

# VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

## CHAPTER 285

*An Act to amend and reenact §§ 10.1-1163, 10.1-1164, 10.1-1167, 10.1-1168, and 10.1-1169 of the Code of Virginia, relating to the seed tree law; penalties.*

[H 612]

Approved March 20, 1996

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 10.1-1163, 10.1-1164, 10.1-1167, 10.1-1168, and 10.1-1169 of the Code of Virginia are amended and reenacted as follows:**

§ 10.1-1163. Exemptions from article.

A. This article shall not apply to any acre of land on which there are present at the time of final cutting of the timber 400 or more loblolly, ~~shortleaf~~, or ~~pond~~ or white pine seedlings, singly or together, four feet or more in height.

B. This article shall not apply to any person who clears or who procures another to clear his land for bona fide agricultural or improved pasture purposes or for the purpose of subdividing such land for sale for building sites. For the purpose of this article, evidence of intent of bona fide agricultural or improved pasture use shall require, as a minimum and within twelve months from the date of completion of commercial cutting, that the land intended for such use be cleared of all trees, snags, brush, tree tops, and debris by piling and burning or otherwise disposing of same, or by enclosing the area with a well-constructed fence and planting grass seed thereon so as to make a bona fide improved pasture. In the case of clearing for building sites evidence of intent shall be the construction of dwellings or other bona fide structure in progress or completed within two years from the date of completion of commercial cutting.

C. *This article shall not apply to land which has been zoned for a more intensive land use than agricultural or forestal use.*

D. The provisions of this article shall not apply to any acre or acres of forest land for which a planting, cutting or management plan has been prepared, designed to ~~procure the reproduction of and maintain the growth of young thrifty trees of commercially valuable species~~ *provide conservation of natural resources*, and which plan has been submitted to and approved by the State Forester previous to the cutting of any trees on the acre or acres concerned. If such plan has been submitted to the State Forester by registered or certified mail and he has not approved the plan, or disapproved it with a statement in writing of his reasons therefor, within a period of sixty days from the date of submission, the plan shall be deemed approved and shall be effective for the purposes of this section.

§ 10.1-1164. Pine trees to be left uncut for reseedling purposes.

Every landowner who cuts, or any person who cuts or procures another to cut, or any person who owns the timber at the time of cutting and knowingly and willfully allows to be cut, for commercial purposes, timber from ~~one acre ten acres~~ or more of land ~~on any acre~~ on which loblolly, ~~shortleaf~~, ~~pond~~ or white pine, singly or together, occur and constitute ~~ten~~ *twenty-five* percent or more of the live trees on each acre or acres, shall reserve and leave uncut and uninjured not less than eight cone-bearing loblolly, ~~shortleaf~~, ~~pond~~ or white pine trees fourteen inches or larger in diameter on each acre thus cut and upon each acre on which such pine trees occur singly or together, unless there is in effect for such land a planting, cutting or management plan as provided in subsection ~~C~~ *D* of § 10.1-1163. Where eight cone-bearing loblolly, ~~shortleaf~~, ~~pond~~ or white pine trees fourteen inches or larger in diameter are not present on any particular acre, there shall be left uncut and uninjured for each such pine two cone-bearing pine trees of the largest diameter present less than fourteen inches in diameter. Such pine trees shall be left uncut for the purpose of reseedling the land and shall be healthy, windfirm, and of well-developed crowns, evidencing seed-bearing ability by the presence of cones in the crowns.

§ 10.1-1167. Penalty for violation of article.

Any person violating any provision of this article shall be guilty of a misdemeanor and upon conviction shall be fined ~~twenty~~ *thirty* dollars for each seed tree cut from the land in violation of this article. The total amount of fine for any one acre shall not exceed ~~\$160~~ *\$240*.

§ 10.1-1168. Procedure to ensure proper planting after conviction; cash deposit or bond; inspection or planting by State Forester.

When any person is convicted of failing to leave seed trees uncut as required by § 10.1-1164, the judge shall require the person so convicted to immediately post with the court a cash deposit or a bond of a reputable surety company in favor of the State Forester in the amount of ~~twenty~~ *thirty* dollars for each seed tree cut in violation of this article. The total amount of the cash deposit or bond for any one acre shall not exceed ~~\$160~~ *\$240*.

The judge shall cause the cash deposit or surety bond to be delivered to the State Forester, who shall

hold the cash or surety bond in a special account until it is used or released as hereinafter provided. The purpose of the cash or surety bond is to ensure that the general cutover area on which seed trees have been cut in violation of this article shall be planted with tree seedlings of the same species as the trees cut in violation of this article in a manner hereinafter specified.

For each ~~tree~~ acre on which trees have been cut in violation of this article, ~~400~~ a number up to 600, as determined by the State Forester, of tree seedlings shall be planted on the general cutover area on which seed trees were cut in violation, ~~in spots where seedlings, saplings or trees of the required species are absent.~~ Each seedling shall be planted in a separate hole at least six feet from any other planted seedling. Seedlings shall be planted at least six feet from any sapling or tree which may shade the planted seedling from direct sunlight. If stems of noncommercial species prevent the planting of tree seedlings in the manner herein described on any area in violation, a sufficient number of such stems shall be cut, girdled or poisoned to permit the required number of seedlings to be planted. The seedlings shall be planted during the period of the year when forest tree seedlings are customarily planted in the section of the Commonwealth in which the cutover area is located. After receipt of the tree seedlings from the nursery, care shall be taken to keep the seedling roots in a moist, uninjured condition at all times prior to actual planting, and the seedlings shall be planted in a careful, workmanlike manner. Planted seedlings shall be of the same tree species as the seed trees cut in violation, or if two or more seed tree species are cut in violation, the species of the planted seedlings shall be in proportion to the seed trees cut in violation. The above specified manner of planting and tree species planted shall be observed whether the planting is done by the person found in violation of this article or by the State Forester.

A person convicted of violating this article may plant tree seedlings on the general cutover area of the species and in the manner specified herein within one year following the date of conviction. Upon completion of the planting, the person shall immediately notify the State Forester in writing that the area has been planted. The State Forester or his representative shall then inspect the area and if he finds the planting to be done in accordance with the specifications set forth, he shall notify the person in writing and return the cash deposit or surety bond to the person depositing it.

If, upon inspection, the State Forester finds that the general cutover area or any part thereof has not been planted in the manner and during the period of year specified, or that the area has not been planted previous to one year following the date of conviction, the State Forester shall then plant the area during the next planting season, and do such forest cultural work as he deems necessary by reason of the delayed planting, keeping a careful and accurate account of all costs incurred, including a reasonable administrative cost. Following completion of the planting the State Forester shall prepare a certified statement showing the cost of planting, which shall be paid from the cash deposit, or if a surety bond has been deposited the State Forester shall collect the cost of planting from the bonding company. The State Forester shall then submit to the person making the deposit a certified statement of the cost of planting, together with any cash remaining after paying the cost of planting and forest cultural work.

The State Forester shall not be required to expend for planting and forest cultural operations more than ~~twenty~~ thirty dollars per seed tree cut in violation of this article.

§ 10.1-1169. Liability for failure to carry out planting, cutting or management plan; reforestation of area by State Forester.

A. Any person failing to carry out, fulfill or complete any term or provision of any planting, cutting, or management plan submitted to and approved by the State Forester as provided in subsection ~~C~~ D of § 10.1-1163 shall be liable to the Commonwealth in a civil suit brought by the Attorney General in the name of the Commonwealth in any court of competent jurisdiction for, at least ~~\$160~~ \$240 per acre for each acre or part of an acre subject to such plan *and legal fees incurred by the Commonwealth*. All moneys collected pursuant to this subsection, exclusive of court costs and legal fees incurred by the Commonwealth, shall be delivered to the State Forester, who shall deposit the money in the Forestry Operations Fund in the state treasury until it is used or released as hereinafter provided. Such deposit may only be spent to ensure that the area for which the planting, cutting or management plan was approved by the State Forester shall be reforested in the manner hereinafter specified.

B. During the year following the date of payment of any judgment rendered in favor of the Commonwealth pursuant to subsection A of this section and at the season when forest tree seedlings are customarily planted in the section of the Commonwealth where the planting, cutting or management plan area is located, the State Forester shall plant, or cause to be planted, on the area, as many forest tree seedlings as he deems necessary to reforest the area adequately. The tree species used in reforesting the area may be the same as the pine species cut from the area, or the species may be a mixture suitable for reforesting the area, in the judgment of the State Forester.

C. If, upon inspection, the State Forester finds that the area for which the forest management plan was approved is covered with a growth of woody plants, sprouts, brush and briars of such a density as to retard or preclude the establishment and development of the planted tree seedlings, he may perform or cause to be performed forest cultural measures, such as bulldozing, disking, poisoning by spray, and similar measures, necessary to make the area suitable for the planting, establishment and development of tree seedlings.

D. The State Forester shall keep an accurate account of all costs involved, including reasonable administrative costs, and shall transfer such costs from the Forestry Operations Fund into the Department operating account for protection and development of the forest resources of the Commonwealth. If, after having complied with the reforestation provisions of this section, any money remains in the special account to the credit of any particular case, the unexpended balance shall be paid to the person against whom a judgment was rendered pursuant to the provisions of subsection A.

E. The expenditure by the State Forester for reforestation on any individual area as herein provided shall not exceed the amount of the judgment paid for the reforestation of such area.