

**H.584: An Act Relating to Miscellaneous Timber Harvesting,
Forestry, and State Lands Issues**
Section by Section Summary

Section 1. 10 V.S.A. § 2601a. FINDINGS

- Findings section added to Department of Forests, Parks and Recreation (DFPR) general authority. Recognizes: environmental importance of forests; importance of the forest products economy; land use pressure on forest operations; and the interest in protecting forest operations from nuisance suits.

Section 2. 10 V.S.A. § 2601. DFPR POLICY AND PURPOSES

- Amends the policy section for DFPR to add 10 V.S.A. § 2601(c) to require DFPR to implement the policy when constructing laws within its authority to administer or implement.
 - The 10 V.S.A. § 2601(a) policy statement requires: conservation of forests, economic management of forestlands; soil conservation; pest control; wildlife protection; and development of recreation interests.

Section 3. 10 V.S.A. § 2602. DEFINITIONS

- Adds definitions of “forest products,” “forestry operation,” “timber,” and “timber harvest.”

Section 4. 10 V.S.A. § 2608. ENFORCEMENT

- DFPR statutes to be enforced under 10 V.S.A. ch. 201 (ANR enforcement) and ch. 211 (A.G. civil enforcement)

Section 5. 10 V.S.A. §§ 2613 and 2614. HARVEST NOTIFICATION; TRANSPORTATION

§ 2613: Harvest Notification Requirements

- § 2613(a): Requires landowner to notify DFPR 7 days prior to commencing a timber harvest.
 - § 2613(b): Harvesting of 20 cords or 10,000 board feet annually are exempt.
- § 2613(c): Requires information for a harvest notification, including:
 - contact information for landowner, logger, and forester; harvest location; date harvest commences; estimated harvest acreage and volume; and UVA status of parcel.
- § 2613(d): DFPR shall issue a harvest number for a harvest identified in a complete harvest notification form.
- § 2613(e): The harvest number shall have a term of 3 years, and can be extended for 3 years.
- § 2613(f): The harvest number shall be posted at the log landing of the harvest.
- § 2613(g). DFPR may adopt rules to implement the harvest notification requirements.
- § 2613(h). A person who knowingly or recklessly violates a harvest notification requirement shall be imprisoned not more than 2 years, or fined not more than \$150,000, or both.

§ 2614: Transportation of Trees, Logs, Chips, Firewood, or Pulpwood; Trip Tickets

- § 2614(a): Requires a trip ticket for every load of forest products transported from a harvest location to the location of first measurement. Trip ticket shall include:
 - contact information of transporter; date of transport; harvest number; destination; name of purchaser; volume of forest products transported; and load number assigned by transporter.
- § 2614(b): Exempts from trip ticket requirement transport of split firewood that is exempt from harvest notification and transport of 10 Christmas trees.
- § 2614(c): A mill or other person accepting a load of forest products shall require a trip ticket prior to first measurement. The mill retains the trip ticket in its records for 6 years.
- § 2614(d): A load of forest products transported from first measurement shall be accompanied by a bill of sale ticket. Bill of sale ticket includes: buyer's contact information; load number; volume; destination; date of transport; and delivery dates.
- § 2614(e): DFPR may adopt rules to implement trip ticket and bill of sale requirements.
- § 2614(f): A knowing or reckless violation of the trip ticket requirement is punishable by imprisonment of not more than 2 years, or a fine of not more than \$150,000, or both.

Section 6. 10 V.S.A. § 8003. ANR ENFORCEMENT CHAPTER

- Amends ANR enforcement authority to reference harvest notification and trip ticket requirements.

Section 7. 10 V.S.A. § 8503. APPEAL OF ANR ACTS OR DECISIONS

- Amends authority to appeal ANR decisions to reference harvest notice and trip ticket requirements.

Section 8. 10 V.S.A. § 2606b. MAPLE SUGAR PRODUCTION ON STATE LANDS

- DFPR will develop maple production guidelines in consultation with maple sugar makers, not jointly.
- Sets maple license fee on State lands as \$.75 per tap, instead of formula based on old grading system.

Section. 9. 12 V.S.A. chapter 196. RIGHT TO CONDUCT FORESTRY OPERATIONS

- § 5755: Findings section identical to Sec. 1 of bill.
- § 5756: Definitions section. Definitions largely the same as the definitions for harvest notification and transport sections in Sec. 5 of the bill.
- § 5757(a): Provides that listed forestry activities shall be presumed not to create a public or private nuisance if the activity complies with: the AMPs for water quality on logging jobs; accepted silvicultural practices; and other applicable law.
 - Activities that qualify for the presumption against nuisance include: forestry operations; change in ownership of parcel; cessation or interruption of forestry operation; enrollment in conservation programs; adoption of new forest technology; change in forestry operation; construction of log landings or roads; removal or storage of forest products; visual changes due to removal or storage; forestry equipment noise; and use of chemicals used in forestry operations.

- § 5757(b): The presumption that a forestry operation is not a nuisance may be rebutted by showing that the operation or activity has a substantial adverse effect on health, safety, or welfare or has a noxious and significant interference with use and enjoyment of the neighboring property.
- § 5757(c): The authority of State or local boards of health to abate nuisances is not limited by the section.
- § 5758. If a court determines that a nuisance action brought against a forestry operation must be dismissed under 12 V.S.A. § 5757, the person conducting the forestry operation shall be awarded costs and expenses, including attorney's fees.

Section 10. 13 V.S.A. chapter 77. TIMBER TRESPASS; TREES AND PLANTS

- § 3601: Strikes definitions of “harvest unit” and “harvester” from definitions section for timber trespass. Adds definitions of “forest products” and “timber.”
- § 3602: Strikes the current law providing that timber trespass is a civil penalty, but retains, for the purposes of a civil suit, the system for valuing damages from a timber trespass.
- §§ 3603 and 3604: Repeals section regarding marking harvest units prior to harvest and exemptions from marking units.
- § 3606: Amends the authority for a person to bring a civil suit for damages caused by timber trespass to specify the type of damages that an injured party may recover, including damage to land and costs of litigation.
 - Also provides that an injured party may recover damages based on the kind, condition or use of the relevant timber, or may use the valuation system under 13 V.S.A. § 3602.
- § 3606a: Establishes as a crime the knowing or reckless cutting down, destruction, or removal of timber or forest products of another. The penalty for the crime of timber trespass is:
 - (1) for timber valued at more than \$1,000, imprisonment of not more than 5 years, or a fine of not more than \$5,000, or both; and
 - (2) for timber valued at less than \$1,000, imprisonment of more than 2 years, or a fine of not more than \$2,000, or both.

Section 11. 4 V.S.A. § 1102(b). JUDICIAL BUREAU AUTHORITY; TIMBER TRESPASS

- Strikes Judicial Bureau authority for timber trespass civil penalty; penalty never enforced; the enforcement agent was never specified.

Section 12. 24 V.S.A. § 4413(d). MUNICIPAL REGULATION; FORESTRY OPERATIONS

- § 4413(d): Provides that a municipal bylaw cannot regulate forestry operations as that term is defined in 10 V.S.A. § 2602.
- § 4413(d)(3): Strikes municipal authority to enact a forest management practices bylaw.
- § 4413(d)(4): Despite prohibition on municipal authority to adopt a bylaw regulating forestry operations, municipalities retain authority to impose reasonable conditions in conditional use review for habitat, threatened or endangered species, or natural resources.

Section 13. 10 V.S.A. chapter 83. FIRE WARDENS; OPEN BURNING; SLASH REMOVAL

- § 2641: Authorizes Commissioner of DFPR to appoint town forest fire warden for 5 year terms. Commissioner may remove a warden at any time for cause.
- § 2642: Increases the salary of town forest fire wardens to \$30 annually.
- § 2643: Amends how municipalities are reimbursed for costs of forest fire suppression.
 - Municipalities shall be responsible for forest fire suppression within their boundaries
 - Increases reimbursement for suppression costs from costs in excess of 10% of grant list, to costs in excess of 1% of grand list. For suppression on ANR lands, the rate of reimbursement shall be set by DFPR.
 - Warden must submit costs within 14 days of date incurred in order to receive reimbursement.
- § 2644: Amends duties of fire warden to clarify warden authority to supervise suppression. Also, repeals requirements that a warden patrol dangerous areas.
- § 2645: Amends the requirements for an open burning permit to provide that an open kindle permit is required from the town forest fire warden to burn natural wood and other materials that are not solid waste.
 - Exceptions to the permit requirements are provided for fires on snow; fires in fire rings on State lands; fires 200 feet or more from woodlands; and fires in municipalities with fire departments.
- § 2648: Strikes requirement that slash be removed from logging roads; slash can provide water quality benefits.

Section 14. 32 V.S.A. § 5. GIFTS, GRANTS, OR DONATIONS TO DFPR

- Provides that approval by the Governor or the General Assembly (Joint Fiscal Committee) is not required for gifts, grants, and donations to DFPR from the Vermont Parks Forever Foundation or similar nonprofit organization that exists to support the Vermont State parks.
- The DFPR, Secretary of Administration, and Secretary of Natural Resources would need to approve the gift, grant, or donation.

Section 15. 32 V.S.A. § 3757. LAND USE CHANGE TAX; LANDS ACQUIRED BY DFPR

- Land acquired by ANR for public uses shall be exempt from the land use change tax.
- At the request of ANR, the Commissioner of Taxes shall release land held by ANR from any lien attached to the property under Use Value Appraisal program.

Section 16. RETROACTIVE APPLCIATION OF DFPR LAND USE CHANGE TAX EXEMPTION

- The exemption under Sec. 15, 32 V.S.A. § 3757, applies retroactively to all land acquired by ANR.

Section 17. EFFECTIVE DATE

- The act shall take effect July 1, 2016.