

S.101

An act relating to the conduct of forestry operations

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

In Sec. 1, by striking out 12 V.S.A. § 5757 in its entirety and inserting in lieu thereof a new 12 V.S.A. § 5757 to read as follows:

§ 5757. FORESTRY OPERATIONS; PROTECTION FROM NUISANCE  
LAWSUITS

(a) Except as provided for under subsections (b) and (c) of this section, a person conducting a conventional forestry practice shall be entitled to a rebuttable presumption that the conventional forestry practice does not constitute a public or private nuisance if the person conducts the conventional forestry practice in compliance with the following:

(1) the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont as adopted by the Commissioner under 10 V.S.A. § 2622; and

(2) other applicable law.

(b) The presumption under subsection (a) of this section that a person conducting a conventional forestry practice does not constitute a nuisance may be rebutted by showing:

(1) a nuisance resulted from the negligent operation of the conventional forestry practice;

(2) a nuisance resulted from a violation of State, federal, or other applicable law during the conduct of the conventional forestry practice; or

(3) clear and convincing evidence that the conventional forestry practice has a substantial adverse effect on the health, safety, or welfare of the complaining party.

(c) Nothing in this section shall be construed to limit the authority of State or local boards of health to abate nuisances affecting the public health.