

1 **Senate Bill No. 357**

2 (By Senators Williams, Beach, D. Hall, Miller, Sypolt, Plymale  
3 and Tucker)

4 \_\_\_\_\_  
5 [Introduced January 15, 2014; referred to the Committee on  
6 Natural Resources; and then to the Committee on the Judiciary.]



7 \_\_\_\_\_  
8  
9  
10  
11 A BILL to repeal §19-1B-12 of the Code of West Virginia, 1931, as  
12 amended; and to amend and reenact §19-1B-12a, all relating to  
13 civil and criminal penalties for violations of the Logging  
14 Sediment Control Act pertaining to timber operations.

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

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17 be repealed; and that §19-1B-12a of said code be amended and  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

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

21 **§19-1B-12a. Criminal and civil penalties.**

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

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

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

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

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

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

22          (b) *Criminal and civil penalties.* -- A person that violates  
23 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, forwarded to the  
6 division and deposited in the Division of Forestry Timber  
7 Operations Enforcement Fund (3082) to be used to administer the  
8 provisions of this section.

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, strike-throughs 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.