

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Agriculture and Forestry to which was referred Senate  
3 Bill No. 101 entitled “An act relating to the conduct of forestry operations”  
4 respectfully reports that it has considered the same and recommends that the  
5 House propose to the Senate that the bill be amended by striking out all after  
6 the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 12 V.S.A. chapter 196 is added to read:

8 CHAPTER 196. VERMONT RIGHT TO CONDUCT FORESTRY

9 OPERATIONS

10 § 5755. FINDINGS

11 The General Assembly finds that:

12 (1) Private and public forestlands:

13 (A) constitute unique and irreplaceable resources, benefits, and  
14 values of statewide importance;

15 (B) contribute to the protection and conservation of wildlife, wildlife  
16 habitat, air, water, and soil resources of the State;

17 (C) provide a resource for the State constitutional right to hunt, fish,  
18 and trap;

19 (D) mitigate the effects of climate change; and

20 (E) result in general benefit to the health and welfare of the people of  
21 the State.

1           (2) The forest products industry, including maple sap collection:

2                   (A) is a major contributor to and is valuable to the State's economy  
3 by providing jobs to its citizens;

4                   (B) is essential to the manufacture of forest products that are used  
5 and enjoyed by the people of the State; and

6                   (C) benefits the general welfare of the people of the State.

7           (3) Private and public forestlands are critical for and contribute  
8 significantly to the State's outdoor recreation and tourism economies.

9           (4) The economic management of public and private forestlands  
10 contributes to sustaining long-term forest health, integrity, and productivity.

11           (5) Forestry operations are adversely impacted by the encroachment of  
12 urban, commercial, and residential land uses throughout the State that result in  
13 forest fragmentation and conversion and erode the health and sustainability of  
14 remaining forests.

15           (6) As a result of encroachment on forests, conflicts have arisen between  
16 traditional forestry land uses and urban, commercial, and residential land uses  
17 that threaten to permanently convert forestland to other uses, resulting in an  
18 adverse impact to the economy and natural environment of the State.

19           (7) The encouragement, development, improvement, and continuation of  
20 forestry operations will result in a general benefit to the health and welfare of  
21 the people of the State and the State's economy.

1           (8) The forest products industry, in order to survive, likely will need to  
2           change, adopt new technologies, and diversify into new products.

3           (9) Conventional forestry practices, including logging, transportation,  
4           and processing of forest products may be subject to unnecessary or adversarial  
5           lawsuits based on the theory of nuisance. Nuisance suits could encourage and  
6           result in the conversion of forestland and loss of the forest products industry.

7           (10) It is in the public interest of the people of the State to ensure that  
8           lawfully conducted conventional forestry practices are protected and  
9           encouraged and are not subject to public and private nuisance actions arising  
10           out of conflicts between forestry operations and urban, commercial, and  
11           residential uses.

12           § 5756. DEFINITIONS

13           As used in this chapter:

14           (1) “Commissioner” means the Commissioner of Forests, Parks and  
15           Recreation.

16           (2) “Conventional forestry practices” means:

17           (A) forestry operations;

18           (B) a change in ownership or size of a parcel on which a forestry  
19           operation is being conducted;

20           (C) cessation or interruption of a forestry operation or a change in a  
21           forestry operation, including a change in the type of a forestry operation;

1           (D) enrollment in governmental forestry or conservation programs;

2           (E) adoption of new forestry technology;

3           (F) construction, maintenance, and repair of log landings, logging  
4 roads, and skid trails;

5           (G) visual changes due to the removal, storage, or stockpiling of  
6 vegetation or forest products;

7           (H) noise from forestry equipment used as part of a forestry  
8 operation; or

9           (I) the transport or trucking of forest products or of equipment on, to,  
10 or from the site of a forestry operation.

11           (3) “Forest product” means logs; pulpwood; veneer; bolt wood; wood  
12 chips; stud wood; poles; pilings; biomass; fuel wood; maple sap; or bark.

13           (4) “Forestry operation” means activities related to the management of  
14 forests, including timber harvests; removal, storage, or stockpiling of  
15 vegetation or timber; pruning; planting; lumber processing with portable  
16 sawmills; reforestation; pest, disease, and invasive species control; wildlife  
17 habitat management; and fertilization. “Forestry operation” includes one or  
18 both of the following:

19           (A) the primary processing of forest products on a parcel where a  
20 timber harvest occurs; and

1           (B) the primary processing of forest products at a site that is not the  
2 harvest site, provided that:

3           (i) the person conducting the forestry operations owns or has  
4 permission to use the site for the forestry operation;

5           (ii) the forestry operation was established prior to surrounding  
6 activities that are not forestry operations;

7           (iii) the site is used by the forestry operation for 12 or fewer  
8 months in any two-year period or 24 or fewer months in any five-year period;

9           (iv) the forestry operation complies with all applicable law; and

10           (v) only portable, nonpermanent equipment is used to process the  
11 forest products at the site.

12           (5) “Timber” means trees, saplings, seedlings, and sprouts from which  
13 trees of every size, nature, kind, and description may grow.

14           (6) “Timber harvest” means a forestry operation involving the  
15 harvesting of timber.

16           § 5757. FORESTRY OPERATIONS; PROTECTION FROM NUISANCE

17           LAWSUITS

18           (a) Except as provided for under subsections (b) and (c) of this section, a  
19 person conducting a conventional forestry practice shall be entitled to a  
20 rebuttable presumption that the conventional forestry practice does not

1 constitute a public or private nuisance if the person conducts the conventional  
2 forestry practice in compliance with the following:

3 (1) the Acceptable Management Practices for Maintaining Water  
4 Quality on Logging Jobs in Vermont as adopted by the Commissioner under  
5 10 V.S.A. § 2622; and

6 (2) other applicable law.

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

10 (1) the negligent operation of the conventional forestry practice; or

11 (2) a violation of State, federal, or other applicable law during the  
12 conduct of the conventional forestry practice.

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

15 Sec. 2. EFFECTIVE DATE

16 This act shall take effect on passage.

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2 (Committee vote: \_\_\_\_\_)

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Representative \_\_\_\_\_

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FOR THE COMMITTEE