

HNRE Committee Bill Dr. 16-838: An Act Relating to the Conduct of Forestry Operations
Section by Section Summary

Section. 1. 12 V.S.A. chapter 196. Right To Conduct Forestry Operations

- 12 V.S.A. § 5755: Findings section. The findings recognize:
 - the environmental importance of forests;
 - the importance of the forest products economy in Vermont;
 - that multiple competing land uses have created conflicts with forestry operations; and
 - it is in the public interest to protect forest operations from nuisance suits.
- 12 V.S.A. § 5756: Definitions section. Adds definitions of “forest products,” “forestry operation,” “timber,” and “timber harvest.”
- 12 V.S.A. § 5757(a): Protection from Nuisance section. Provides that a list of specific forestry activities shall be presumed not to create a public or private nuisance if the activity complies with:
 1. the Accepted Management Practices for water quality on logging jobs;
 2. accepted silvicultural practices; and
 3. other applicable law (for example, the heavy cut law if it is applicable).
 - The 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; and
 - use of chemicals used in forestry operations.
- 12 V.S.A. § 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 the use and enjoyment of the neighboring property.
- 12 V.S.A. § 5757(c): The authority of State or local boards of health to abate nuisances is not limited by the section.

- 12 V.S.A. § 5758. Attorney's fees section. 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 2. 24 V.S.A. § 4413(d). Municipal Regulation; Forestry Operations

- 24 V.S.A. § 4413(d): Provides that a municipal bylaw cannot regulate forestry operations as that term is defined in 10 V.S.A. § 2602.
 - Intended to limit municipal regulation in the same way that municipalities are limited from regulating agriculture or silvicultural operations.
- 24 V.S.A. § 4413(d)(3): Strikes municipal authority to enact a forest management practices bylaw.
- 24 V.S.A. § 4413(d)(4): Despite prohibition on municipal authority to adopt a bylaw regulating forestry operations, municipalities retain authority to impose reasonable conditions on land development in conditional use review for habitat, threatened or endangered species, or natural resources, provided that the conditions do not restrict or regulate forestry operations unrelated to land development.

Section 3. Effective Date

- The act takes effect July 1, 2016.