

1 Introduced by Committee on Natural Resources and Energy

2 Date:

3 Subject: Conservation and development; forestry; timber harvesting

4 Statement of purpose of bill as introduced: This bill would require the

5 Commissioner of Forests, Parks and Recreation (Commissioner) to establish a

6 harvest notification pilot program under which a landowner of property may

7 notify the Commissioner prior to commencing a timber harvest in the State.

8 Upon notification, the landowner would receive a unique harvest notification

9 number and technical assistance and information regarding harvest practices.

10 The bill would also establish a Harvest Notification Study Committee to

11 review and recommend whether a landowner should be required to notify the

12 Department of Forests, Parks and Recreation of timber harvests that occur in

13 the State.

14 An act relating to timber harvesting

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. 10 V.S.A. § 2600 is added to read:

17 § 2600. FINDINGS

18 The General Assembly finds that:

19 (1) Private and public forestlands:

1 (A) constitute unique and irreplaceable resources, benefits, and
2 values of statewide importance;

3 (B) contribute to the protection and conservation of wildlife habitat,
4 air, water, and soil resources of the State;

5 (C) mitigate the effects of climate change; and

6 (D) benefit the general health and welfare of the people of the State.

7 (2) The forest products industry, including maple sugar production:

8 (A) is a major contributor to and is valuable to the State’s economy
9 by providing jobs to its citizens;

10 (B) is essential to the manufacture of forest products that are used
11 and enjoyed by the people of the State; and

12 (C) benefits the general welfare of the people of the State.

13 (3) Private and public forestlands are critical for and contribute
14 significantly to the State’s outdoor recreation and tourism economies.

15 (4) Forestry operations are adversely affected by the encroachment of
16 urban, commercial, and residential land uses throughout the State that result in
17 forest fragmentation and conversion and erode the health and sustainability of
18 remaining forests.

19 (5) As a result of encroachment on forests, conflicts have arisen between
20 traditional forestry land uses and urban, commercial, and residential land uses
21 that threaten to convert forestland permanently to other uses, resulting in an
22 adverse impact to the economy and natural environment of the State.

1 (6) The encouragement, development, improvement, and preservation of
2 forestry operations will result in a general benefit to the health and welfare of
3 the people of the State and the State’s economy.

4 (7) The forest products industry, in order to survive, likely will need to
5 change, adopt new technologies, and diversify into new products.

6 (8) Forestry operations, including logging, transportation, and
7 processing of on-site-derived forest products, may be subject to lawsuits based
8 on the theory of nuisance. Nuisance suits could encourage and result in the
9 conversion of forestland and loss of the forest products industry.

10 (9) It is in the public interest of the people of the State to ensure that
11 forestry operations that are conducted in accordance with the following are
12 protected and encouraged and are not subject to public and private nuisance
13 actions arising out of conflicts between forestry operations and urban,
14 commercial, and residential uses:

15 (A) the Acceptable Management Practices for Protecting Water
16 Quality on Logging Jobs in Vermont, as adopted by the Commissioner of
17 Forests, Parks and Recreation;

18 (B) accepted silvicultural practices as defined by the Commissioner
19 of Forests, Parks and Recreation; and

20 (C) the requirements of this subchapter.

1 Sec. 2. 10 V.S.A. § 2601 is amended to read:

2 § 2601. POLICY AND PURPOSES

3 (a) The conservation of the forests, timberlands, woodlands, and soil and
4 recreational resources of the ~~state~~ State are hereby declared to be in the public
5 interest. It is the policy of the ~~state~~ State to encourage economic management
6 of its forests and woodlands, sustain long-term forest health, integrity, and
7 productivity, to maintain, conserve and improve its soil resources and to
8 control forest pests to the end that forest benefits, including maple sugar
9 production, are preserved for its people, floods and soil erosion are alleviated,
10 hazards of forest fires are lessened, its natural beauty is preserved, its wildlife
11 is protected, the development of its recreational interests is encouraged, the
12 fertility and productivity of its soil are maintained, the impairment of its dams
13 and reservoirs is prevented, its tax base is protected, and the health, safety, and
14 general welfare of its people are sustained and promoted.

15 (b) The ~~department~~ Department shall implement the policies of this chapter
16 by assisting ~~forest land~~ forestland owners and lumber operators in the cutting
17 and marketing of forest growth, encouraging cooperation between forest
18 owners, lumber operators, and the ~~state~~ State of Vermont in the practice of
19 conservation and management of ~~forest lands~~ forestlands, managing,
20 promoting, and protecting the multiple use of publicly owned forest and park
21 lands; planning, constructing, developing, operating, and maintaining the
22 system of ~~state~~ State parks; determining the necessity of repairs and

1 replacements to all ~~department-owned~~ Department-owned buildings and
2 causing urgent repairs and replacements to be accomplished, with the approval
3 of the ~~secretary of administration~~ Secretary of Administration, if within the
4 limits of specific appropriations or if approved by the ~~emergency board~~
5 Emergency Board; and providing advice and assistance to municipalities, other
6 political subdivisions, ~~state~~ State departments and nongovernmental
7 organizations in the development of wholesome and adequate community or
8 institutional recreation programs.

9 (c) The Commissioner shall implement the policy established under this
10 section when constructing the provisions of this chapter related to the
11 management of forestlands and the construction of chapters 85 and 87 of
12 this title.

13 Sec. 3. 10 V.S.A. § 2602 is amended to read:

14 § 2602. DEFINITIONS

15 As used in this chapter:

16 (1) “Agency” means the ~~agency of natural resources~~ Agency of Natural
17 Resources as created by 3 V.S.A. chapter 51 of Title 3;

18 (2) “Department” means the ~~department of forests, parks and recreation~~
19 Department of Forests, Parks and Recreation within the ~~agency of natural~~
20 ~~resources~~; Agency of Natural Resources.

21 (3) “Commissioner” means the ~~commissioner of the department of~~
22 ~~forests, parks and recreation~~; Commissioner of Forests, Parks and Recreation.

1 (4) “Secretary” means the ~~secretary of the agency of natural resources~~
2 Secretary of Natural Resources.

3 (5) “Forest product” mean logs; pulpwood; veneer; bolt wood; wood
4 chips; stud wood; poles; pilings; biomass; fuel wood; maple sap; or bark.

5 (6) “Forestry operation” means activities related to the management of
6 forests, including a timber harvest; pruning; planting; reforestation; pest,
7 disease, and invasive species control; wildlife habitat management; and
8 fertilization. “Forestry operation” includes the primary processing of forest
9 products of commercial value on a parcel where the timber harvest occurs.

10 (7) “Timber” means trees, saplings, seedlings, bushes, shrubs, and
11 sprouts from which trees may grow, of every size, nature, kind, and
12 description.

13 (8) “Timber harvest” means a forestry operation involving the harvest
14 of timber.

15 Sec. 4. 10 V.S.A. § 2608 is amended to read:

16 § 2608. ENFORCEMENT; PENALTIES; LIABILITY

17 ~~(a) Enforcement of the provisions of this chapter or any regulations or~~
18 ~~proclamations promulgated~~ rules adopted hereunder shall be in accordance
19 with ~~the provisions of 3 V.S.A. § 2822(e)~~ chapter 201 or 211 of this title.

20 ~~(b) A person who violates any provision of this chapter or regulations or~~
21 ~~proclamations promulgated hereunder, or neglects or refuses to assist a fire~~
22 ~~warden when called upon to do so as provided in section 2644 of this title,~~

1 ~~shall be imprisoned not more than 30 days or fined not more than \$ 50.00, or~~
2 ~~both. Such person shall be liable for all damages resulting from a violation to~~
3 ~~be recovered in a civil action under this statute by the person injured.~~

4 Sec. 5. 10 V.S.A. § 2613 is added to read:

5 § 2613. HARVEST NOTIFICATION; PILOT PROGRAM

6 (a) Findings. The General Assembly finds and declares that:

7 (1) The public will benefit from accountability of persons conducting
8 timber harvests by providing a mechanism for the Department to distribute
9 information and guidance to achieve compliance with existing laws and
10 programs related to harvesting, including Use Value Appraisal eligibility
11 requirements, and those that protect landowners, the environment, and the
12 economy.

13 (2) Enforcement of compliance with the Acceptable Management
14 Practices for Maintaining Water Quality on Logging Jobs in Vermont will be
15 facilitated through notification and documentation of timber harvests.

16 (3) Owners of forestlands will benefit from proactive and timely
17 delivery of guidance and resources that support successful forestry operations,
18 including timber harvesting, provided by the Department, including the
19 Vermont Voluntary Harvesting Guidelines.

20 (4) State knowledge of harvest locations will improve the understanding
21 of factors affecting the forest economy, thereby informing opportunities to
22 support it.

1 (b) Harvest notification; pilot. The Commissioner shall establish a harvest
2 notification pilot program under which a landowner of property may notify the
3 Commissioner prior to commencement of a timber harvest. The process
4 established by the Commissioner shall allow for a harvest notification by
5 electronic means, telephone, or paper submission.

6 (c) Requested information. The Commissioner shall designate the
7 information to be submitted to the Department in a voluntary harvest
8 notification. The requested information shall contain, at a minimum, the
9 following information:

10 (1) the landowner's name; mailing address; physical address of
11 residence; e-mail address, if any; and telephone number;

12 (2) the name of the logger or contractor conducting the harvest and his
13 or her mailing address; address of the principal place of business or residence;
14 e-mail address, if any; and telephone number.

15 (3) the name of the landowner's agent or consulting forester, if any, and
16 his or her mailing address; address of the principal place of business or
17 residence; e-mail address, if any; and telephone number;

18 (4) the location of the timber harvest, including the town and the nearest
19 public town highway used to access the timber harvest;

20 (5) the school property account number (SPAN) of the parcel where the
21 timber harvest will occur;

1 (6) the date the timber harvest will commence and the estimated date the
2 harvest will be completed;

3 (7) the estimate of the acreage of the timber harvest area; and

4 (8) whether the parcel where the timber harvest will occur is enrolled in
5 the use value appraisal program.

6 (d) Harvest number; technical assistance. Upon receipt of a complete
7 harvest notification, the Commissioner shall assign a unique harvest number to
8 the timber harvest and shall provide the landowner with technical guidance or
9 information, including: a sample timber sale contract; voluntary harvesting
10 guidelines; guidance on compliance with maintaining water quality protection
11 during a timber harvest; and referral, where applicable, to appropriate natural
12 resource professionals.

13 (e) Confidentiality. Information submitted by a landowner in a voluntary
14 harvest notification under this section is confidential and exempt from public
15 inspection under the Public Records Act.

16 (f) Rulemaking. The Commissioner may adopt rules to implement the
17 requirements of this section.

18 Sec. 6. DEPARTMENT OF FORESTS, PARKS AND RECREATION;

19 HARVEST NOTIFICATION STUDY COMMITTEE

20 (a) Creation. There is created a Harvest Notification Study Committee to
21 review and recommend to the General Assembly whether a landowner should

1 be required to notify the Department of Forests, Parks and Recreation
2 (Department) prior to commencement of a timber harvest in the State.

3 (b) Membership. The Harvest Notification Study Committee shall be
4 composed of the following nine members:

5 (1) the Commissioner of Forests, Parks and Recreation or designee;

6 (2) one member of the House of Representatives, appointed by the
7 Speaker of the House;

8 (3) one member of the Senate, appointed by the Committee on
9 Committees;

10 (4) two forest landowners, appointed by the Governor;

11 (3) two consulting foresters, appointed by the Speaker of the House; and

12 (4) two persons who harvest timber, appointed by the Committee on
13 Committees.

14 (c) Powers and duties. The Harvest Notification Study Committee shall:

15 (1) evaluate harvest notification requirements in other states, including
16 the asserted policy purposes for the notification requirements;

17 (2) assess whether and how a harvest notification requirement would
18 protect landowners from misappropriation of forest products;

19 (3) specify how a harvest notification requirement could assist the
20 Department of Forests, Parks and Recreation in encouraging implementation of
21 the use of the voluntary harvesting guidelines and the Acceptable Management

1 Practices for Protecting Water Quality on Logging Jobs in Vermont, as adopted
2 by the Commissioner of Forests, Parks and Recreation;

3 (4) review effectiveness of the Harvest Notification Pilot Program
4 established under 10 V.S.A. § 2613 and based on the implementation of the
5 Pilot Program recommend whether a landowner should be required to notify
6 the Department of Forests, Parks and Recreation of a timber harvest in the
7 State; and

8 (5) if the Committee determines harvest notification should be required,
9 it shall propose a method or methods of notification and the specific
10 information to be provided.

11 (d) Assistance. The Harvest Notification Study Committee shall have the
12 administrative, technical, and legal assistance of the Department of Forests,
13 Parks and Recreation.

14 (e) Report. On or before January 1, 2017, the Harvest Notification Study
15 Committee shall report to the House Committees on Natural Resources and
16 Energy and on Agriculture and Forest Products and the Senate Committee on
17 Natural Resources and Energy with its findings and any recommendations for
18 legislative action.

19 (f) Meetings.

20 (1) The Commissioner of Forests, Parks and Recreation shall call the
21 first meeting of the Harvest Notification Study Committee to occur on or
22 before September 1, 2016.

1 (2) The Commissioner of Forests, Parks and Recreation shall be the
2 Chair of the Harvest Notification Study Committee.

3 (3) A majority of the membership shall constitute a quorum.

4 (4) The Harvest Notification Study Committee shall cease to exist on
5 February 1, 2017.

6 (g) Reimbursement.

7 (1) For attendance at meetings during adjournment of the General
8 Assembly, legislative members of the Harvest Notification Study Committee
9 shall be entitled to per diem compensation and reimbursement of expenses
10 pursuant to 2 V.S.A. § 406 for no more than [#] meetings.

11 (2) Other members of the Harvest Notification Study Committee who
12 are not employees of the State of Vermont and who are not otherwise
13 compensated or reimbursed for their attendance shall be entitled to [per diem
14 compensation/reimbursement of expenses/both] pursuant to 32 V.S.A. § 1010
15 for no more than [#] meetings, to be paid from the budget of the Department
16 of Forests, Parks and Recreation.

17 Sec. 7. SUNSET; HARVEST NOTIFICATION PILOT PROGRAM

18 10 V.S.A. § 2613 (harvest notification pilot program) shall be repealed on
19 July 1, 2019.

20 Sec. 8. EFFECTIVE DATE

21 This act shall take effect on July 1, 2016.