

AMENDED IN SENATE JUNE 17, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2142

Introduced by Assembly Member Chesbro

February 20, 2014

An act to amend Section ~~4650.1~~ 4584 of the Public Resources Code, relating to ~~forests~~ forestry.

LEGISLATIVE COUNSEL'S DIGEST

AB 2142, as amended, Chesbro. ~~State forests: sale of timber. Timber harvesting plans: exemptions.~~

The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations unless a timber harvesting plan prepared by a registered professional forester has been submitted to the Department of Forestry and Fire Protection. The act authorizes the State Board of Forestry and Fire Protection to exempt from those provisions of the act a person engaging in specified forest management activities. Existing law, for a specified 3-year period, authorizes an exemption, known as the Forest Fire Prevention Pilot Project Exemption, if certain conditions are met, including, among others, that the activities conducted pursuant to the exemption occur in the Sierra Nevada Region, as defined, in the County of Modoc, Siskiyou, or Trinity, or in any combination of these areas.

This bill would expand the Forest Fire Prevention Pilot Project Exemption to include activities conducted within the County of Del Norte, Humboldt, Mendocino, or Sonoma.

~~Existing law prohibits the sale of timber from state forests to any California division of a primary manufacturer, or to any person for resale to a primary manufacturer, who within one year prior to the bid~~

date and one year after the termination of the contract, sells unprocessed timber, as defined, which is harvested from private timberlands and is exported into foreign commerce from this state.

This bill would instead prohibit the sale of timber from state forests to any California manufacturer, or to any person for resale to a primary manufacturer, ~~who within 24 months prior to the bid date sells unprocessed timber, which is harvested from private timberlands and is exported into foreign commerce from this state.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4584 of the Public Resources Code is
2 amended to read:

3 4584. Upon determining that the exemption is consistent with
4 the purposes of this chapter, the board may exempt from this
5 chapter, or portions of this chapter, a person engaged in forest
6 management whose activities are limited to any of the following:

7 (a) The cutting or removal of trees for the purpose of
8 constructing or maintaining a right-of-way for utility lines.

9 (b) The planting, growing, nurturing, shaping, shearing, removal,
10 or harvest of immature trees for Christmas trees or other ornamental
11 purposes or minor forest products, including fuelwood.

12 (c) The cutting or removal of dead, dying, or diseased trees of
13 any size.

14 (d) Site preparation.

15 (e) Maintenance of drainage facilities and soil stabilization
16 treatments.

17 (f) Timber operations on land managed by the Department of
18 Parks and Recreation.

19 (g) (1) The one-time conversion of less than three acres to a
20 nontimber use. A person, whether acting as an individual or as a
21 member of a partnership, or as an officer or employee of a
22 corporation or other legal entity, shall not obtain more than one
23 exemption pursuant to this subdivision in a five-year period. If a
24 partnership has as a member, or if a corporation or other legal
25 entity has as an officer or employee, a person who has received
26 this exemption within the past five years, whether as an individual
27 or as a member of a partnership, or as an officer or employee of a

1 corporation or other legal entity, then that partnership, corporation,
2 or other legal entity is not eligible for this exemption. “Person,”
3 for purposes of this subdivision, means an individual, partnership,
4 corporation, or other legal entity.

5 (2) (A) Notwithstanding Section 4554.5, the board shall adopt
6 regulations that do all of the following:

7 (i) Identify the required documentation of a bona fide intent to
8 complete the conversion that an applicant will need to submit in
9 order to be eligible for the exemption in paragraph (1).

10 (ii) Authorize the department to inspect the sites approved in
11 conversion applications that have been approved on or after January
12 1, 2002, in order to determine that the conversion was completed
13 within the two-year period described in subparagraph (B) of
14 paragraph (2) of subdivision (a) of Section 1104.1 of Title 14 of
15 the California Code of Regulations.

16 (iii) Require the exemption pursuant to this subdivision to expire
17 if there is a change in timberland ownership. The person who
18 originally submitted an application for an exemption pursuant to
19 this subdivision shall notify the department of a change in
20 timberland ownership on or before five calendar days after a change
21 in ownership.

22 (iv) The board may adopt regulations allowing a waiver of the
23 five-year limitation described in paragraph (1) upon finding that
24 the imposition of the five-year limitation would impose an undue
25 hardship on the applicant for the exemption. The board may adopt
26 a process for an appeal of a denial of a waiver.

27 (B) The application form for the exemption pursuant to
28 paragraph (1) shall prominently advise the public that a violation
29 of the conversion exemption, including a conversion applied for
30 in the name of someone other than the person or entity
31 implementing the conversion in bona fide good faith, is a violation
32 of this chapter and penalties may accrue up to ten thousand dollars
33 (\$10,000) for each violation pursuant to Article 8 (commencing
34 with Section 4601).

35 (h) Easements granted by a right-of-way construction agreement
36 administered by the federal government if timber sales and
37 operations within or affecting these areas are reviewed and
38 conducted pursuant to the National Environmental Policy Act of
39 1969 (42 U.S.C. Sec. 4321 et seq.).

1 (i) (1) The cutting or removal of trees in compliance with
2 Sections 4290 and 4291 that eliminates the vertical continuity of
3 vegetative fuels and the horizontal continuity of tree crowns for
4 the purpose of reducing flammable materials and maintaining a
5 fuel break for a distance of not more than 150 feet on each side
6 from an approved and legally permitted structure that complies
7 with the California Building Standards Code, when that cutting or
8 removal is conducted in compliance with this subdivision. For
9 purposes of this subdivision, an “approved and legally permitted
10 structure” includes only structures that are designed for human
11 occupancy and garages, barns, stables, and structures used to
12 enclose fuel tanks.

13 (2) (A) The cutting or removal of trees pursuant to this
14 subdivision is limited to cutting or removal that will result in a
15 reduction in the rate of fire spread, fire duration and intensity, fuel
16 ignitability, or ignition of the tree crowns and shall be in
17 accordance with any regulations adopted by the board pursuant to
18 this section.

19 (B) Trees shall not be cut or removed pursuant to this
20 subdivision by the clearcutting regeneration method, by the seed
21 tree removal step of the seed tree regeneration method, or by the
22 shelterwood removal step of the shelterwood regeneration method.

23 (3) (A) Surface fuels, including logging slash and debris, low
24 brush, and deadwood, that could promote the spread of wildfire
25 shall be chipped, burned, or otherwise removed from all areas of
26 timber operations within 45 days from the date of commencement
27 of timber operations pursuant to this subdivision.

28 (B) (i) All surface fuels that are not chipped, burned, or
29 otherwise removed from all areas of timber operations within 45
30 days from the date of commencement of timber operations may
31 be determined to be a nuisance and subject to abatement by the
32 department or the city or county having jurisdiction.

33 (ii) The costs incurred by the department, city, or county, as the
34 case may be, to abate the nuisance upon a parcel of land subject
35 to the timber operations, including, but not limited to, investigation,
36 boundary determination, measurement, and other related costs,
37 may be recovered by special assessment and lien against the parcel
38 of land by the department, city, or county. The assessment may
39 be collected at the same time and in the same manner as ordinary
40 ad valorem taxes, and shall be subject to the same penalties and

1 the same procedure and sale in case of delinquency as is provided
2 for ad valorem taxes.

3 (4) All timber operations conducted pursuant to this subdivision
4 shall conform to applicable city or county general plans, city or
5 county implementing ordinances, and city or county zoning
6 ordinances. This paragraph does not authorize the cutting, removal,
7 or sale of timber or other solid wood forest products within an area
8 where timber harvesting is prohibited or otherwise restricted
9 pursuant to the rules or regulations adopted by the board.

10 (5) (A) The board shall adopt regulations, initially as emergency
11 regulations in accordance with subparagraph (B), that the board
12 considers necessary to implement and to obtain compliance with
13 this subdivision.

14 (B) The emergency regulations adopted pursuant to
15 subparagraph (A) shall be adopted in accordance with the
16 Administrative Procedure Act (Chapter 3.5 (commencing with
17 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
18 Code). The adoption of emergency regulations shall be deemed to
19 be an emergency and necessary for the immediate preservation of
20 the public peace, health, and safety, or general welfare.

21 (j) (1) The harvesting of trees, limited to those trees that
22 eliminate the vertical continuity of vegetative fuels and the
23 horizontal continuity of tree crowns, for the purpose of reducing
24 the rate of fire spread, duration and intensity, fuel ignitability, or
25 ignition of tree crowns.

26 (2) The board may authorize an exemption pursuant to paragraph
27 (1) only if the tree harvesting will decrease fuel continuity and
28 increase the quadratic mean diameter of the stand, and the tree
29 harvesting area will not exceed 300 acres.

30 (3) Except as provided in paragraph (11), the notice of
31 exemption, which shall be known as the Forest Fire Prevention
32 Exemption, may be authorized only if all of the conditions specified
33 in paragraphs (4) to (10), inclusive, are met.

34 (4) A registered professional forester shall prepare the notice
35 of exemption and submit it to the director, and include a map of
36 the area of timber operations that complies with the requirements
37 of paragraphs (1), (3), (4), and (7) to (12), inclusive, of subdivision
38 (x) of Section 1034 of Title 14 of the California Code of
39 Regulations.

1 (5) (A) The registered professional forester who submits the
 2 notice of exemption shall include a description of the preharvest
 3 stand structure and a statement of the postharvest stand stocking
 4 levels.

5 (B) The level of residual stocking shall be consistent with
 6 maximum sustained production of high-quality timber products.
 7 The residual stand shall consist primarily of healthy and vigorous
 8 dominant and codominant trees from the preharvest stand. Stocking
 9 shall not be reduced below the standards required by any of the
 10 following provisions that apply to the exemption at issue:

11 (i) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph
 12 (1) of subdivision (a) of Section 913.3 of Title 14 of the California
 13 Code of Regulations.

14 (ii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph
 15 (1) of subdivision (a) of Section 933.3 of Title 14 of the California
 16 Code of Regulations.

17 (iii) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph
 18 (1) of subdivision (a) of Section 953.3 of Title 14 of the California
 19 Code of Regulations.

20 (C) If the preharvest dominant and codominant crown canopy
 21 is occupied by trees less than 14 inches in diameter at breast height,
 22 a minimum of 100 trees over four inches in diameter at breast
 23 height shall be retained per acre for Site I, II, and III lands, and a
 24 minimum of 75 trees over four inches in diameter at breast height
 25 shall be retained per acre for Site IV and V lands.

26 (6) (A) The registered professional forester who submits the
 27 notice shall include selection criteria for the trees to be harvested
 28 or the trees to be retained. In the development of fuel reduction
 29 prescriptions, the registered professional forester should consider
 30 retaining habitat elements, where feasible, including, but not
 31 limited to, ground level cover necessary for the long-term
 32 management of local wildlife populations.

33 (B) All trees that are harvested or all trees that are retained shall
 34 be marked or sample marked by or under the supervision of a
 35 registered professional forester before felling operations begin.
 36 The board shall adopt regulations for sample marking for this
 37 section in Title 14 of the California Code of Regulations. Sample
 38 marking shall be limited to homogenous forest stand conditions
 39 typical of plantations.

1 (7) (A) The registered professional forester submitting the
2 notice, upon submission of the notice, shall provide a confidential
3 archaeology letter that includes all the information required by
4 any of the following provisions that apply to the exemption at
5 issue:

6 (i) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)
7 of Section 929.1 of Title 14 of the California Code of Regulations,
8 and include site records if required pursuant to subdivision (g) of
9 that section or pursuant to Section 929.5 of Title 14 of the
10 California Code of Regulations.

11 (ii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)
12 of Section 949.1 of Title 14 of the California Code of Regulations,
13 and include site records if required pursuant to subdivision (g) of
14 that section or pursuant to Section 949.5 of Title 14 of the
15 California Code of Regulations.

16 (iii) Paragraphs (2) and (7) to (11), inclusive, of subdivision (c)
17 of Section 969.1 of Title 14 of the California Code of Regulations,
18 and include site records if required pursuant to subdivision (g) of
19 that section or pursuant to Section 969.5 of Title 14 of the
20 California Code of Regulations.

21 (B) The director shall submit a complete copy of the confidential
22 archaeological letter and two copies of all required archaeological
23 or historical site records to the appropriate Information Center of
24 the California Historical Resource Information System within 30
25 days from the date of notice submittal to the director. Before
26 submitting the notice to the director, the registered professional
27 forester shall send a copy of the notice to Native Americans, as
28 defined in Section 895.1 of Title 14 of the California Code of
29 Regulations.

30 (8) Only trees less than 18 inches in stump diameter, measured
31 at eight inches above ground level, may be removed. However,
32 within 500 feet of a legally permitted structure, or in an area
33 prioritized as a shaded fuel break in a community wildfire
34 protection plan approved by a public fire agency, if the goal of
35 fuel reduction cannot be achieved by removing trees less than 18
36 inches in stump diameter, trees less than 24 inches in stump
37 diameter may be removed if that removal complies with this section
38 and is necessary to achieve the goal of fuel reduction. A fuel
39 reduction effort shall not violate the canopy closure regulations

1 adopted by the board on June 10, 2004, and as those regulations
2 may be amended.

3 (9) (A) This subparagraph applies to areas within 500 feet of
4 a legally permitted structure and in areas prioritized as a shaded
5 fuel break in a community wildfire protection plan approved by a
6 public fire agency. The board shall adopt regulations for the
7 treatment of surface and ladder fuels in the harvest area, including
8 logging slash and debris, low brush, small trees, and deadwood,
9 that could promote the spread of wildfire. The regulations adopted
10 by the board shall be consistent with the standards in the board's
11 "General Guidelines for Creating Defensible Space" described in
12 Section 1299.03 of Title 14 of the California Code of Regulations.
13 Postharvest standards shall include vertical spacing between fuels,
14 horizontal spacing between fuels, maximum depth of dead ground
15 surface fuels, and treatment of standing dead fuels, as follows:

16 (i) Ladder and surface fuels shall be spaced to achieve a vertical
17 clearance distance of eight feet or three times the height of the
18 postharvest fuels, whichever is the greater distance, measured from
19 the base of the live crown of the postharvest dominant and
20 codominant trees to the top of the surface fuels.

21 (ii) Horizontal spacing shall achieve a minimum separation of
22 two to six times the height of the postharvest fuels, increasing
23 spacing with increasing slope, measured from the outside branch
24 edges of the fuels.

25 (iii) Dead surface fuel depth shall be less than nine inches.

26 (iv) Standing dead or dying trees and brush generally shall be
27 removed. That material, along with live vegetation associated with
28 the dead vegetation, may be retained for wildlife habitat when
29 isolated from other vegetation.

30 (B) This subparagraph applies to all areas not described in
31 subparagraph (A).

32 (i) The postharvest stand shall not contain more than 200 trees
33 over three inches in diameter per acre.

34 (ii) Vertical spacing shall be achieved by treating dead fuels to
35 a minimum clearance distance of eight feet measured from the
36 base of the live crown of the postharvest dominant and codominant
37 trees to the top of the dead surface fuels.

38 (iii) All logging slash created by the timber operations shall be
39 treated to achieve a maximum postharvest depth of nine inches
40 above the ground.

1 (C) The standards required by subparagraphs (A) and (B) shall
2 be achieved on approximately 80 percent of the treated area. The
3 treatment shall include chipping, removing, or other methods
4 necessary to achieve the standards. Ladder and surface fuel
5 treatments, for any portion of the exemption area where timber
6 operations have occurred, shall be done within 120 days from the
7 start of timber operations on that portion of the exemption area or
8 by April 1 of the year following surface fuel creation on that
9 portion of the exemption area if the surface fuels are burned.

10 (10) Timber operations shall comply with the requirements of
11 paragraphs (1) to (10), inclusive, of subdivision (b) of Section
12 1038 of Title 14 of the California Code of Regulations. Timber
13 operations in the Lake Tahoe region shall comply instead with the
14 requirements of paragraphs (1) to (16), inclusive, of subdivision
15 (f) of Section 1038 of Title 14 of the California Code of
16 Regulations.

17 (11) A notice of exemption, which shall be known as the Forest
18 Fire Prevention Pilot Project Exemption, may be authorized if all
19 of the following conditions are met:

20 (A) The conditions specified in paragraphs (2), (4), (6), (7), and
21 (10) are met.

22 (B) Only trees less than 24 inches in stump diameter, measured
23 at eight inches above ground level, may be removed. A fuel
24 reduction effort shall not violate the canopy closure regulations
25 adopted by the board on June 10, 2004, and as those regulations
26 may be amended.

27 (C) (i) The registered professional forester who submits the
28 notice of exemption shall include a description of the preharvest
29 stand structure and a statement of the postharvest stand stocking
30 levels.

31 (ii) The level of residual stocking shall be consistent with
32 maximum sustained production of high-quality timber products.
33 The residual stand shall consist primarily of healthy and vigorous
34 dominant and codominant trees from the preharvest stand. Where
35 present ~~prior to~~ *before* operations, the overstory canopy closure
36 for trees greater than 12 inches in diameter at breast height shall
37 not be reduced below 50 percent. Stocking shall be met with the
38 largest trees available ~~prior to~~ *before* harvest and shall not be
39 reduced below the standards required by any of the following
40 provisions that apply to the exemption at issue:

1 (I) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph
 2 (1) of subdivision (a) of Section 913.3 of Title 14 of the California
 3 Code of Regulations.

4 (II) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph
 5 (1) of subdivision (a) of Section 933.3 of Title 14 of the California
 6 Code of Regulations.

7 (III) Clauses 1 to 4, inclusive, of subparagraph (A) of paragraph
 8 (1) of subdivision (a) of Section 953.3 of Title 14 of the California
 9 Code of Regulations.

10 (iii) If the preharvest dominant and codominant crown canopy
 11 is occupied by trees less than 14 inches in diameter at breast height,
 12 a minimum of 100 trees over four inches in diameter at breast
 13 height shall be retained per acre for Site I, II, and III lands, and a
 14 minimum of 75 trees over four inches in diameter at breast height
 15 shall be retained per acre for Site IV and V lands. The retained
 16 trees shall be the largest trees available ~~prior to~~ *before* harvest.

17 (D) The activities conducted pursuant to this paragraph occur
 18 ~~in the~~ *any of the following areas, or any combination of these*
 19 *areas:*

20 (i) *The Sierra Nevada Region as defined in subdivision (f) of*
 21 *Section ~~33302, in~~ 33302.*

22 (ii) *The County of Del Norte, Humboldt, Mendocino, Modoc,*
 23 *Siskiyou, Sonoma, or Trinity Counties, or in any combination of*
 24 ~~*these areas: Trinity.*~~

25 (E) All activities conducted pursuant to this paragraph occur
 26 within the most recent version of the department’s Fire Hazard
 27 Severity Zone Map in the moderate, high, and very high fire threat
 28 zones.

29 (F) The department shall maintain records regarding the use of
 30 the exemption granted in this paragraph in order to evaluate the
 31 impact of the exemption on fuel reduction and natural resources
 32 in areas where the exemption has been used.

33 (G) This paragraph shall become inoperative three years after
 34 the effective date of regulations adopted by the board implementing
 35 this paragraph.

36 (12) After the timber operations are complete, the department
 37 shall conduct an onsite inspection to determine compliance with
 38 this subdivision and whether appropriate enforcement action should
 39 be initiated.

1 SECTION 1. ~~Section 4650.1 of the Public Resources Code is~~
2 ~~amended to read:~~

3 ~~4650.1. (a) Notwithstanding any other provision of law, timber~~
4 ~~from state forests shall not be sold to any California division of a~~
5 ~~primary manufacturer, or to any person for resale to a primary~~
6 ~~manufacturer, who does either of the following:~~

7 ~~(1) Uses that timber at any plant not located within the United~~
8 ~~States unless it is sawn on four sides to dimensions not greater~~
9 ~~than 4 inches by 12 inches.~~

10 ~~(2) Within 24 months prior to the bid date, sells unprocessed~~
11 ~~timber, which is harvested from private timberlands and is exported~~
12 ~~into foreign commerce from this state.~~

13 ~~(b) A purchaser of timber from state forests who uses timber in~~
14 ~~violation of paragraph (1) of subdivision (a) is prohibited from~~
15 ~~purchasing state forest timber for a period of five years and may~~
16 ~~have his or her license suspended for a period of up to one year.~~

17 ~~(c) The department may adopt appropriate regulations to prevent~~
18 ~~the substitution of timber from state forests for timber exported~~
19 ~~from private timberlands.~~

20 ~~(d) For purposes of this section, “unprocessed timber” means~~
21 ~~trees or portions of trees or other roundwood not processed to~~
22 ~~standards and specifications suitable for end product use, but does~~
23 ~~not include timber processed into any of the following:~~

24 ~~(1) Lumber or construction timbers, except Western Red Cedar,~~
25 ~~meeting current American Lumber Standards Grades or Pacific~~
26 ~~Lumber Inspection Bureau Export R or N list grades, sawn on four~~
27 ~~sides, not intended for remanufacture.~~

28 ~~(2) Lumber, construction timbers, or cants for remanufacture,~~
29 ~~except Western Red Cedar, meeting current American Lumber~~
30 ~~Standards Grades or Pacific Lumber Inspection Bureau Export R~~
31 ~~or N list clear grades, sawn on four sides, not to exceed 12 inches~~
32 ~~in thickness.~~

33 ~~(3) Lumber, construction timbers, or cants for remanufacture,~~
34 ~~except Western Red Cedar, that do not meet the grades referred~~
35 ~~to in paragraph (2) and are sawn on four sides, with wane less than~~
36 ~~$\frac{1}{4}$ of any face, not exceeding $8\frac{3}{4}$ inches in thickness.~~

37 ~~(4) Chips, pulp, or pulp products.~~

38 ~~(5) Veneer or plywood.~~

39 ~~(6) Poles, posts, or piling cut or treated with preservatives for~~
40 ~~use as such.~~

- 1 ~~(7) Shakes or shingles.~~
- 2 ~~(8) Aspen or other pulpwood bolts, not exceeding 100 inches~~
- 3 ~~in length, exported for processing into pulp.~~
- 4 ~~(9) Pulp logs or cull logs processed at domestic pulp mills,~~
- 5 ~~domestic chip plants, or other domestic operations for the purpose~~
- 6 ~~of conversion of the logs into chips.~~

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