

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN ASSEMBLY APRIL 22, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2239

Introduced by Assembly Member Chesbro

February 21, 2014

An act to amend Sections 4593.10 ~~and~~, 4597.2, 4597.9, 4597.15, and 4597.16 of the Public Resources Code, relating to forestry.

LEGISLATIVE COUNSEL'S DIGEST

AB 2239, as amended, Chesbro. Forest practices: management plans: change of ownership.

The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations on timberland unless a timber harvesting plan has been prepared by a registered professional forester and has been submitted to the Department of Forestry and Fire Protection and approved by the Director of Forestry and Fire Protection or the State Board of Forestry and Fire Protection. A violation of the act is a crime.

Existing law authorizes a person who intends to become a working forest landowner, as defined, or nonindustrial tree farmer, as defined, to file a working forest management plan or a nonindustrial timber management plan, as applicable, with the department, with the long-term objective of an uneven aged timber stand and sustained yield through the implementation of the plan. Existing law requires, in the event of a change of ownership of the land described in the working forest management plan, the landowner to notify the new landowner of the existence of the plan and the need to notify the department of the new

landowner's intent regarding assumption of the plan. Existing law provides the new landowner one year from the date of the receipt of the notification by the department to notify the department in writing of the assumption of the working forest management plan and if the department does not receive notification within this period, the plan expires. In addition, existing law requires a nonindustrial timber management plan to expire 180 days from the date of change of ownership unless the new timberland owner notifies the department in writing of the change of ownership and his or her assumption of the plan.

This bill would, in the event of change of ownership of land described in a nonindustrial timber management plan, require a transferring landowner to notify the acquiring landowner of the existence of the plan and the need to inform the department if he or she intends to assume the plan.

This bill would require, upon change of ownership of land described in either a working forest management plan or a nonindustrial timber management plan, the transferring landowner to send the department a copy of the notice provided to the acquiring landowner. The bill would require the department to provide the acquiring landowner with the notice if the transferring landowner fails to provide it and the department discovers the change of ownership. The bill would give the acquiring landowner one year from the date of the receipt of either notice to notify the department of his or her intent to assume the plan. The bill would authorize the department to cancel the plan if no notice is received within this period. *This bill would make other technical changes.*

The bill would provide that a violation of the above provisions relating to notice by a landowner does not constitute a crime.

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

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

1 SECTION 1. Section 4593.10 of the Public Resources Code
2 is amended to read:
3 4593.10. (a) Upon a change of ownership of the land described
4 in the nonindustrial timber management plan, the transferring
5 landowner shall provide the acquiring landowner with written
6 notice that discloses the existence of the plan and informs the
7 acquiring landowner of the need to notify the department if the

1 acquiring landowner intends to assume the plan. The transferring
2 landowner shall also send the department a copy of the notice
3 provided to the acquiring landowner.

4 (b) If the transferring landowner fails to provide the notice
5 required in subdivision (a) and the department discovers the change
6 of ownership, the department shall provide the acquiring landowner
7 with the notice described in subdivision (a).

8 (c) The acquiring landowner shall have one year from the date
9 of the receipt of the notice required pursuant to subdivision (a) or
10 (b), whichever is applicable, to notify the department in writing
11 of his or her assumption of the plan. If the department does not
12 receive notification within this period, the department may cancel
13 the plan.

14 (d) A violation of this section by a landowner does not constitute
15 a crime pursuant to Section 4601.

16 *SEC. 2. Section 4597.2 of the Public Resources Code is*
17 *amended to read:*

18 4597.2. A working forest management plan may be ~~filed with~~
19 *submitted to* the department in writing by a person who intends to
20 become a working forest landowner with the long-term objective
21 of an uneven aged timber stand and sustained yield through the
22 implementation of a working forest management plan. The
23 management plan shall be prepared by a registered professional
24 forester. It shall be public record and shall include all of the
25 following information:

26 (a) The name and address of the timberland owner.

27 (b) A description of the land on which the plan is proposed to
28 be implemented, including a United States Geological Survey
29 quadrangle map or equivalent indicating the location of all streams,
30 the location of all proposed and existing logging truck roads, and
31 the boundaries of all site I classification timberlands to be stocked
32 in accordance with subdivision (b) of Section 4561 and any other
33 site classifications if the board establishes specific minimum
34 stocking standards for other site classifications.

35 (c) A description by the registered professional forester of the
36 inventory design and timber stand stratification criteria that
37 demonstrates that the inventory supporting the growth and yield
38 calculations used to determine long-term sustained yield for the
39 working forest management plans meets the following minimum
40 standards:

- 1 (1) For major stand or strata, the inventory estimate shall be
2 within 15 percent of the mean at one standard error.
- 3 (2) For stand or strata that make up greater than 10 percent and
4 less than 25 percent of the working forest management plan area,
5 the estimate shall be no greater than 25 percent of the mean at one
6 standard error.
- 7 (3) Inventory estimates and growth and yield shall be projected
8 for the purposes of determining long-term sustained yield and
9 volumes available for harvest by stand or strata and aggregated
10 for the area covered by the working forest management plan to
11 develop the long-term sustained yield estimate. Long-term
12 sustained yield estimates shall reasonably reflect constraints
13 applicable to the working forest timberlands on forest management
14 activities.
- 15 (d) A description and discussion of the methods to be used to
16 avoid significant sediment discharge to watercourses from timber
17 operations. This shall include disclosure of active erosion sites
18 from roads, skid trails, crossings, or any other structures or sites
19 that have the potential to discharge sediment attributable to timber
20 operations into waters of the state in an amount deleterious to the
21 beneficial uses of water, an erosion control implementation plan,
22 and a schedule to implement erosion controls that prioritizes major
23 sources of erosion. This subdivision shall not apply to the extent
24 that the registered professional forester provides documentation
25 to the department that the working forest management plan is in
26 compliance with similar requirements of other applicable
27 provisions of law.
- 28 (e) Special provisions to protect unique areas, if any, within the
29 boundaries of the proposed working forest management plan.
- 30 (f) A description of the property and planned activities including
31 acres and projected growth, existing stand types, major stand types
32 or strata, its current projected growth by strata, silvicultural
33 applications to be applied to strata to achieve long-term sustained
34 yield, projected timber volumes and tree sizes to be available for
35 harvest, and projected frequencies of harvest.
- 36 (g) (1) A description of late succession forest stands in the plan
37 area and how the total acreage of this type of habitat will be
38 maintained across the plan area under a constraint of no net loss.
39 Nothing in this requirement shall be interpreted to preclude active
40 management on any given acre of an approved plan if the

1 management is conducted in a manner that maintains or enhances
2 the overall acreage of late succession forest stands that existed in
3 the plan area upon initial plan approval. An exception to the no
4 net loss constraint may be granted in the event of a catastrophic
5 loss due to emergency factors such as wildfire, insect, and disease
6 activity. The description shall include the following:

7 (A) Retention measures for existing biological legacies such as
8 snags, trees with cavities or basal hollows, and down logs, and
9 address how those legacies shall be managed over time appropriate
10 with the forest type, climate, and landowner's forest fire fuels and
11 wildlife management objectives.

12 (B) Hardwood tree species and how they will be managed over
13 time.

14 (2) Late succession forest stand types or strata shall be mapped.

15 (3) Notwithstanding the definition of late succession forest
16 stands in Section 895.1 of Title 14 of the California Code of
17 Regulations, and for the sole purpose of this article, "late
18 succession forest stands" means stands of dominant and
19 predominant trees that meet the criteria of the California Wildlife
20 Habitat Relationships System class 5D, 5M, or 6 with an open,
21 moderate, or dense canopy closure classification, often with
22 multiple canopy layers, and are at least 10 acres in size. Functional
23 characteristics of late succession forest stands include large
24 decadent trees, snags, and large down logs.

25 (h) Disclosure of state or federally listed threatened, candidate,
26 endangered, or rare plant or animal species located within the
27 biological assessment area, their status and habitats, take avoidance
28 methodologies, enforceable protection measures for species and
29 habitats, and how forest management will maintain these over
30 time.

31 (i) (1) A description of the following for each management
32 unit:

33 (A) Acres by stand or strata and estimated growth and yield for
34 each planned harvest entry covering the period of time the
35 long-term sustained yield plan establishes as necessary to meet
36 growth and yield objectives. The growth and yield estimates may
37 be based on weighted average of yield for the stand types or strata
38 within the area included in the management unit.

39 (B) Yarding methods to be used.

40 (C) Management units shall be mapped.

- 1 (2) (A) For long-term sustained yield projections, pursuant to
2 subdivision (c), that project a reduction in quadratic mean diameter
3 of trees greater than 12 inches in diameter or a reduced level of
4 inventory for a major stand type or for a stand or strata that make
5 up greater than 10 percent and less than 25 percent of the working
6 forest management plan area, an assessment shall be included that
7 does all of the following:
- 8 (i) Addresses candidate, threatened, endangered, and sensitive
9 species, and other fish and wildlife species that timber operations
10 could adversely impact by potential changes to habitat.
- 11 (ii) Addresses species habitat needs utilizing the “WHR system”
12 described in “A Guide to Wildlife Habitats in California,”
13 California Department of Fish and Wildlife, 1988, or comparable
14 typing system.
- 15 (iii) Addresses constraints to timber management, the impact
16 of the availability and distribution of habitats on the ownership
17 and within the cumulative impacts assessment area identified in
18 the plan in relation to the harvest schedule, and the impacts of the
19 planned management activities utilizing the existing habitat as the
20 baseline for comparison.
- 21 (iv) Discusses and includes feasible measures planned to avoid
22 or mitigate potentially significant adverse impacts on fish or
23 wildlife, which can include, but is not limited to, recruitment or
24 retention of large down logs greater than 16 inches in diameter
25 and 20 feet in length, retention of trees with structural features
26 such as basal hollows, cavities, large limbs, or broken tops,
27 retention of hardwoods, and retention or recruitment of snags
28 greater than 24 inches in diameter and 16 feet in height.
- 29 (j) A certification by the registered professional forester
30 preparing the plan that the forester or a designee has personally
31 inspected the plan area.
- 32 (k) A certification by the registered professional forester
33 preparing the plan that the forester or a designee has clearly
34 explained to the working forest landowner that the plan is a
35 long-term commitment that may require ongoing investments,
36 including inventory sampling and road maintenance, for the
37 purpose of managing the plan.
- 38 (l) Any other information the board requires by regulation to
39 meet its rules and the standards of this chapter.

1 ~~SEC. 2.~~

2 *SEC. 3.* Section 4597.9 of the Public Resources Code is
3 amended to read:

4 4597.9. (a) Upon a change of ownership of the land described
5 in the working forest management plan, the transferring landowner
6 shall provide the acquiring landowner with written notice that
7 discloses the existence of the plan and informs the acquiring
8 landowner of the need to notify the department if the acquiring
9 landowner intends to assume the plan. The transferring landowner
10 shall also send the department a copy of the notice provided to the
11 acquiring landowner.

12 (b) If the transferring landowner fails to provide the notice
13 required in subdivision (a) and the department discovers the change
14 of ownership, the department shall provide the acquiring landowner
15 with the notice described in subdivision (a).

16 (c) The acquiring landowner shall have one year from the date
17 of the receipt of the notice required pursuant to subdivision (a) or
18 (b), whichever is applicable, to notify the department in writing
19 of his or her intent to assume the plan. If the department does not
20 receive notification within this period, the department may cancel
21 the plan.

22 (d) A violation of this section by a landowner does not constitute
23 a crime pursuant to Section 4601.

24 *SEC. 4.* Section 4597.15 of the Public Resources Code is
25 amended to read:

26 4597.15. Notwithstanding any other provisions of this chapter,
27 if a registered professional forester certifies by written declaration,
28 on behalf of the timber owner or operator, that the working forest
29 harvest notice conforms to and meets the requirements of the
30 approved working forest management plan under which it is filed,
31 timber operations may commence immediately. If the notice has
32 been filed by mailing, operations may commence three days after
33 the notice has been mailed. ~~Cancellation of the plan may be
34 appealed by the plan submitter or landowner utilizing the process
35 prescribed in paragraph (1) of subdivision (e) of Section 4597.6.~~

36 *SEC. 5.* Section 4597.16 of the Public Resources Code is
37 amended to read:

38 4597.16. If the department determines that the objectives of
39 uneven aged management and sustained yield are not being met
40 by a working forest landowner, or there are other persistent

1 violations detected that are not being corrected, the department
2 shall cancel a previously approved working forest management
3 plan and any further timber operations under the plan shall be
4 terminated. In making a determination to cancel a plan, the
5 department may cite the findings of a review conducted pursuant
6 to Section 4597.12. *Cancellation of the plan may be appealed by*
7 *the plan submitter or landowner utilizing the process prescribed*
8 *in paragraph (1) of subdivision (e) of Section 4597.6.*

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