be used for the improvement of the forest fire-fighting organization.

(4) COUNTY COOPERATION. Each county included wholly or partially in a forest protection ~~district~~ area may appoint a committee to cooperate with the department and to consider all matters relating to fire prevention, detection and suppression in ~~such the~~ county, including the payment of fire fighters, the purchase of fire-fighting equipment and all matters or details relating to or arising from the prevention, detection and suppression of ~~such~~ forest fires.

(5) SETTING FIRE. (a) No person ~~shall~~ may set any fire except for warming the person or cooking food within the limits of any intensive forest protection ~~district~~ area at any time of the year except when the ground is snow-covered, unless written permission has been received ~~beforehand~~ in advance from a duly appointed fire warden. The department shall prepare the necessary blanks for this purpose, shall prescribe rules for the issuance of ~~such the~~ permits, shall appoint, if necessary, in addition to the regular or emergency fire wardens, others who shall be authorized to issue ~~such the~~ permits, and shall have jurisdiction over all other details concerned with or growing out of the closed season on the setting of fire.

(b) No person ~~shall~~ may set any fire except for warming the person or cooking food within the limits of any extensive forest protection ~~district~~ area at any time during ~~the months of January, February, March, April and~~ through May except when the ground is snow-covered and during any other time of the year when so ordered by the department unless written permission has been received ~~beforehand~~ in advance from a duly appointed fire warden. The department shall prepare the necessary blanks for this purpose, shall prescribe rules for the issuance of ~~such the~~ permits, shall appoint, if necessary, in addition to the regular or emergency fire wardens, others who shall be authorized to issue ~~such the~~ permits, and shall have jurisdiction over all other details concerned with or growing out of the closed season on the setting of fire.

(6) (b) *Disposal*. Any person engaged in cutting timber or other forest products, including any public utility in the process of clearing or brushing any ~~right-of-way~~ right-of-way within the limits of any forest protection ~~district~~ area, shall dispose of all slash up to 4 inches in diameter resulting from ~~such the~~ cutting operations within 100 feet of the center line of any public highway, common carrier railroad, main branch or main line logging road or railroad, or within 100 feet of the boundary line of an adjacent owner. For the purpose of this section, an easement or ~~right-of-way~~ right-of-way held by a public utility, shall be construed as ownership. Areas of unbroken slash in excess of 320 acres shall be broken up by disposing of the slash for a distance of 100 feet on each side of any logging road, logging spur, portage trail or any other convenient line. All slash shall be disposed of within 500 feet of any schoolhouse, town hall, church, summer cottage, resort or the buildings of any small community or any settler. All dead rampikes, snags or stubs more than 6 feet high shall be felled within all ~~such the~~ strips heretofore mentioned under this paragraph, and for an additional 500 feet beyond except in standing timber. All slash disposal shall be by burning unless the department authorizes disposal by removal or by lopping and scattering. The disposal of slash and the felling of rampikes, snags or stubs shall be done concurrently with the cutting operation or within a reasonable period to be determined by the department, but not to exceed one year.

(7) SLASH DISPOSAL. All slash resulting from clearing or brushing on any public highway within the limits of any forest protection ~~district~~ area shall be piled and burned or lopped and scattered. Whenever ~~such clearing or brushing~~ work is done under contract the disposal of the resulting slash shall be made a part of the contract. All ~~such the~~ slash shall be disposed of concurrently with the clearing or brushing operation or within a reasonable period to be determined by the department, but not to exceed one year. On failure to dispose of ~~such the~~ slash the department may do the work and the municipality or contractor doing ~~such the~~ clearing or brushing shall be liable to the state for the cost of ~~such the~~ work.

SECTION 4. 26.13 (1) and (3) of the statutes are amended to read:

26.13 (1) The chairman of the town board of each town outside the limits of a forest protection ~~district area~~ shall, by virtue of ~~his~~ the office and the oath ~~thereof of the office~~, be town fire warden for ~~such~~ the town. He shall assist and cooperate with the department in all matters relating to the prevention, detection and suppression of forest fires. If a town is unusually large or if special or peculiar conditions in connection with ~~such~~ forest fires exist, the department may, upon recommendation of the town chairman, annually, appoint ~~such~~ emergency fire wardens as ~~are~~ necessary, whose duties and authority shall be the same as ~~heretofore~~ provided for emergency fire wardens serving in forest protection ~~districts~~ areas.

(3) Whenever the town board of any town located outside of a forest protection ~~district area~~ area deems it imprudent to set fires upon any land within the town, they shall post or cause to be posted in 5 or more public places in each township in ~~such~~ the town, notices, which shall be prepared by the department, or place one such notice in the official county paper, forbidding the setting of fires ~~therein in the township~~, and after the posting of ~~such~~ the notices no person shall ~~may~~ set any fire upon any land in ~~said~~ the town except for warming the person or cooking food, until written permission has been received from one of the fire wardens of ~~said~~ the town.

SECTION 5. 26.20 (7) of the statutes is amended to read:

26.20 (7) FIRE PATROL. All ~~such~~ corporations maintaining and operating a railway, during a dangerously dry season, and when so directed by the department, shall provide fire patrols for duty along their tracks. Whenever the department ~~shall deem it~~ deems necessary it may order ~~such~~ the corporations to provide for fire patrol personnel to follow each train throughout ~~such districts forest protection areas~~ as may be necessary to prevent fires. When the department has given a corporation ~~such~~ notice that in its opinion the conditions require ~~such a~~ patrol after trains, the corporation shall immediately comply with ~~such the~~ instructions throughout the ~~districts areas~~ designated; ~~or on its failure~~. If the corporation fails to do so, the department may employ fire patrol personnel, and furnish them with the necessary equipment to patrol the rights-of-way of ~~such~~ the corporations, and the expense of the ~~same~~ patrols shall be charged to the corporation and ~~the same~~ may be recoverable in a civil action in the name of this state, ~~and in~~. In addition thereto, the ~~said~~ corporation is subject to the penalties under sub. (9). ~~Such~~ The corporation, acting independently of the department, shall patrol its rights-of-way after the passage of each train when necessary to prevent the spread of fires and use the highest ~~degrees~~ degree of diligence to prevent the setting and spread of fires, and its officers and employes operating trains in this state, shall use diligence in ~~the extinguishment of~~ extinguishing fires set by locomotives or found existing upon their respective rights-of-way, and any negligence in this regard shall render ~~such the~~ corporation or any officer or employe subject to the penalties under sub. (9). Every corporation affected by this section shall designate and register with the department an officer or some other person to be responsible for carrying out the corporation's responsibilities with the highest degree of diligence. If ~~such the~~ officer or person fails in ~~such the~~ duty, he or she shall forfeit not more than \$500.

SECTION 6. 26.205 of the statutes is amended to read:

**26.205 Tractors, spark arresters.** Tractors operating in a forest protection ~~district area~~ or on other land where there is danger of setting fire, shall be equipped so that ~~such the~~ tractors will not set fire on ~~such the~~ lands and to reduce to a minimum the danger of setting fire. The department or its locomotive inspector is authorized and directed to reject from service all tractors not properly equipped to prevent the setting of fires. The department shall, after investigation, prescribe suitable fire preventive devices for tractors operating in marsh land or on other land where there is danger of fire being set by their operation.

SECTION 8. 28.035 (2) of the statutes is amended to read:

28.035 (2) The department of ~~natural resources~~ shall enter into an agreement with the Wisconsin department of the American Legion for hunting in the state forest lands described as lots 3, 4, 6 and 7 of section 8 and lots 2 and 3 of section 17, township 38 north, range 7 east, Oneida county, which are used in connection with Camp American Legion and which the Legion is now maintaining on this location as a restoration camp for sick and disabled veterans of ~~World War I and World War II~~ and their dependents.

SECTION 10. 29.225 (2) of the statutes is amended to read:

29.225 (2) CERTIFICATE OF ACCOMPLISHMENT. The department shall issue a certificate of satisfactory completion of the courses of instruction required ~~herein under this section~~ to any person entitled ~~thereto~~. Such to a certificate. The certificate may be used by a resident to whom issued in lieu of a small game hunting license as required in s. 29.09 ~~for a period of one year from the date of issuance.~~ The certificate shall be valid for one calendar year effective September 1 of the year following the date of issuance of the certificate and shall expire on August 31 of the next year. The form and content of the certificate shall be as prescribed by the department.

SECTION 11. 29.61 of the statutes is renumbered 66.37.

SECTION 12. 70.113 (2) (b) (intro.) and (3) of the statutes, as affected by chapter 29, laws of 1977, are amended to read:

70.113 (2) (b) (intro.) Towns, cities or villages shall be paid aids in lieu of taxes for real estate specified in par. (a). The first payment on an acquisition after July 1, 1969, shall be determined on the basis of the January 1 local assessment following ~~such the~~ acquisition multiplied by the county, local and school tax rate levied against all January 1 assessments for that year. The payment to the town, city or village shall be made ~~on or about~~ after April 20 following the tax levy. Subsequent payments shall be made ~~on or before~~ after April 20 following the levy date according to the following schedule:

(3) The town, city or village authorized to receive payment under sub. (2) and the state may petition the department of revenue to review the assessment of the property upon which taxes were levied, ~~such the~~ taxes now being the basis for payment under sub. (2). The petition to the department of revenue to review the assessment shall be due ~~July 1 of the year to which the assessment complained of relates.~~ The filing of the petition shall be considered timely if mailed in a properly addressed envelope with postage duly prepaid, which envelope is postmarked before midnight of August 1 within 30 days of receipt of the assessment. In its review, the department of revenue shall determine if the assessment complained of is unreasonably out of proportion to the general average of the assessment of all other property in ~~such the~~ taxation district, and if it finds the assessment high or low it shall lower or raise ~~such the~~ assessment. The department of revenue shall make its determination not later than ~~September 1 of the year in which~~ 60 days after the petition is received, and its decision shall be final and not subject to review.

SECTION 13. 70.335 of the statutes is repealed.

SECTION 14. 77.06 (2) of the statutes is amended to read:

77.06 (2) APPRAISAL OF TIMBER, ZONES. ~~During the month of July in each~~ Each year the department of natural resources, at ~~such the~~ time and place as it shall fix, and after such public notice ~~thereof~~ as it deems reasonable, shall hold a public hearing, ~~and not later than September first thereafter.~~ After the hearing the department shall make and file, open to public inspection, a determination of the reasonable stumpage values of the wood products usually grown in the several towns in which any forest ~~crop~~ lands croplands lie. A public hearing under this section shall be held prior to August 1 of each year and the determination of stumpage values made by the department of natural resources shall take effect on November 1 of that year. If the department of natural resources finds there is a

material variance in ~~such~~ the stumpage values in the different localities, it may fix separate zones and determine ~~such~~ the values for each zone.

**SECTION 15. Program responsibility citations.** In the list of program responsibility citations enumerated for the department of natural resources under section 15.341 (intro.) of the statutes, reference to section "70.335" is deleted.

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