

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **House Bill 4312**

BY DELEGATES A. EVANS, HARTMAN, HAMILTON AND R.

ROMINE

[Introduced January 26, 2018; Referred  
to the Committee on Agriculture and Natural  
Resources then the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designed §19-1B-12; and to amend and reenact §19-1B-12a of said code, all relating to  
3 requiring purchasers of roundwood to collect and maintain certain information; providing  
4 criminal penalties; and clarifying that the employees of the Division of Forestry are  
5 authorized to issue citations for violations of the Logging Sediment and Control Act.

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

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

**§19-1B-12. Purchase of roundwood and required recordkeeping.**

1 (a) It is unlawful for any person or entity to purchase roundwood without obtaining and  
2 recording the information required by this section. Roundwood includes logs, pulpwood, or other  
3 wood products that have been severed from a stump.

4 (b) A person or entity that purchases roundwood shall make a record of the purchase  
5 using a form provided or approved by the Division of Forestry. The form shall contain, at a  
6 minimum, the following information for each initial timber operation notification:

7 (1) The name, current business address, and phone number of the seller;

8 (2) The date and time of the initial transaction; and

9 (3) A photocopy of a valid timber or timber license exemption and a valid timber operation  
10 notification form issued by the Division of Forestry to the seller delivering the roundwood. Sellers  
11 located out-of-state shall provide the purchaser with an equivalent business license or any other  
12 license requested by the Division of Forestry.

13 (c) The seller is required to notify the buyer of any changes in his or her initial timber  
14 operation notification, timber license or timber exemption status, already on file with the purchaser  
15 and the seller is required to provide the purchaser with updated documentation at the time the  
16 roundwood is received by the purchaser.

17           (d) The purchaser shall retain the records required by this section at his or her place of  
18 business for a minimum of three calendar years after the date of purchase and the records shall  
19 be made available for inspection by any law-enforcement officer or any employee of the Division  
20 of Forestry.

21           (e) Any person who knowingly or fraudulently violates a provision of this section, including  
22 the failure to make a record, maintain records required by this section, or who falsifies any  
23 required information, is guilty of a misdemeanor. Upon conviction of a first offense, a person shall  
24 be fined not less than \$1,000 nor more than \$3,000; upon conviction of a second offense, a person  
25 shall be fined not less than \$2,000 nor more than \$4,000 and, notwithstanding the provisions of  
26 §11-12-5 of this code, the court in which the conviction occurred shall issue an order directing the  
27 Tax Commissioner to suspend for a period of six months any business registration certificate held  
28 by that person. Upon conviction of a third or subsequent offense, a person shall be fined not less  
29 than \$3,000 nor more than \$5,000 and, notwithstanding the provisions of §11-12-5 of this code,  
30 the court in which the conviction occurred shall issue an order directing the Tax Commissioner to  
31 suspend any business registration certificate held by that person and include the date the  
32 cancellation shall take effect.

**§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 for resale in this state  
3 without holding a valid license from the Director of the Division of Forestry, as required by §19-  
4 1B-4 of this code;

5           (2) Conduct timbering operations or sever trees for sale at a location in this state without  
6 providing the Director of the Division of Forestry with notice of the location where the timbering or  
7 harvesting operations are to be conducted, as required by §19-1B-6 of this code;

8           (3) Conduct a timbering operation in this state that is not supervised by a certified logger

9 who holds a valid certificate from the Director of the Division of Forestry, as required by §19-1B-  
10 7 of this code;

11 (4) Continue to conduct timbering operations in violation of a suspension or revocation  
12 order that has been issued by the Director of the Division of Forestry or a conference panel under  
13 §19-1B-5, §19-1B-10 or §19-1B-11 of this code; and

14 (5) Fail to reclaim the real property in accordance with the best management practices set  
15 forth by the Division of Forestry and the committee established in §19-1B-7(h) of this code.

16 (b) *Criminal and civil penalties.* -- A person that violates this section is guilty of a  
17 misdemeanor and, upon conviction, shall be fined not less than \$250 nor more than \$500 for each  
18 violation. In addition to fines and costs, a person or entity convicted of a violation of this section  
19 shall pay a \$500 civil penalty to the division within 60 days. The civil penalty shall be collected by  
20 the court in which the person is convicted and forwarded to the State Treasurer for deposit in the  
21 Division of Forestry Timber Operations Enforcement Fund (3082) for use in administering the  
22 provisions of this article.

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

25 (d) In addition to any other law-enforcement agencies that have jurisdiction over criminal  
26 violations, any forester or forest technician employed by the Division of Forestry who, as a part of  
27 his or her official duties, is authorized by the Director of the Division of Forestry to inspect  
28 timbering operations, is authorized to issue citations for ~~any of the listed~~ violations in this article.  
29 ~~that he or she has witnessed. The limited authority granted to employees of the Division of~~  
30 ~~Forestry to issue citations to enforce the provisions of this section does not include the power to~~  
31 ~~place any individual or person under arrest~~

NOTE: The purpose of this bill is to require purchasers of roundwood to collect and maintain certain information. It also provides criminal penalties for failure to record, maintain or for falsifying required information. It requires sellers to provide updated information to purchases prior to purchase; and it clarifies that the employees of the Division of Forestry are authorized to issue citations for violations of the Logging Sediment and Control Act.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.