

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 357**

5 (SENATORS WILLIAMS, BEACH, D. HALL, MILLER, SYPOLT, PLYMALE AND TUCKER,

6 *original sponsors*)

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8 [Passed March 7, 2014; in effect ninety days from passage.]  
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13 AN ACT 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20 be repealed; and that §19-1B-12a of said code be amended and  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.