

April 12, 2016

TO: Senate Committee on Natural Resources and Energy  
FROM: Put Blodgett, President, Vermont Woodlands Association  
RE: H.851 Right to Practice Forestry

Agriculture has a Right to Practice Agriculture statute. Forestry is hoping to achieve a similar status. BOTH are necessary to continue Vermont's Working Landscape!

Originally, H.851 proposed "to provide that certain forestry operations would not be subject to liability as a public or private nuisance. The bill would also provide that a municipal bylaw may not provide for the regulation of forestry operations."

The FINDINGS listed, in convincing detail, how important forests and forest products are to this state which is 75% covered with trees.

The FINDINGS further state that forestry operations that are conducted in accordance with the Acceptable Management Practices for Protecting Water Quality on Logging Jobs in Vermont, accepted silvicultural practices and the requirements of this subchapter should not be subject to public and private nuisance lawsuits.

However, protection was provided for the public and adjoining landowners by "(b): The presumption under subsection (a) of this section that a listed forestry operation or other activity does not constitute a nuisance may be rebutted by a showing that the forestry operation or other activity has a substantial adverse effect on health, safety, or welfare, or has noxious and significant interference with the use and enjoyment of the neighboring property."

Also included was that a defendant in a dismissed nuisance lawsuit "shall be awarded the actual amount of costs and expenses reasonably incurred in connection with the defense of the action, including reasonable attorney's fees."

The Trial Lawyers lobbyist prevailed upon the House Judiciary Committee to not only remove the FINDINGS that outlined the importance of this bill, but to eliminate everything giving protection to landowners from nuisance lawsuits to collection of costs! The ONLY thing remaining for forest landowners was protection from municipalities passing bylaws regulating forest operations unrelated to development.

The basic question is: Do the forest landowners who own  $\frac{3}{4}$  of Vermont deserve protection from nuisance lawsuits or do the trial lawyers deserve the opportunity to collect legal fees from nuisance lawsuits?

Those of us involved in managing forests fervently hope that the Senate will place the greater interests of those owning 75% of the state above the special interests of the trial lawyers—and restore the gutted H.851 to its original state!