

1 Introduced by Committee on Agriculture and Forestry

2 Date:

3 Subject: Agriculture; forestry; miscellaneous provisions

4 Statement of purpose of bill as introduced: This bill proposes to make multiple  
5 miscellaneous changes to forestry statutes, including establishing a hearing  
6 process for tree wardens, exempting forestry equipment from the purchase and  
7 use tax, and partially exempting forestry processing facilities from Act 250  
8 jurisdiction.

9 An act relating to miscellaneous forestry subjects

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

11 \* \* \* Tree Wardens \* \* \*

12 Sec. 1. 24 V.S.A. § 871 is amended to read:

13 § 871. ORGANIZATION OF SELECTBOARD; APPOINTMENTS

14 (a) ~~Forthwith after~~ After its election and qualification, the selectboard shall  
15 organize and elect a chair and, if so voted, a clerk from among its number, and  
16 file a certificate of such election for record in the office of the town clerk. The  
17 selectboard shall thereupon appoint from among the legally qualified voters a  
18 tree warden and may ~~thereupon~~ appoint from among the legally qualified  
19 voters the following officers who shall serve until their successors are

1 appointed and qualified, and shall certify such appointments to the town clerk  
2 who shall record the same:

3 (1) three fence viewers;

4 (2) a poundkeeper, for each pound; voting residence in the town need  
5 not be a qualification for this office, provided the appointee gives his or her  
6 consent to the appointment;

7 (3) one or more inspectors of lumber, shingles, and wood;

8 (4) one or more weighers of coal; and

9 (5) one town service officer.

10 (b) After appointment of a tree warden, the selectboard shall notify the  
11 Commissioner of Forest, Parks and Recreation and provide the contact  
12 information for the tree warden.

13 Sec. 2. 24 V.S.A. chapter 67 is amended to read:

14 CHAPTER 67. PARKS AND ~~SHADE~~ PUBLIC TREES

15 § 2500. DEFINITIONS

16 As used in this chapter:

17 (1) “Agricultural land” means land that is used for farming.

18 (2) “Farming” shall have the same meaning as in 10 V.S.A. § 6001.

19 (3) “Hazard tree” means a tree with visible defects indicating that the  
20 tree has a high potential for failing and a high potential for striking people or  
21 property.



1 part, and shall balance the public interests with the agricultural and forestry  
2 interests.

3 \* \* \*

4 § 2504. REMOVAL OF TREES; EXCEPTION

5 The tree warden may remove or cause to be removed from the public ways  
6 or places all public trees and other plants upon which noxious insects or tree  
7 diseases naturally breed. However, where an owner or lessee of abutting real  
8 estate shall annually, to the satisfaction of ~~such~~ the warden, control all insect  
9 pests or tree diseases upon the trees and other plants within the limits of a  
10 highway or place abutting such real estate, such trees and plants shall not be  
11 removed.

12 \* \* \*

13 § 2506. REGULATIONS FOR PROTECTION OF TREES

14 A tree warden shall enforce all laws relating to public ~~shade~~ trees and may  
15 prescribe ~~such~~ the rules and regulations for the planting, protection, care, or  
16 removal of public ~~shade~~ trees as he or she deems expedient. ~~Such~~ The  
17 regulations shall become effective pursuant to the provisions of chapter 59 of  
18 this title.

19 § 2507. COOPERATION

20 The tree warden may enter into financial or other agreements with the  
21 owners of land adjoining or facing public ways and places for the purpose of

1 encouraging and effecting a ~~community wide shade~~ community wide public  
2 tree planting and preservation program. He or she may cooperate with federal,  
3 State, county, or other municipal governments, agencies, or other public or  
4 private organizations or individuals and may accept ~~such~~ funds, equipment,  
5 supplies, or services from organizations and individuals, or others, as deemed  
6 appropriate for use in carrying out the purposes of this chapter.

7 § 2508. ~~CUTTING SHADE~~ PUBLIC TREES; REGULATIONS

8 ~~Unless otherwise provided, a~~ A public shade tree shall not be cut or  
9 removed, in whole or in part, except by a tree warden or his or her deputy or by  
10 a person having the written permission of a tree warden, including, without  
11 limitation, an owner in fee of land encumbered by a public easement or right-  
12 of-way easement. Where the public way and place abuts land used for  
13 agricultural or forestry uses, the tree warden shall take into consideration the  
14 agricultural and forestry uses in making a determination of whether a public  
15 tree shall be cut or removed, in whole or in part, and shall balance the public  
16 interest with the agricultural and forestry interests.

17 § 2509. ~~CUTTING SHADE~~ PUBLIC TREES; POSTING AND HEARING

18 (a) ~~A public shade tree within the residential part of a municipality shall~~  
19 ~~not be felled without a public hearing by the tree warden, except that when it is~~  
20 ~~infested with or infected by a recognized tree pest, or when it constitutes a~~  
21 ~~hazard to public safety, no hearing shall be required.~~ (1) The tree warden shall

1 post public notice of his or her intent to cut or remove, in its entirety, a public  
2 tree, or group of public trees for 15 days prior to cutting or removing the tree  
3 or trees, except that the tree warden may cut or remove in its entirety a public  
4 tree without such prior public notice if the public tree:

5 (A) is infested with or infected by a tree pest that poses a threat to  
6 public health or the health of nearby trees;

7 (B) constitutes a hazard to public safety; or

8 (C) is less than six inches in diameter one foot from the ground.

9 (2) If prior public notice is required under subdivision (1) of this  
10 subsection, the tree warden shall:

11 (A) provide public notice in a newspaper of general circulation  
12 within the town and post such notice on each tree or group of trees to be cut or  
13 removed; and

14 (B) provide by certified mail written notice of the intent to cut or  
15 remove the public tree or group of trees to the owner of the land on which the  
16 public tree or trees are located.

17 (b) The tree warden may remove limbs or perform other partial removal  
18 associated with regular maintenance of a public tree without the need to post  
19 public notice prior to such removal.

20 (c)(1) Any person who is aggrieved by the intent of the tree warden to cut  
21 or remove in its entirety a public tree, as set forth in subsection (a) of this

1 section, may appeal in writing to the tree warden within 15 days after the  
2 posting of the public notice. If such an appeal is filed, the tree warden shall  
3 hold a public hearing for the purpose of receiving public comment on the  
4 intended cutting or removal of the public tree within 10 days after the appeal  
5 period.

6 (2) In all cases, the decision of the tree warden shall be final, except that  
7 when the tree warden is an interested party or when a party in interest so  
8 requests in writing, such final decision shall be made by the legislative body of  
9 the municipality.

10 § 2510. PENALTY

11 (a) Whoever shall, willfully, mar or deface a public ~~shade~~ tree without the  
12 written permission of a tree warden or legislative body of the municipality  
13 shall be fined not more than \$50.00 for the use of the municipality.

14 (b) Any person who, willfully, critically injures or cuts down a public  
15 ~~shade~~ tree without written permission of the tree warden or the legislative body  
16 of the municipality shall be fined an amount assessed under 13 V.S.A.

17 § 3602(1)-(7) not more than \$500.00 for each tree so injured or cut, for the use  
18 of the municipality.

19 § 2511. CONTROL OF INFESTATIONS

20 When an insect or disease pest infestation upon or in public or private ~~shade~~  
21 trees threatens other public or private trees, is considered detrimental to a

1 community ~~shade~~ public tree preservation program, or threatens the public  
2 safety, the tree warden may request surveys and recommendations for control  
3 action from the Secretary of Agriculture, Food and Markets and the  
4 Commissioner of Forests, Parks and Recreation. On recommendation of the  
5 Secretary of Agriculture, Food and Markets and the Commissioner of Forests,  
6 Parks and Recreation, the tree warden may designate areas threatened or  
7 affected in which control measures are to be applied and shall publish notice of  
8 the proposal in one or more newspapers having a general circulation in the area  
9 in which control measures are to be undertaken. On recommendation of the  
10 Secretary and Commissioner, the tree warden may apply measures of  
11 infestation control on public and private land to any trees, shrubs, or plants  
12 thereon harboring or which may harbor the threatening insect or disease pest.  
13 He or she may enter into agreements with owners of ~~such~~ the lands covering  
14 the control work on their lands, but the failure of the tree warden to negotiate  
15 with any owner shall not impair his or her right to enter on the lands of ~~said~~ the  
16 owner to conduct recommended control measures, the cost of which shall be  
17 paid by the municipality.

18 Sec. 3. 19 V.S.A. § 901 is amended to read:

19 § 901. REMOVAL OF ROADSIDE GROWTH

20 Except for work that is part of the approved Transportation Program under  
21 section 10g of this title:



1           (1) Trees located in whole or in part within the limits of a town highway  
2           or right-of-way shall not be cut or removed without the prior approval of the  
3           tree warden in accordance with 24 V.S.A. chapter 67.

4           (2) A person, other than the abutting landowner, **their authorized**  
5           **designee**, or municipality, shall not cut, trim, remove, or otherwise damage any  
6           grasses, shrubs, or vines, ~~or trees~~ growing within the limits of a ~~State~~ or town  
7           highway, without first having obtained the consent of the ~~Agency for State~~  
8           ~~highways or the selectmen~~ selectboard for town highways. A person, other  
9           than the Agency, the abutting landowner **or their authorized designee**, shall not  
10           cut, trim, remove or otherwise damage any grasses, shrubs, vines, or trees  
11           growing within the limits of a State highway without first obtaining the  
12           consent of the Agency.

13       Sec. 4. 19 V.S.A. § 902 is amended to read:

14       § 902. PENALTY FOR REMOVAL

15           A person who ~~wilfully~~ willfully or maliciously cuts, trims, removes, or  
16           otherwise damages trees within the limits of a State highway right-of-way shall  
17           be fined as assessed under 13 V.S.A. § 3602(1)-(7). A person who willfully or  
18           maliciously cuts, trims, removes, or otherwise damages grasses, shrubs, or  
19           vines, ~~or trees~~ within highway limits in violation of section 901 of this title  
20           shall be fined not more than \$100.00 nor less than \$10.00; for each offense.

21       Sec. 5. 19 V.S.A. § 904 is amended to read:

1 § 904. BRUSH REMOVAL

2 The ~~selectmen~~ selectboard of a town with the approval of the tree warden  
3 pursuant to 24 V.S.A. chapter 67, if necessary, shall cause to be cut and  
4 burned, or removed from within the limits of the highways under their care,  
5 trees and bushes which obstruct the view of the highway ahead or that cause  
6 damage to the highway or that are objectionable from a material or scenic  
7 standpoint. Shade and fruit trees that have been set out or marked by the  
8 abutting landowners shall be preserved if the usefulness or safety of the  
9 highway is not impaired. Young trees standing at a proper distance from the  
10 roadbed and from each other, and banks and hedges of bushes that serve as a  
11 protection to the highway or add beauty to the roadside, shall be preserved. On  
12 State highways, the Secretary shall have the same authority as the ~~selectmen~~  
13 selectboard.

14 Sec. 6. 30 V.S.A. § 2506 is amended to read:

15 § 2506. TREES NOT TO BE INJURED; EXCEPTION; PENALTY

16 A tree within a street or highway shall not be cut or injured in constructing,  
17 maintaining, or repairing a line of wires, without the written consent of the  
18 municipal tree warden or the adjoining owner or occupant, unless the  
19 Transportation Board or the selectboard of the town in which the tree is  
20 situated, after due notice to the parties and upon hearing, shall decide that ~~such~~  
21 the cutting or injury is necessary. A person or corporation cutting or injuring

1 ~~such~~ the trees shall pay the damages, if any, awarded on such hearing, before  
2 cutting or injuring the trees. A person or corporation that violates a provision  
3 of this section shall be fined ~~not more than \$50.00 nor less than \$5.00~~ an  
4 amount assessed under 13 V.S.A. § 3602(1)-(7) for each tree so cut or injured.

5 Sec. 7. 30 V.S.A. § 2527 is amended to read:

6 § 2527. PENALTIES; INJURIES TO TREES

7 A person or corporation maintaining or operating a line of wires, that cuts  
8 down, mutilates, or injures the trees standing upon the lands of another, or a  
9 person or corporation that affixes or causes to be affixed to the property of  
10 another; a post, structure, fixture, wire, or other apparatus for telephonic,  
11 telegraphic, or other electrical communication, without first procuring the right  
12 to do so by application to and determination of the Transportation Board or the  
13 selectboard of the town, agreeably to this chapter, or first obtaining the consent  
14 of the owner or lawful agent of the owner of such property, shall be fined ~~not~~  
15 ~~more than \$100.00~~ an amount assessed under 13 V.S.A. § 3602(1)-(7) for each  
16 tree cut or injured.

17 \* \* \* Use Value Appraisal \* \* \*

18 Sec. 8. 32 V.S.A. § 3755 is amended to read:

19 § 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

20 \* \* \*

1 (b) Managed forestland shall be eligible for use value appraisal under this  
2 subchapter only if:

3 (1) The land is subject to a forest management plan, or subject to a  
4 conservation management plan in the case of lands certified under 10 V.S.A.  
5 § 6306(b), ~~which~~ that:

6 (A) ~~is~~ Is signed by the owner of the parcel; ~~;~~

7 (B) ~~complies~~ Complies with subdivision 3752(9) of this title; ~~;~~

8 (C) ~~is~~ Is filed with and approved by the Department of Forests, Parks  
9 and Recreation; ~~and~~.

10 (D) ~~provides~~ Provides for continued conservation management or  
11 forest crop production on the parcel for 10 years. An initial forest management  
12 plan or conservation management plan must be filed with the Department of  
13 Forests, Parks and Recreation ~~no later than~~ on or before October 1 and shall be  
14 effective for a 10-year period beginning the following April 1. Prior to  
15 expiration of a 10-year plan and ~~no later than~~ on or before April 1 of the year  
16 in which the plan expires, the owner shall file a new conservation or forest  
17 management plan for the next succeeding 10 years to remain in the program.

18 (E) The Department may approve a forest management plan that  
19 provides for the maintenance and enhancement of the tract's wildlife habitat  
20 where clearly consistent with timber production and with minimum acceptable

1 standards for forest management as established by the Commissioner of  
2 Forests, Parks and Recreation.

3 (F) The Department, upon giving due consideration to resource  
4 inventories submitted by applicants, may approve a conservation management  
5 plan, consistent with conservation management standards, so as to include  
6 appropriate provisions designed to preserve: areas with special ecological  
7 values; fragile areas; rare or endangered species; significant habitat for  
8 wildlife; significant wetlands; outstanding resource waters; rare and  
9 irreplaceable natural areas; areas with significant historical value; public water  
10 supply protection areas; areas that provide public access to public waters; and  
11 open or natural areas located near population centers or historically frequented  
12 by the public. In approving a plan, the Department shall give due  
13 consideration to: the need for restricted public access where required to  
14 protect the fragile nature of the resource; public accessibility where restricted  
15 access is not required; facilitation of appropriate, traditional public usage; and  
16 opportunities for traditional or expanded use for educational purposes and for  
17 research.

18 (2) A management report of whatever activity has occurred, signed by  
19 the owner, has been filed with the ~~Department of Forests, Parks and Recreation~~  
20 by Department of Taxes, Division of Property Valuation and Review on or

1 before February 1 of the year following the year when the management activity  
2 occurred.

3 (3) There has not been filed with the Director an adverse inspection  
4 report by the Department stating that the management of the tract is contrary to  
5 the forest or conservation management plan, or contrary to the minimum  
6 acceptable standards for forest or conservation management. The management  
7 activity report shall be on a form prescribed by the Commissioner of Forests,  
8 Parks and Recreation in consultation with the Commissioner of Taxes and shall  
9 include a detachable section signed by all the owners that shall contain the  
10 federal tax identification numbers of all the owners. The section containing  
11 federal tax identification numbers shall not be made available to the general  
12 public, but shall be forwarded to the Commissioner of Taxes within 30 days  
13 after receipt and used for tax administration purposes. With the exception of  
14 sensitive personal information, all information contained within the  
15 management activity report shall be forwarded to the Department of Forests,  
16 Parks and Recreation. If any owner shall satisfy the Department that he or she  
17 was prevented by accident, mistake, or misfortune from filing an initial or  
18 revised management plan which is required to be filed on or before October 1,  
19 or a management plan update which is required to be filed on or before April 1  
20 of the year in which the plan expires, or a management activity report which is  
21 required to be filed on or before February 1 of the year following the year

1 when the management activity occurred, the Department may receive that  
2 management plan or management activity report at a later date; provided,  
3 however, no initial or revised management plan shall be received later than  
4 December 31, and no management plan update shall be received later than one  
5 year after April 1 of the year the plan expires, and no management activity  
6 report shall be received later than March 1.

7 (c) The Department of Forests, Parks and Recreation shall periodically  
8 review the management plans and each year review the management activity  
9 reports that have been filed.

10 (1) At intervals not to exceed 10 years, that Department shall inspect  
11 each parcel of managed forestland qualified for use value appraisal to verify  
12 that the terms of the management plan have been carried out in a timely  
13 fashion.

14 (2) The Department shall have the ability to enter parcels of managed  
15 forestland for the purpose of inspections. The Department may bring any other  
16 staff from the Agency of Natural Resources that have the expertise to evaluate  
17 compliance with this chapter or staff that may be required to ensure the safety  
18 of the Department while conducting the inspections.

19 (3) If that Department finds that the management of the tract is contrary  
20 to the conservation or forest management plan, or contrary to the minimum  
21 acceptable standards for conservation or forest management, it shall file with

1 the owner, the assessing officials, and the Director an adverse inspection report  
2 within 30 days ~~of~~ after the conclusion of the inspection process.

3 \* \* \*

4 \* \* \* Purchase and Use Tax; Forestry Equipment \* \* \*

5 Sec. 9. 32 V.S.A. § 8911 is amended to read:

6 § 8911. EXCEPTIONS

7 The tax imposed by this chapter shall not apply to:

8 (1) Motor vehicles owned or registered, or motor vehicles rented, by any  
9 state or province or any political subdivision thereof.

10 \* \* \*

11 (23) The following motor vehicles used for timber cutting, timber  
12 removal, and processing of timber or other solid wood forest products intended  
13 to be sold ultimately at retail: skidders with grapple and cable, feller bunchers,  
14 cut-to-length processors, forwarders, delimiters, loader slashers, log loaders,  
15 whole-tree chippers, stationary screening systems, portable sawmills, and  
16 firewood processors, elevators, and screens.

17 \* \* \* Forest Processing Facility Permits \* \* \*

18 Sec. 10. 10 V.S.A. § 6086 is amended to read:

19 § 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

20 \* \* \*

21 (g)(1) Notwithstanding any contrary provision of this section:



1           (A) The following subdivisions of this section shall not apply to  
2           forest processing facilities: (a)(8), except as it relates to historic sites or rare  
3           and irreplaceable natural communities, and to necessary wildlife habitat under  
4           (a)(8)(A); (a)(9)(B); and (a)(9)(C).

5           (B) Forest processing facilities shall not be subject to permit  
6           conditions under subdivision (c) of this section related to hours of operation,  
7           traffic limitations, or mitigation of primary agricultural soils.

8           (2) For any forest processing facility already subject to a permit under  
9           this section, a District Commission will apply this provision in the  
10          consideration of any future amendment application.

11          (3) As used in this subsection:

12           (A) “Forest processing facility” means a facility that purchases,  
13           processes, dries, utilizes, or aggregates forest products.

14           (B) “Forest product” has the same meaning as in section 2602 of this  
15           title.

16   \* \* \* Effective Date \* \* \*

17          Sec. 11. EFFECTIVE DATE

18           This act shall take effect on July 1, 2018.