

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 7

An Act to amend and reenact § 10.1-1105 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-1126.1, relating to silvicultural practices.

[S 592]

Approved January 28, 1997

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1105 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 10.1-1126.1 as follows:

§ 10.1-1105. Additional powers and duties of State Forester.

The State Forester shall supervise and direct all forest interests and all matters pertaining to forestry within the Commonwealth. He shall have charge of all forest wardens and shall appoint, direct and supervise persons he employs to perform labor in the forest reservations or the nurseries provided for herein. He shall take such action as is authorized by law to prevent and extinguish forest fires; enforce all laws pertaining to forest and woodlands; prosecute any violation of such laws; *develop silvicultural best management practices, including reforestation, prevention of erosion and sedimentation, and maintenance of buffers for water quality, pursuant to Article 12 (§ 10.1-1181.1 et seq.) of this chapter*; collect information relative to forest destruction and conditions; direct the protection and improvement of all forest reservations; and, as far as his duties as State Forester will permit, conduct an educational course on forestry at the University of Virginia for credit toward a degree, at farmers' institutes and at similar meetings within the Commonwealth. He shall provide for the protection of state waters from pollution by sediment deposition resulting from silvicultural activities as provided in Article 12 (§ 10.1-1181.1 et seq.) of this chapter. In addition, the State Forester shall cooperate with counties, municipalities, corporations and individuals in preparing plans and providing technical assistance for the protection, management and replacement of trees, wood lots and timber tracts and the establishment and preservation of urban forests, under an agreement that the parties obtaining such assistance shall pay the field and traveling expenses of the person employed in preparing such plans.

§ 10.1-1126.1. *Silvicultural practices; local government authority limited.*

A. *Forestry, when practiced in accordance with accepted silvicultural best management practices as determined by the State Forester pursuant to § 10.1-1105, constitutes a beneficial and desirable use of the Commonwealth's forest resources.*

B. *Notwithstanding any other provision of law, silvicultural activity, as defined in § 10.1-1181.1, that (i) is conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to § 10.1-1105 and (ii) is located on property defined as real estate devoted to forest use under § 58.1-3230 or in a district established pursuant to Chapter 36 (§ 15.1-1506 et seq.) or Chapter 36.1 (§ 15.1-1513.1 et seq.) of Title 15.1, shall not be prohibited or unreasonably limited by a local government's use of its police, planning and zoning powers. Local ordinances and regulations shall not require a permit or impose a fee for such silvicultural activity. Local ordinances and regulations pertaining to such silvicultural activity shall be reasonable and necessary to protect the health, safety and welfare of citizens residing in the locality, and shall not be in conflict with the purposes of promoting the growth, continuation and beneficial use of the Commonwealth's privately owned forest resources. Prior to the adoption of any ordinance or regulation pertaining to silvicultural activity, a locality may consult with, and request a determination from, the State Forester as to whether the ordinance or regulation conflicts with the purposes of this section. Nothing in this section shall preclude a locality from requiring a review by the zoning administrator, which shall not exceed ten working days, to determine whether a proposed silvicultural activity complies with applicable local zoning requirements.*

C. *The provisions of this section shall apply to the harvesting of timber, provided that the area on which such harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163.*

The provisions of this section shall not apply to land that has been rezoned or converted at the request of the owner or previous owner from an agricultural or rural to a residential, commercial or industrial zone or use.

Nothing in this section shall affect any requirement imposed pursuant to the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.) or imposed by a locality pursuant to the designation of a scenic highway or Virginia byway in accordance with Article 5 (§ 33.1-62 et seq.) of Chapter 1 of Title 33.1.