

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 357**

4 (By Senators Williams, Beach, D. Hall, Miller, Sypolt, Plymale
5 and Tucker)

6 _____
7 [Originating in the Committee on the Judiciary;
8 reported January 31, 2014.]
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13 A BILL to repeal §19-1B-12 of the Code of West Virginia, 1931, as
14 amended; and to amend and reenact §19-1B-12a of said code, all
15 relating to civil and criminal penalties for violations of the
16 Logging Sediment Control Act pertaining to timber operations;
17 and establishing a violation for failure to reclaim.

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

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20 be repealed; and that §19-1B-12a of said code be amended and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

22 **ARTICLE 1B. SEDIMENT CONTROL DURING COMMERCIAL TIMBER HARVESTING**
23 **OPERATIONS.**

24 **§19-1B-12a. Criminal and civil penalties.**

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

2 (1) Conduct timbering operations, purchase timber or buy logs
3 for resale in this state without holding a valid license from the
4 Director of the Division of Forestry, as required by section four
5 of this article;

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

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

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

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

23 (b) *Criminal and civil penalties.* -- A person that violates
24 this section is guilty of a misdemeanor and, upon conviction, shall

1 be fined not less than \$250 nor more than \$500 for each violation.
2 In addition to fines and costs, a person or entity convicted of a
3 violation of this section shall pay a \$500 civil penalty to the
4 division within sixty days. The civil penalty shall be collected by
5 the court in which the person is convicted and forwarded to the
6 State Treasurer for deposit in the Division of Forestry Timber
7 Operations Enforcement Fund (3082) for use in administering the
8 provisions of this article.

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

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

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