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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE  
Regular Session, 2002

**ENROLLED**

SENATE BILL NO. 431

(By Senator Helmick, et al )

PASSED February 28, 2002

In Effect from Passage

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OFFICE WEST VIRGINIA  
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## Senate Bill No. 431

(BY SENATORS HELMICK, LOVE, ROSS, ANDERSON AND ROWE)

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[Passed February 28, 2002; in effect from passage.]

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AN ACT to amend and reenact sections four, six and seven, article one-b, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one as amended; and to further amend said article by adding thereto a new section, designated section twelve-a, all relating to timbering operations and the licensure thereof; establishing modified notification requirements and supervisory requirements for timbering operations; establishing criminal penalties for certain violations of said article; and providing for the enforcement thereof by the division of forestry.

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

That sections four, six and seven, article one-b, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section twelve-a, all to read as follows:

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ARTICLE 1B. SEDIMENT CONTROL DURING COMMERCIAL TIMBER HARVESTING OPERATIONS.

ARIZONA STATE

§19-1B-4. Timbering license required; requirement for license; exemption; annual fee; rules.

1 (a) No person may conduct timbering operations,  
 2 purchase timber or buy logs for resale until he or she has  
 3 obtained the license pursuant to this article from the  
 4 division and met all other requirements pertaining to his  
 5 or her timbering operation or other wood product business  
 6 contained in this article: *Provided*, That a person who  
 7 severs or removes, or hires or contracts with another to  
 8 sever or remove, standing trees from his or her own land is  
 9 specifically exempted from the timbering operations  
 10 licensure requirement of this section during any calendar  
 11 year in which all trees severed or removed by or for this  
 12 owner have an aggregate stumpage value that does not  
 13 exceed fifteen thousand five hundred twenty-eight dollars:  
 14 *Provided, however*, That a person hired or contracted to  
 15 sever or remove standing trees from the land of another is  
 16 specifically exempted from the timbering operations  
 17 licensure requirement of this section during any calendar  
 18 year in which all trees severed or removed by this hired or  
 19 contracted person have an aggregate stumpage value that  
 20 does not exceed fifteen thousand five hundred twenty-  
 21 eight dollars.

22 (b) An applicant for a license shall submit an application  
 23 on a form to be designed and provided by the director. A  
 24 fee of fifty dollars shall be submitted with each applica-  
 25 tion and with each annual renewal of the license. The  
 26 application shall, at a minimum, contain the following  
 27 information:

- 28 (1) Name, address and telephone number of the applicant  
 29 and if the applicant is a business entity other than a sole  
 30 proprietor, the names and addresses of the principals,  
 31 officers and resident agent of the business entity;

32 (2) The applicant's West Virginia business registration  
33 number or a copy of the current West Virginia business  
34 registration certificate. The division of forestry shall  
35 submit this information and a list of all applicants to the  
36 tax commissioner each quarter of the calendar year to  
37 ensure compliance with payment of severance, income  
38 withholding and all other applicable state taxes; and

39 (3) Any other information required by the director.

40 (c) The director shall promulgate legislative rules  
41 pursuant to the provisions of article three, chapter  
42 twenty-nine-a of this code which provide procedures by  
43 which a license may be acquired, suspended or revoked  
44 under this article. The Legislature expressly finds that  
45 these legislative rules are the proper subject of emergency  
46 legislative rules which may be promulgated in accordance  
47 with the provision of section fifteen, article three, section  
48 twenty-nine-a of this code.

49 (d) The director shall prescribe a form providing the  
50 contents and manner of posting notice at the timbering  
51 operation. The notice shall include, at a minimum, the  
52 operator's name and license number.

**§19-1B-6. Notification of duration of timbering operations or  
harvesting of timber for sale; requirements  
thereof.**

1 (a) In addition to any other requirement of this article,  
2 no person may conduct timbering operations and no  
3 person may sever trees for sale unless the person notifies  
4 the director of the specific location on which the timbering  
5 operations or harvesting of timber are to be conducted.  
6 The notification shall be made in a manner designated by  
7 the director.

8 (1) All persons who conduct timbering operations or who  
9 harvest timber for sale, including those persons who are  
10 specifically exempted from the licensure requirements of  
11 section four of this article, shall provide to the director of

12 the division notification of harvesting of timber, which  
13 shall include:

14 (A) The name and address of the harvester of timber;

15 (B) The name and addresses of the owner or owners of  
16 the property upon which the timber is located;

17 (C) The business tax number or social security number of  
18 the harvester of timber; and

19 (D) An acknowledgment that the harvester of timber will  
20 conduct the harvest according to best management  
21 practices.

22 (2) In addition to the requirements of subdivision (1) of  
23 this subsection, persons who are subject to the licensure  
24 requirements of section four of this article shall provide to  
25 the director of the division notification of timbering  
26 operations, which shall include, at a minimum, the follow-  
27 ing:

28 (A) The specific topographic location where the timber-  
29 ing operations are to be conducted;

30 (B) The approximate dates that the timbering operation  
31 will begin and end;

32 (C) The approximate acreage over which timbering  
33 operations are contemplated;

34 (D) The names and addresses of the owner or owners of  
35 the timber to be harvested and, if different, the names and  
36 addresses of the owner or owners of the property upon  
37 which the timber is located;

38 (E) A sketch map of the proposed logging operation,  
39 including haul roads, landings and stream crossings;

40 (F) A description of the sediment control practices to be  
41 used by the logger during the timber harvesting operation;

42 (G) An acknowledgment that the operator will conduct  
43 the operations in compliance with the provisions of this  
44 article and any applicable rules promulgated pursuant to  
45 this article;

46 (H) A certification satisfactory to the director that all  
47 permits required under state law have been obtained or  
48 applied for and that all pertinent requirements for obtain-  
49 ing any permit applied for, but not yet obtained, have been  
50 complied with; and

51 (I) The name or names of the person or persons who will  
52 be supervising the timbering operations at the site of the  
53 operations and his or her logger certification numbers.

54 (b) The notification shall be made within at least three  
55 days of the beginning of the operation.

56 (c) Further notice shall be given if the operation is to be,  
57 for any reason, closed more than seven days before the  
58 estimated date for closing provided under paragraph (B),  
59 subdivision (2), subsection (a) of this section.

**§19-1B-7. Certification of persons supervising timbering operations, timbering operations to be supervised, promulgation of rules.**

1 (a) Any individual supervising any licensed timbering  
2 operation, or any individual supervising any timbering  
3 operation that is not exempted from the licensing require-  
4 ments set forth in section four of this article, must be  
5 certified pursuant to this section.

6 (b) The director is responsible for the development of  
7 standards and criteria for establishment of a regularly  
8 scheduled program of education, training and examination  
9 that all persons must successfully complete in order to be  
10 certified to supervise any timbering operation. The  
11 program for certified loggers shall provide, at a minimum,  
12 for education and training in the safe conduct of timbering  
13 operations, in first aid procedures and in the use of best

14 management practices to prevent, insofar as possible, soil  
15 erosion on timbering operations. The goals of this pro-  
16 gram will be to assure that timbering operations are  
17 conducted in accordance with applicable state and federal  
18 safety regulations in a manner that is safest for the  
19 individuals conducting the operations and that they are  
20 performed in an environmentally sound manner.

21 (c) The director shall provide for such programs by using  
22 the resources of the division, other appropriate state  
23 agencies, educational systems and other qualified persons.  
24 Each inspector under the jurisdiction of the chief shall  
25 attend a certification program free of charge and complete  
26 the certification requirements of this section.

27 (d) The director shall promulgate legislative rules in  
28 accordance with article three, chapter twenty-nine-a of  
29 this code, which provide the procedure by which certifica-  
30 tion pursuant to this article may be obtained and shall  
31 require the payment of an application fee and an annual  
32 renewal fee of fifty dollars.

33 (e) Upon a person's successful completion of the certifi-  
34 cation requirements, the director shall provide that person  
35 with proof of the completion by issuing a numbered  
36 certificate and a wallet-sized card to that person. The  
37 division shall maintain a record of each certificate issued  
38 and the person to whom it was issued.

39 (f) A certification granted pursuant to this section is  
40 renewable only for two succeeding years. For the third  
41 renewal and every third renewal thereafter, the licensee  
42 shall first attend a program designed by the director to  
43 update the training.

44 (g) Every timbering operation that is required to be  
45 licensed under section four of this article must have at  
46 least one person certified pursuant to this section supervis-  
47 ing the operation at any time the timbering operation is  
48 being conducted and all timbering operators shall be

49 guided by the West Virginia forest practice standards and  
50 the West Virginia silvicultural best management practices  
51 in selecting practices appropriate and adequate for  
52 reducing sediment movement during a timber operation.

53 (h) The director shall, at no more than three-year  
54 intervals after the effective date of this article, convene a  
55 committee to review the best management practices so as  
56 to ensure that they reflect and incorporate the most  
57 current technologies. The committee shall, at a minimum,  
58 include a person doing research in the field of silvicultural  
59 best management practices, a person doing research in the  
60 field of silviculture, two loggers certified under this  
61 article, a representative of the office of water resources of  
62 the division of environmental protection and a representa-  
63 tive of an environmentally active organization. The  
64 director shall chair the committee and may adjust the then  
65 current best management practices according to the  
66 suggestions of the committee in time for the next certifica-  
67 tion cycle.

**§19-1B-12a. Criminal penalties.**

1 (a) After the first day of July, two thousand two, any  
2 person who knowingly or willingly commits one of the  
3 following violations is guilty of a misdemeanor, and upon  
4 conviction thereof shall be fined not less than two hundred  
5 fifty dollars and not more than five hundred dollars for  
6 each violation:

7 (1) Conducts timbering operations or purchases timber  
8 or buys logs for resale in this state without holding a valid  
9 license from the director of the division of forestry, as  
10 required by subsection a, section four of this article;

11 (2) Conducts timbering operations or severs trees for sale  
12 at a location in this state, without providing the director  
13 of the division of forestry with notice of the location where  
14 the timbering or harvesting operations are to be con-  
15 ducted, as required by section six of this article;



16 (3) Conducts a timbering operation in this state that is  
17 not supervised by a certified logger who holds a valid  
18 certificate from the director of the division of forestry, as  
19 required by section seven of this article; or

20 (4) Continues to conduct timbering or logging operations  
21 in violation of an existing suspension or revocation order  
22 that has been issued by the director of the division of  
23 forestry or a conference panel under section five, ten or  
24 eleven of this article.

25 (b) For the purposes of this section, each day that a  
26 person conducts logging or timbering operations in this  
27 state without a license that is required by this article,  
28 without the supervision of a certified logger as required by  
29 this article, without providing notice of the location to the  
30 director of forestry as required by this article, or in  
31 violation of an outstanding suspension or revocation order  
32 shall constitute a separate offense.

33 (c) In addition to any other law-enforcement agencies  
34 that have jurisdiction over criminal violations, any  
35 forester or forest ranger employed by the division of  
36 forestry, who, as a part of his or her official duties is  
37 authorized or designated by the director of the division of  
38 forestry to inspect logging or timbering activities, is  
39 hereby authorized to issue citations for any of the listed  
40 violations set forth above that he or she has personally  
41 witnessed. The limited authority granted by this section  
42 to employees of the division of forestry to issue citations to  
43 enforce the provisions of this section does not include the  
44 power to place any individual or person under arrest.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Handwritten Signature]*  
.....  
Chairman Senate Committee

*[Handwritten Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

*[Handwritten Signature]*  
.....  
Clerk of the Senate

*[Handwritten Signature]*  
.....  
Clerk of the House of Delegates

*[Handwritten Signature]*  
.....  
President of the Senate

*[Handwritten Signature]*  
.....  
Speaker House of Delegates

The within *is* approved this the *12<sup>th</sup>*  
Day of *March*, 2002.

*[Handwritten Signature]*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/6/02

Time 10:08 pm