

1 **H. B. 4201**

2  
3 (By Delegates Hartman, Campbell, Overington,  
4 Romine and Williams)

5 [Introduced January 16, 2014; referred to the  
6 Committee on Agriculture and Natural Resources then the  
7 Judiciary.]

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9  
10 A BILL to repeal §19-1B-12 of the Code of West Virginia, 1931, as  
11 amended; and to amend and reenact §19-1B-12a, all relating to  
12 civil and criminal penalties for violations of the Logging  
13 Sediment Control Act pertaining to timber operations.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §19-1B-12 of the Code of West Virginia, 1931, as amended,  
16 be repealed; and that §19-1B-12a be amended and reenacted, all to  
17 read as follows:

18 **ARTICLE 1B. SEDIMENT CONTROL DURING COMMERCIAL TIMBER HARVESTING**  
19 **OPERATIONS.**

20 **§19-1B-12a. Criminal and civil penalties.**

21 (a) It is illegal for a person to:

22 (1) Conduct timbering operations, purchase timber, or buy logs  
23 for resale in this state without holding a valid license from the

1 Director of the Division of Forestry, as required by section four  
2 of this article;

3 (2) Conduct timbering operations or sever trees for sale at a  
4 location in this state without providing the Director of the  
5 Division of Forestry with notice of the location where the  
6 timbering or harvesting operations are to be conducted, as required  
7 by section six of this article;

8 (3) Conduct a timbering operation in this state that is not  
9 supervised by a certified logger who holds a valid certificate from  
10 the Director of the Division of Forestry, as required by section  
11 seven of this article;

12 (4) Continue to conduct timbering operations in violation of  
13 a suspension or revocation order that has been issued by the  
14 Director of the Division of Forestry or a conference panel under  
15 sections five, ten or eleven of this article; and

16 (5) Fail to reclaim the real property in accordance with the  
17 best management practices set forth by the Division of Forestry and  
18 the committee established in subsection (h), section eight of this  
19 article.

20 (b) Criminal and civil penalties. -- A person that violates  
21 this section is guilty of a misdemeanor and, upon conviction, shall  
22 be fined not less than \$250 nor more than \$500 for each violation.  
23 In addition to fines and costs, a person or entity convicted of a

1 violation of this section shall pay a \$500 civil penalty to the  
2 division within sixty days. The civil penalty shall be collected by  
3 the court in which the person is convicted, forwarded to the  
4 division and deposited in the Division of Forestry Timber  
5 Operations Enforcement Fund (3082) to be used to administer the  
6 provisions of this section.

7 (c) Each day that a person is in violation of this section  
8 constitutes a separate criminal and civil offense.

9 (d) In addition to any other law-enforcement agencies that  
10 have jurisdiction over criminal violations, any forester or forest  
11 technician employed by the Division of Forestry, who, as a part of  
12 his or her official duties is authorized by the Director of the  
13 Division of Forestry to inspect timbering operations, is authorized  
14 to issue citations for any of the listed violations in this article  
15 that he or she has witnessed. The limited authority granted to  
16 employees of the Division of Forestry to issue citations to enforce  
17 the provisions of this section does not include the power to place  
18 any individual or person under arrest.

NOTE: The purpose of this bill is to combine the existing Logging Sediment Control Act civil penalties in former section twelve with the criminal penalties in section twelve-a to create administrative efficiency in prosecuting cases and collecting the associated fines and penalties. The bill also adds another criminal penalty, "Failure to Reclaim," to the criminal penalties section to give the agency another level of enforcement for timber operators who refuse to comply and leave the operation out of

compliance.

§19-1B-12 is repealed.

§19-1B-12a has been completely rewritten; therefore, it has been completely underscored.

This bill was recommended for introduction and passage during the Regular Session of the Legislature by the Forest Management Review Commission.