

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 working
2 forestland 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 forestland uses, the tree warden shall take into consideration the
14 agricultural and working forestland uses in making a determination of whether
15 a public tree shall be cut or removed, in whole or in part, and shall balance the
16 public interest with the agricultural and working forestland 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;

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

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

8 (2) The tree warden shall post public notice in a newspaper of general
9 circulation within the town and on each tree or group of trees to be cut or
10 removed.

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

14 (c)(1) Any person who is aggrieved by the intent of the tree warden to cut
15 or remove in its entirety a public tree, as set forth in subsection (a) of this
16 section, may appeal in writing to the tree warden within 15 days after the
17 posting of the public notice. If such an appeal is filed, the tree warden shall
18 hold a public hearing for the purpose of receiving public comment on the
19 intended cutting or removal of the public tree within 10 days after the appeal
20 period.

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

5 § 2510. PENALTY

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

9 (b) Any person who, willfully, critically injures or cuts down a public
10 ~~shade~~ tree without written permission of the tree warden or the legislative body
11 of the municipality shall be fined an amount assessed under 13 V.S.A.
12 § 3602(1)-(7), but not more than \$500.00 for each tree so injured or cut, for the
13 use of the municipality.

14 § 2511. CONTROL OF INFESTATIONS

15 When an insect or disease pest infestation upon or in public or private ~~shade~~
16 trees threatens other public or private trees, is considered detrimental to a
17 community ~~shade~~ public tree preservation program, or threatens the public
18 safety, the tree warden may request surveys and recommendations for control
19 action from the Secretary of Agriculture, Food and Markets and the
20 Commissioner of Forests, Parks and Recreation. On recommendation of the
21 Secretary of Agriculture, Food and Markets and the Commissioner of Forests,

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

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

14 § 901. REMOVAL OF ROADSIDE GROWTH

15 Except for work that is part of the Transportation Program under section
16 10g of this title:

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

20 (2) A person, other than the abutting landowner or municipality, shall
21 not cut, trim, remove, or otherwise damage any grasses, shrubs, or vines, or

1 ~~trees~~ growing within the limits of a ~~State or~~ town highway, without first having
2 obtained the consent of the ~~Agency for State highways or the selectmen~~
3 selectboard for town highways. A person, other than the Agency or the
4 abutting landowner, shall not cut, trim, remove or otherwise damage any
5 grasses, shrubs, vines, or trees growing within the limits of a State highway
6 without first obtaining the consent of the Agency.

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

8 § 902. PENALTY FOR REMOVAL

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

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

16 § 904. BRUSH REMOVAL

17 The ~~selectmen~~ selectboard of a town with the approval of the tree warden
18 pursuant to 24 V.S.A. chapter 67, if necessary, shall cause to be cut and
19 burned, or removed from within the limits of the highways under their care,
20 trees and bushes which obstruct the view of the highway ahead or that cause
21 damage to the highway or that are objectionable from a material or scenic

1 standpoint. Shade and fruit trees that have been set out or marked by the
2 abutting landowners shall be preserved if the usefulness or safety of the
3 highway is not impaired. Young trees standing at a proper distance from the
4 roadbed and from each other, and banks and hedges of bushes that serve as a
5 protection to the highway or add beauty to the roadside, shall be preserved. On
6 State highways, the Secretary shall have the same authority as the ~~selectmen~~
7 selectboard.

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

9 § 2506. TREES NOT TO BE INJURED; EXCEPTION; PENALTY

10 A tree within a street or highway shall not be cut or injured in constructing,
11 maintaining, or repairing a line of wires, without the written consent of the
12 municipal tree warden or the adjoining owner or occupant, unless the
13 Transportation Board or the selectboard of the town in which the tree is
14 situated, after due notice to the parties and upon hearing, shall decide that ~~such~~
15 the cutting or injury is necessary. A person or corporation cutting or injuring
16 ~~such~~ the trees shall pay the damages, if any, awarded on such hearing, before
17 cutting or injuring the trees. A person or corporation that violates a provision
18 of this section shall be fined ~~not more than \$50.00 nor less than \$5.00~~ an
19 amount assessed under 13 V.S.A. § 3602(1)-(7) for each tree so cut or injured.

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

2 § 2527. PENALTIES; INJURIES TO TREES

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

13 * * * Use Value Appraisal * * *

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

15 § 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

16 * * *

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

19 (1) The land is subject to a forest management plan, or subject to a
20 conservation management plan in the case of lands certified under 10 V.S.A.
21 § 6306(b), ~~which~~ that:

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

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

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

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

13 (E) The Department may approve a forest management plan that
14 provides for the maintenance and enhancement of the tract's wildlife habitat
15 where clearly consistent with timber production and with minimum acceptable
16 standards for forest management as established by the Commissioner of
17 Forests, Parks and Recreation.

18 (F) The Department, upon giving due consideration to resource
19 inventories submitted by applicants, may approve a conservation management
20 plan, consistent with conservation management standards, so as to include
21 appropriate provisions designed to preserve: areas with special ecological

1 values; fragile areas; rare or endangered species; significant habitat for
2 wildlife; significant wetlands; outstanding resource waters; rare and
3 irreplaceable natural areas; areas with significant historical value; public water
4 supply protection areas; areas that provide public access to public waters; and
5 open or natural areas located near population centers or historically frequented
6 by the public. In approving a plan, the Department shall give due
7 consideration to: the need for restricted public access where required to
8 protect the fragile nature of the resource; public accessibility where restricted
9 access is not required; facilitation of appropriate, traditional public usage; and
10 opportunities for traditional or expanded use for educational purposes and for
11 research.

12 (2) A management report of whatever activity has occurred, signed by
13 the owner, has been filed with the ~~Department of Forests, Parks and Recreation~~
14 ~~by~~ Department of Taxes, Division of Property Valuation and Review on or
15 before February 1 of the year following the year when the management activity
16 occurred.

17 (3) There has not been filed with the Director an adverse inspection
18 report by the Department stating that the management of the tract is contrary to
19 the forest or conservation management plan, or contrary to the minimum
20 acceptable standards for forest or conservation management. The management
21 activity report shall be on a form prescribed by the Commissioner of Forests,

1 Parks and Recreation in consultation with the Commissioner of Taxes and shall
2 include a detachable section signed by all the owners that shall contain the
3 federal tax identification numbers of all the owners. The section containing
4 federal tax identification numbers shall not be made available to the general
5 public, but shall be forwarded to the Commissioner of Taxes within 30 days
6 after receipt and used for tax administration purposes. With the exception of
7 sensitive personal information, all information contained within the
8 management activity report shall be forwarded to the Department of Forests,
9 Parks and Recreation. If any owner shall satisfy the Department that he or she
10 was prevented by accident, mistake, or misfortune from filing an initial or
11 revised management plan which is required to be filed on or before October 1,
12 or a management plan update which is required to be filed on or before April 1
13 of the year in which the plan expires, or a management activity report which is
14 required to be filed on or before February 1 of the year following the year
15 when the management activity occurred, the Department may receive that
16 management plan or management activity report at a later date; provided,
17 however, no initial or revised management plan shall be received later than
18 December 31, and no management plan update shall be received later than one
19 year after April 1 of the year the plan expires, and no management activity
20 report shall be received later than March 1.

1 (c) The Department of Forests, Parks and Recreation shall periodically
2 review the management plans and each year review the management activity
3 reports that have been filed. At intervals not to exceed 10 years, that
4 Department shall inspect each parcel of managed forestland qualified for use
5 value appraisal to verify that the terms of the management plan have been
6 carried out in a timely fashion. The Department and the Agency of Natural
7 Resources staff with the expertise to evaluate compliance with the
8 requirements of this chapter and the minimum acceptable standards of forest or
9 conservation management and those staff that may be required to ensure the
10 safety of such staff shall have the authority to access and inspect each parcel of
11 managed forestland or conservation land to which a use value appraisal lien
12 applies to forestland or conservation land to verify that management has been
13 carried out in accordance with a management plan in effect and the minimum
14 acceptable standards for conservation or forest management. Parcels with
15 managed forestland actively enrolled shall be inspected at intervals not to
16 exceed 10 years. If that Department finds that the management of the tract is
17 contrary to the conservation or forest management plan, or contrary to the
18 minimum acceptable standards for conservation or forest management, it shall
19 file with the owner, the assessing officials, and the Director an adverse
20 inspection report within 30 days ~~of~~ after the conclusion of the inspection
21 process.

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

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

§ 8911. EXCEPTIONS

The tax imposed by this chapter shall not apply to:

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

* * *

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

* * * Forest Processing Facility Permits * * *

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

§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

* * *

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

(A) The following subdivisions of this section shall not apply to forest processing facilities: (a)(8), except as it relates to historic sites or rare

1 and irreplaceable natural communities, and to necessary wildlife habitat under
2 (a)(8)(A); (a)(9)(B); and (a)(9)(C).

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

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

9 (3) As used in this subsection:

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

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

14 * * * Effective Date * * *

15 Sec. 11. EFFECTIVE DATE

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