

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 357

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

[Originating in the Committee on the Judiciary;
reported January 31, 2014.]

A BILL to repeal §19-1B-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §19-1B-12a of said code, all relating to civil and criminal penalties for violations of the Logging Sediment Control Act pertaining to timber operations; and establishing a violation for failure to reclaim.

Be it enacted by the Legislature of West Virginia:

That §19-1B-12 of the Code of West Virginia, 1931, as amended, be repealed; and that §19-1B-12a of said code be amended and reenacted, all to read as follows:

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

§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
3 logs for resale in this state without holding a valid license
4 from the Director of the Division of Forestry, as required by
5 section four of this article;

6 (2) Conduct timbering operations or sever trees for sale
7 at a 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
10 required 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
13 from the Director of the Division of Forestry, as required by
14 section seven of this article;

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

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

23 (b) *Criminal and civil penalties.* – A person that violates
24 this section is guilty of a misdemeanor and, upon conviction,
25 shall be fined not less than \$250 nor more than \$500 for each
26 violation. In addition to fines and costs, a person or entity
27 convicted of a violation of this section shall pay a \$500 civil
28 penalty to the division within sixty days. The civil penalty
29 shall be collected by the court in which the person is
30 convicted and forwarded to the State Treasurer for deposit in
31 the Division of Forestry Timber Operations Enforcement
32 Fund (3082) for use in administering the provisions of this
33 article.

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

36 (d) In addition to any other law-enforcement agencies
37 that have jurisdiction over criminal violations, any forester or
38 forest technician employed by the Division of Forestry who,
39 as a part of his or her official duties is authorized by the
40 Director of the Division of Forestry to inspect timbering
41 operations, is authorized to issue citations for any of the
42 listed violations in this article that he or she has witnessed.
43 The limited authority granted to employees of the Division of
44 Forestry to issue citations to enforce the provisions of this
45 section does not include the power to place any individual or
46 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.

5 [Com. Sub. for S. B. No. 357

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