

**DEPARTMENT OF TAXATION
2013 Fiscal Impact Statement**

1. **Patron** Christopher K. Peace

2. **Bill Number** HB 2054

3. **Committee** Passed House and Senate

House of Origin:

 Introduced

 Substitute

 Engrossed

4. **Title** Retail Sales and Use Tax; Exemption for
Harvesting of Forest Products

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. Summary/Purpose:

This bill would clarify that for purposes of the Retail Sales and Use Tax exemption available for machinery, tools, equipment, fuel, energy, and supplies used directly in the harvesting of forest products, the term “harvesting of forest products” includes all operations prior to the transport of the harvested product **used for**: 1) removing timber or other forest products from the harvesting site; (ii) complying with environmental protection and safety requirements applicable to the harvesting of forest products; (iii) obtaining access to the harvesting site; and (iv) loading cut timber or other forest products onto highway vehicles for transportation to storage or processing facilities.

Under current law, the term “harvesting of forest products” includes all operations prior to the transport of the harvested product **necessary for**, or indispensable for, performing these activities.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

7. **No Fiscal Impact.** (See Line 8.)

8. Fiscal implications:

As this bill is a clarification of current law, this bill would have no impact on state or local revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. **Technical amendment necessary:** No.

11. Other comments:

In 1999, the General Assembly enacted legislation to expand the exemption available for certain tangible personal property used in the harvesting of forest products. Prior to the 1999 legislative change, the exemption extended to machinery or tools and repair parts, fuel, power, energy or supplies, used directly in the harvesting of forest products for sale or for use as a component part of a product to be sold. The Department interpreted this provision not to apply to pre-harvesting or post-harvesting activities including the clearing of land or construction of roads to open up a logging site, the clearing of trash from the harvesting site, and the transportation of the severed products from the harvesting site. Thus, items such as bulldozers used to open roads into woods, trucks, and welders were not included under the exemption prior to 1999.

The 1999 legislation extended the exemption by expanding the definition of the term “harvesting of forest products” to include all operations prior to the transport of the harvested product necessary for : i) removing timber or other forest products from the harvesting site; (ii) complying with environmental protection and safety requirements applicable to the harvesting of forest products, (iii) obtaining access to the harvesting site, and (iv) loading cut timber or other forest products onto highway vehicles for transportation to storage or processing facilities.

Current law’s usage of the term “necessary” could be interpreted to exclude from the exemption certain tangible personal property that might be useful or helpful in completing one of the four activities, but is not essential or indispensable to completion of that activity. For example, while a wood chipper used to grind harvested timber may be useful in clearing a harvest site, it is not essential for removing timber from the harvesting site, complying with environmental protection and safety requirements, obtaining access to the harvesting site, or loading cut timber or other forest products onto highway vehicles. Each of the four activities can be accomplished without the use of a wood chipper.

Proposal

This bill would clarify that for purposes of the Retail Sales and Use Tax harvesting of forest products exemption, the term “harvesting of forest products” includes all operations prior to the transport of the harvested product that are used for: i) removing forest products from the harvesting site; (ii) complying with environmental protection and safety requirements applicable to the harvesting of forest products; (iii) obtaining access to the harvesting site, and (iv) loading cut timber or other forest products onto highway vehicles for transportation to storage or processing facilities. Under the terms of the bill, it is not required that the exempt equipment be necessary for, essential for, or indispensable to accomplishing one of the four enumerated activities.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 2/20/2013 KP
DLAS File Name: HB 2054FER161