

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2016

Bill Number: H.857 Name of Bill: An Act relating to timber harvesting

Agency/ Dept: FPR Author of Bill Review: Meghan Purvee, M. C. Snyder

Date of Bill Review: 5/10/16 Related Bills and Key Players: _____

Status of Bill: (check one): _____ Upon Introduction _____ As passed by 1st body XX As passed by both

Recommended Position:

XX Support below _____ Oppose _____ Remain Neutral _____ Support with modifications identified in #8

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

This bill addresses multiple issues that are critical to maintaining productive forestland in Vermont, which in turn protects and sustains outdoor recreation and tourism, the forest economy, water quality, climate resilience and wildlife habitat. A key provision of the bill is the clarification and expansion of existing limitation on municipal regulation of silviculture to now protect forestry operations, including onsite processing of forest products. The bill also makes long-overdue modernizations to several statutes including those related to forest fire wardens and tapping on state lands. The bill also advances the ongoing conversation in Vermont about forest benefits and productivity of forests in existing land use planning. The bill accomplishes these goals without significantly increasing burdens on the state, landowners, industry or municipalities. It was broadly supported by stakeholders and legislators, passing on unanimous committee votes and strong voice and/or roll call floor votes.

Sec. 1: Adds new section 2600 of title 10 including legislative findings and policy statements related to private and public forests and their importance and contribution to the protection of air, water, soil and wildlife habitat and mitigation of climate change and benefits to public health and welfare, including recreation; findings that the forest products industry is a major contributor to and benefits the state economy and general welfare; that forests and the forest products industry is subject to encroachment and conflicts resulting in a negative impact to the state's economy and natural environment; and that the encouragement, development, improvement and preservation of forestry operations will result in a general benefit to the health and welfare of the people of the State and the State's economy.

Sec. 2: Amends §2601 to add that it is the policy of the State to sustain long-term forest health, integrity and productivity; adds new paragraph (c) that states that the Commissioner shall implement the policies in §2601 when implementing chapters 83, 85 and 87 of title 10.

Sec. 3: Amends §2603, Definitions, to add new definitions for "forest product," "forestry operation," "timber," and "timber harvest."

Sec. 4: Amends §2608, Enforcement, Penalties; Liability, to remove antiquated language and state that enforcement of chapter 83 of title 10 and rules adopted thereunder shall be in accordance with chapters 201 and 211 of title 10, or administrative enforcement by the Secretary (DEC Enforcement).

Sec. 5: Requires the Commissioner to prepare and submit on or before December 15, 2016, a Harvest Notification Report, which would:

- 1) Recommend how a harvest notification program will be structured and implemented: how, who and when notifications are submitted, including threshold for notice and exemptions;
- 2) Summarize the environmental and economic benefits to the state of a harvest notification requirement including whether it could increase compliance with the AMPs;
- 3) Estimate staff and additional funding necessary to implement;
- 4) Propose how the harvest notification program would be funded; and
- 5) Propose draft legislation to implement the proposed harvest notification program.

Sec. 9: Amends §2606b, License of Forestlands for Maple Sugar Production, by changing the language from “the Department shall issue licenses for the use of state lands” for tapping of maple trees and collection of sap to “the Department may issue licenses...” and changing the establishment of a license fee to be based on a per tap charge reflecting current market rates; deletes paragraph (g) requiring submission of a report to the legislature in 2010.

Sec. 10: Adds a new requirement to create a working group regarding the intergenerational transfer of forestland.

Sec. 11: Amends subchapter 4 of chapter 83, regarding Town Forest Fire Wardens regarding appointment, term and removal of fire wardens, compensation for fire wardens, limits on the state’s liability for reimbursement of local fire suppression costs, clarification of local authority, clarification and liberalization of requirements for local burn permits, and repeal of the outdated requirement to remove logging slash from skid trails.

Sec. 12: Requires, on or before January 1, 2017, that the Commissioner of FPR, in consultation with the Vermont League of Cities and Towns and other interested parties, develop a policy that provides the criteria the Department will use to determine whether and how to reimburse towns for fire suppression costs. The policy shall be submitted to the Senate and House Committees on Natural Resources and Energy and Appropriations. The Policy shall include criteria for:

- a) Whether and how to reimburse a municipality for fire suppression costs on lands not owned by ANR
- b) Determine the rate of reimbursement for fire suppression costs on lands not owned by ANR

Sec. 13: Adds new §2515 regarding Intercompact liability and providing mutual aid for combating, controlling or preventing forest fires between any state party to the Compact or any state that is a party to another regional Compact

Sec. 14: Amends 24 V.S.A. §4302(c) to add a requirement to municipal and regional planning that Vermont forestland should be managed to maintain and improve forest blocks and habitat connectors.

Sec. 15: Amends 24 V.S.A. §4303 to add definitions for “forest block,” “forest fragmentation,” “habitat connector,” and “recreational trail.”

Sec. 16: Amends 24 V.S.A. §4348a(a)(2) regarding a land use element in a regional plan to include areas reserved for floodplain and areas identified by the State that require special consideration for the maintenance of forest blocks, wildlife habitat and habitat connectors. Adds new paragraph (F) that requires the regional plan indicate those areas that are important as forest blocks and habitat connectors and include plans for development in those areas that minimizes forest fragmentation and promotes the health, viability and ecological function of forests, and stating that a plan may include policies to encourage the active management of those areas for

Please return this bill review as a Microsoft Word document to Jahala.Dudley@vermont.gov and Jessica.Mishaan@vermont.gov

wildlife habitat, water quality, timber production, recreation or other values or functions recognized by the regional planning commission.

Sec.17: Amends 24 V.S.A. §4382(a)(2) to add the requirement that a municipal land use development plan include a map that indicates areas identified by the State, regional commission or municipality that require special consideration for aquifer protection, maintenance of forest blocks, wildlife habitat or habitat connectors and indicates those areas that are important as forest blocks and habitat connectors and include plans for development in those areas that minimizes forest fragmentation and promotes the health, viability and ecological function of forests, and stating that a plan may include policies to encourage the active management of those areas for wildlife habitat, water quality, timber production, recreation or other values or functions recognized by the regional planning commission.

Sec.18: Creates a Study Committee with a broad range of stakeholders on Land Use Regulation and Forest Integrity to study potential revisions to Act 250 and chapter 117 of title 24 (municipal bylaws) to protect contiguous areas of forestland from fragmentation and promote habitat connectivity between forestland while protecting working forestland use, agriculture and recreation.

Sec 19.: Amends 24 V.S.A. §4413(d) to include in the list of activities that a municipal zoning bylaw shall not regulate, "forestry operations" as defined in 10 V.S.A. §2602; deletes paragraph 3 that authorized a municipality to enact forest management practices that would result in a change in a UVA forest management plan only if based on sound silvicultural principles.

Sec.20: Amends 32 V.S.A. 3757 regarding Land Use Change Tax and Use Value Appraisal Program to specify when the Director of PVR shall release a lien and to include land acquired by the Agency of Natural Resources, Department of Forests, Parks and Recreation, Department of Fish and Wildlife and Department of Environmental Conservation for public uses under 10 V.S.A. §6303(a)(1)-(4) as exempt from the levy of a land use change tax and eligible for release of the lien.

2. Is there a need for this bill? *Please explain why or why not.*

Yes. This bill addresses multiple issues that are critical to maintaining productive forestland in Vermont, which in turn protects and sustains outdoor recreation and tourism, the forest economy, wildlife habitat and connectivity, water, air and soil resources, mitigates atmospheric carbon dioxide, and provides resilience. The bill also makes long-overdue modernizations to several statutes including those related to forest fire wardens and tapping on state lands.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

Minimal. Staff time and other resources needed to prepare legislative reports and lead study groups to develop the various proposed policies and processes set forth above and in this bill are within the Department's current capacity.

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it? Some other departments will need to participate in a study committee or work group. As to their likely perspectives, we have received universal support for the policy initiatives within this bill.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? *(for example, public, municipalities, organizations, business, regulated entities, etc)*
The bill is not likely to have significant fiscal or programmatic impacts on stakeholders. A wide range of stakeholders from private sector, public, and non-profit communities supported the bill and many will be participants in follow-up activities. Entities such as, the Vermont League of Cities and Towns, the Vermont

Please return this bill review as a Microsoft Word document to Jahala.Dudley@vermont.gov and Jessica.Mishaan@vermont.gov

Forest Products Association, the Vermont Woodlands Association, and VNRC will all likely participate in a committee and attend meetings and provide input as outlined above. None of those stakeholders raised significant concerns about fiscal or programmatic impacts of the bill.

6. Other Stakeholders:

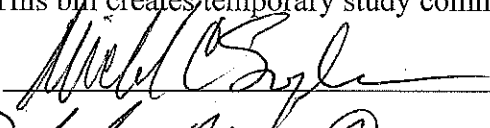
6.1 Who else is likely to support the proposal and why? Forestland owners, environmental groups, forest products industry. Several farm & woodland owners who have been denied local zoning permits for forestry operations will directly benefit from the broadened and increased effect of the existing limitations on municipal bylaws statute which previously limited towns' ability to regulate "silviculture" but would now limit their ability to regulate "forestry operations."

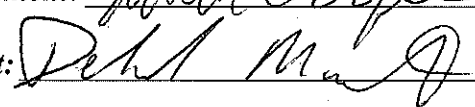
6.2 Who else is likely to oppose the proposal and why? There was no opposition to the version of the bill that ultimately passed, other than some very specific concerns about a narrow segment of the bill voiced by AIV forest policy task force. In the end, AIV was fine with most aspects of the bill. The bill saw significant testimony and improvement throughout the legislative process and several provisions that were originally opposed by some – including several by us – were removed or modified. There were unanimous favorable committee votes and strong, voice and/or roll call floor votes for all provisions.

7. Rationale for recommendation: *Justify recommendation stated above.* This bill will improve the State's ability to maintain working forestland in Vermont and to propose policies and procedures to assist with land use planning that will recognize the importance of intact forestland and protect such resources, including wildlife habitat, while acknowledging on a statewide policy basis, the importance of the forest products industry to the State, the protection of its natural resources, and the general health and welfare of the public and the State's economy. The bill is quite moderate in its effect, proposing incremental steps and with no new major obligations for the state, landowners, industry, or municipalities.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

9. Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many? No. This bill creates temporary study committees as set forth above.

Commissioner has reviewed this document:  Date: 5/13/16

Secretary has reviewed this document:  Date: 5-13-16