

AMENDED IN ASSEMBLY JUNE 30, 2004  
AMENDED IN ASSEMBLY JUNE 23, 2004  
AMENDED IN ASSEMBLY JUNE 15, 2004  
AMENDED IN SENATE JANUARY 7, 2004  
AMENDED IN SENATE MAY 5, 2003  
AMENDED IN SENATE APRIL 29, 2003  
AMENDED IN SENATE APRIL 7, 2003

**SENATE BILL**

**No. 557**

---

---

**Introduced by Senator Kuehl**

February 20, 2003

---

---

An act to add Article 10 (commencing with Section 4629) to Chapter 8 of Part 2 of Division 4 of the Public Resources Code, relating to forest practices, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 557, as amended, Kuehl. Forest practices: timber products excise tax.

Existing law provides for the regulation of forest practices. Under existing law, money in the Forest Resources Improvement Fund may be expended, upon appropriation by the Legislature, for specified purposes relating to forest resources and to reimburse the General Fund for the costs of operation of state forests administered by the Director of Forestry and Fire Protection.

This bill would impose an excise tax on a distributor, *as defined*, ~~for the privilege of distributing~~ *of a timber products product*, as defined, in

the amount of 2 cents per board foot or board foot equivalent. The bill would create the Timber Harvest Review, Fire Protection, and Forest Restoration Account in the General Fund. The moneys in the fund would be required to be spent, upon appropriation by Legislature, to *pay for the costs of administering and collecting the tax; to administer and review operations directly connected with the review of timber harvesting plans;*; for transfer to the Forest Resources Improvement Fund; and to provide grants to local agencies and voluntary associations to undertake hazardous fuel reduction projects on forest lands to reduce the costs of wildland fire suppression, improve forest health, and protect homes and communities. The bill would require the hazardous fuel reduction funds to be appropriated to the Department of Forestry and Fire Protection to operate a grant program to fund hazardous fuel reduction projects that meet specified requirements.

The bill would appropriate an unspecified sum from the Timber Harvest Review, Fire Protection, and Forest Restoration Account to the State Board of Equalization to implement the bill in the 2004–05 fiscal year.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $2/3$  of the membership of each house of the Legislature.

Vote:  $2/3$ . Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. The Legislature finds and declares all of the  
 2 following:  
 3 (a) Forested lands in California provide significant  
 4 environmental benefits, including serving as the source of more  
 5 than half the state's supply of drinking water, habitat for numerous  
 6 wildlife and plant species, some of which are rare, threatened, or  
 7 endangered, the source of raw materials for the timber products  
 8 industry, and a source of jobs for those who are employed in that  
 9 industry.  
 10 (b) Regulation of timber harvesting practices, including timber  
 11 harvesting plans, nonindustrial timber management plans,  
 12 exemptions, and emergency notices has become increasingly



1 complex and expensive, even given the fact that some reviewing  
2 agencies review less than 20 percent of the proposed timber  
3 harvesting plans presented to them.

4 (c) The current budget crisis presents an opportunity to  
5 reevaluate financing of the timber harvesting plan review process  
6 that currently draws approximately twenty-one million dollars  
7 (\$21,000,000) annually from the General Fund.

8 (d) It is appropriate that the public through the most broadly  
9 based system that is practicable, support the timber harvesting plan  
10 review process, contribute to the existing Forest Resources  
11 Improvement Fund at the ~~California~~ Department of Forestry and  
12 Fire Protection that enhances the timberland environment,  
13 protects wildlife habitat and provides incentives for timberland  
14 owners to improve their environmental performance in harvesting  
15 timber, and help fund the reduction of wildland fires in California  
16 that threatens the economic base of the timber industry as well as  
17 numerous rural communities.

18 (e) The economic pressures faced by the timber industry,  
19 caused by globalization and imported timber products, is likely to  
20 mean a protracted period of low prices that have already reduced  
21 the margin of profitability of timber companies and the harvests  
22 of private landowners in California.

23 (f) Under those conditions, it is inequitable to add twenty  
24 million dollars (\$20,000,000) or more in timber harvesting plan  
25 review costs to applicants, many of whom are individual  
26 landowners. If the approximately twenty million dollars  
27 (\$20,000,000) were evenly divided among the approximately  
28 1,000 timber harvesting plans applied for annually, the increase in  
29 review costs would be twenty thousand dollars (\$20,000) per  
30 timber harvesting plan application, which is too onerous a burden.

31 (g) It is also inequitable to impose an increase in the yield tax  
32 on timber producers that is not broadly based and that will further  
33 add to costs of production in California that could potentially make  
34 the price of California timber products less competitive in the  
35 global marketplace.

36 (h) It is fair and equitable to require purchasers of timber  
37 products to contribute to the public cost of reviewing timber  
38 harvesting plan applications and further to contribute to the  
39 watershed and habitat restoration that are vital public trust  
40 resources that will also serve to rehabilitate California's forest



1 lands, as well as assist in the development of new and creative  
2 techniques to protect those ~~forest lands~~ *forestlands* now and in the  
3 future.

4 (i) The Legislature has concluded that broadly based public  
5 financial support for the review of timber harvest plan  
6 applications, support of the Forest Resources Improvement Fund,  
7 and fuel reduction efforts to protect timberlands and communities  
8 is a fair and equitable approach given the state’s budget crisis and  
9 given that this approach will result in significant savings to the  
10 General Fund.

11 (j) As an alternative to a direct fee or tax on landowners and  
12 industrial timberland owners who apply for timber harvest plan  
13 permits, a timber products user fee for timber restoration and fire  
14 risk reduction could generate sufficient funds to adequately review  
15 timber harvesting plan applications, fund the removal of dead and  
16 diseased trees that pose significant fire risks to California  
17 timberlands, and fund the Forest Resources Improvement Fund.

18 SEC. 2. Article 10 (commencing with Section 4629) is added  
19 to Chapter 8 of Part 2 of Division 4 of the Public Resources Code,  
20 to read:

21  
22 Article 10. Timber Harvest Review, Fire Protection, and  
23 Forest Restoration Account  
24

25 4629. Unless the context requires otherwise, the following  
26 definitions apply to this article:

27 (a) “Account” means the Timber Harvest Review, Fire  
28 Protection, and Forest Restoration Account.

29 (b) “Board” means the State Board of Equalization.

30 (c) “Board foot” means the cubic volume of sawn lumber  
31 equal to 144 cubic inches. *For purposes of calculating the tax*  
32 *pursuant to this article, nominal size dimensions shall be used to*  
33 *calculate the board foot volume.*

34 (d) “Board foot equivalent” means the calculated board foot  
35 volume of wood fiber within various nonsawn wood products.

36 (1) For an engineered wood product, the board foot equivalent  
37 is calculated based on the cubic volume of the product using its  
38 nominal size calculated by multiplying its length, width, and  
39 thickness.



1 (2) For a nonsawn post, pile, pole, or other similar product, the  
2 board foot equivalent is equal to the average cross-sectional area  
3 times its length.

4 (3) For a nonuniform solid wood product, the board foot  
5 equivalent is equal to the cubic volume calculated from the  
6 exterior dimensions of a solid packed unit.

7 ~~(e) “Distribution” means any of the following:~~

8 ~~(1) The sale, donation, consignment for sale, barter, or other~~  
9 ~~use of timber products in this state.~~

10 ~~(2) The importing of timber products into this state, and the~~  
11 ~~sale, donation, consignment for sale, barter, or use of the timber~~  
12 ~~products in this state unless the state is prohibited by the~~  
13 ~~Constitution or laws of the United States from imposing a tax with~~  
14 ~~respect to that sale, donation, consignment for sale, barter or use.~~

15 ~~(3) The receiving in this state by a distributor of timber~~  
16 ~~products with respect to which there has been no prior taxable~~  
17 ~~distribution, or the receipt in this state by any person of timber~~  
18 ~~products with respect to which there has not been a prior~~  
19 ~~distribution on which tax has been paid pursuant to this part, and~~  
20 ~~the sale, donation, consignment for sale, barter, or use of the timber~~  
21 ~~products in this state~~

22 ~~(f) “Distributor” means a person who, within the meaning of~~  
23 ~~the term “distribution” as defined in this section, distributes~~  
24 ~~timber products. “Distributor” does not include any person who~~  
25 ~~qualifies as a “timber owner” pursuant to Section 38104 of the~~  
26 ~~Revenue and Taxation Code. A sawmill, that grosses one hundred~~  
27 ~~thousand dollars (\$100,000) or less annually, that would otherwise~~  
28 ~~be subject to this bill, is exempt from this article.~~

29 ~~(g) “Redistribution” means the sale, donation, consignment~~  
30 ~~for sale, barter, or use in this state by a distributor of timber~~  
31 ~~products on which the tax in Section 4629.3 has been imposed~~  
32 ~~based on prior distribution of the timber products.~~

33 ~~(h)~~

34 *(e) “Distributor” means a person who acquires title to and*  
35 *possession of a timber product for the purpose of selling that*  
36 *product in a transaction that is a retail sale pursuant to Chapter*  
37 *1 (commencing with Section 6001) of Part 1 of Division 2 of the*  
38 *Revenue and Taxation Code.*

39 *(f) “Engineered wood product” means a product, including,*  
40 *but not limited to, veneer-based sheeting material, plywood,*



1 laminated veneer lumber (LVL), parallel-laminated veneer (PLV),  
2 laminated beams, I-joists, edge-glued material, or composite  
3 material, as cellulosic fiberboard, hardboard, particleboard,  
4 waferboard, flakeboard, oriented strandboard (OSB), or any other  
5 panel product where wood is a component part.

6 ~~(i)~~

7 (g) “Nominal size” means the dimensions used within the  
8 forest-practices industry by which lumber volume is calculated and  
9 sold and not necessarily the exact dimensions of a product.

10 ~~(j)~~

11 (h) “Person” means an individual, firm, partnership, joint  
12 venture, association, social club, cooperative organization,  
13 fraternal organization, corporation, limited liability company,  
14 limited liability partnership, estate, trust, business trust, receiver,  
15 trustee, syndicate, this state, any county, city, city and county,  
16 municipality, district, public agency, or subdivision of this state,  
17 or any other group or combination acting as a unit.

18 ~~(k) “Timber product” means a product sold in California in~~  
19 ~~which wood or wood fiber is a principal component part,~~  
20 ~~including, but not limited to, a solid sawn board, an engineered~~  
21 ~~wood product, or a nonuniform solid wood product. Timber~~  
22 ~~product does not include a product sold at wholesale or retail that~~  
23 ~~requires no further manufacturing.~~

24 (i) “Principal component part” means \_\_\_\_ percentage of  
25 total content by \_\_\_\_.

26 (j) “Purchaser” means a person who acquires title to and  
27 possession of a timber product for storage, use, or other  
28 consumption under either of the following circumstances:

29 (1) In a transaction that is subject to use tax pursuant to  
30 Chapter 3 (commencing with Section 6201) of Part 1 of Division  
31 2 of the Revenue and Taxation Code.

32 (2) For the purpose of incorporating the timber product into a  
33 manufactured article that is excluded from the definition of a  
34 timber product.

35 (k) “Timber product” means a product in which wood or wood  
36 fiber is a principal component part, including, but not limited to,  
37 a solid sawn board, an engineered wood product, or a nonuniform  
38 solid wood product. The term “timber product” does not include  
39 a product sold at wholesale or at retail that requires no further  
40 manufacturing.



1 (l) “Timber product tax” or “tax” means an excise tax on  
2 timber products calculated at the rate of two cents (\$.02) per  
3 board foot or board foot equivalent.

4 4629.1. The Timber Harvest Review, Fire Protection, and  
5 Forest Restoration Account is hereby established in the General  
6 Fund. Moneys in the account may be appropriated only for the uses  
7 set forth in this article.

8 ~~4629.2. The State Board of Equalization shall collect an~~  
9 ~~excise tax on all of the timber products described in Section 4629.3~~  
10 ~~that are sold for consumption in California and deposit in the~~  
11 ~~account all taxes that are collected. The State Board of~~  
12 ~~Equalization shall administer the excise tax imposed pursuant to~~  
13 ~~this article in accordance with the Fee Collection Procedures Law~~  
14 ~~(Part 30 (commencing with Section 55001) of Division 2 of the~~  
15 ~~Revenue and Taxation Code).~~

16 4629.3. ~~For the privilege of distributing timber products, a~~  
17 ~~distributor shall pay an excise tax at a rate of two cents (\$.02) for~~  
18 ~~each board foot, or board foot equivalent, of timber products~~  
19 ~~distributed by that distributor. An excise tax on composite~~  
20 ~~products manufactured from various wood and nonwood~~  
21 ~~materials shall conform to the appropriate following subdivision~~  
22 ~~that most closely applies to the product that is sold:~~

23 (a) ~~Solid wood products, including, but not limited to,~~  
24 ~~dimension lumber, posts and beams, boards, laminated beams,~~  
25 ~~edge glued materials, and timbers.~~

26 (b) ~~Veneer-based and sheeting materials, including, but not~~  
27 ~~limited to, plywood, laminated veneer lumber (LVL),~~  
28 ~~parallel laminated veneer (PLV), and composite materials such as~~  
29 ~~cellulosic fiberboard, hardboard, particleboard, waferboard,~~  
30 ~~flakeboard, oriented strandboard (OSB), and com-ply.~~

31 (c) ~~Poles and pilings, including, but not limited to, posts and~~  
32 ~~similar products.~~

33 4629.4. (a) ~~The excise tax imposed pursuant to Section~~  
34 ~~4629.3 is due and payable to the board quarterly on or before the~~  
35 ~~4629.2. On and after July 1, 2005, the timber product tax shall~~  
36 ~~be imposed:~~

37 (a) ~~On a distributor at the time the distributor acquires title to~~  
38 ~~and possession of a timber product.~~

39 (b) ~~On a purchaser at the time the purchaser acquires title to~~  
40 ~~and possession of a timber product.~~



1 4629.3. *The board shall collect and administer the timber*  
2 *product tax in accordance with the Fee Collection Procedures Law*  
3 *Part 30 (commencing with Section 55001) of Division 2 of the*  
4 *Revenue and Taxation Code).*

5 4629.4. (a) *The following persons who have paid the tax*  
6 *imposed pursuant to Section 4629.2 directly to the board, shall be*  
7 *refunded those amounts:*

8 (1) *A distributor of a timber product that ultimately sells the*  
9 *timber product at a sale other than retail.*

10 (2) *A purchaser of a timber product to which the exclusion*  
11 *provided in Section 6009.1 of the Revenue and Taxation Code*  
12 *applies.*

13 (b) *In lieu of collection and refund of the tax on the timber*  
14 *products acquired by the taxpayer in the manner as would entitle*  
15 *the taxpayer to claim a refund under this article, credit may be*  
16 *given to the taxpayer upon the taxpayer's tax return, and the*  
17 *determination of the amount of the tax shall be in accordance with*  
18 *rules and regulations that the board may prescribe.*

19 4629.5. (a) *The tax imposed pursuant to Section 4629.2 is*  
20 *due and payable to the board quarterly on or before the 25th day*  
21 *of the calendar month following the quarterly period for which the*  
22 *tax is due. A taxpayer, on or before the 25th day of the month*  
23 *following each quarterly period, shall make out a return for the*  
24 *preceding quarterly period, in the form prescribed by the board.*

25 (b) *All taxes imposed shall be paid in the form of remittances*  
26 *payable to the State Board of Equalization. The board shall*  
27 ~~*transmit payment to the account and reimburse its administrative*~~  
28 ~~*costs for collecting, auditing, and making refunds associated with*~~  
29 ~~*the account, not to exceed 3 percent of the account per fiscal year.*~~  
30 ~~*The board shall prescribe by regulation a method by which a*~~  
31 ~~*timber product distributor shall calculate the board foot or board*~~  
32 ~~*foot equivalent.*~~

33 ~~*4629.5.—transmit the payments to the Treasurer for deposit in*~~  
34 ~~*the Timber Harvest Review, Fire Protection, and Forest*~~  
35 ~~*Restoration Account.*~~

36 4629.6. *Money in the account shall, when appropriated by the*  
37 *Legislature, be spent solely for the following purposes:*

38 (a) *To pay for board administrative costs for administering,*  
39 *collecting, auditing, and making refunds associated with the*  
40 *administration of the tax program.*



1 (b) To pay for refunds pursuant to Part 30 (commencing with  
2 Section 55001) of Division 2 of the Revenue and Taxation Code.

3 ~~(b)~~

4 (c) (1) To administer and review operations directly connected  
5 with the review of timber harvesting plans of a department, board,  
6 or commission that reviews timber harvesting undertaken  
7 pursuant to this chapter, or pursuant to any regulation of the  
8 department or the State Board of Forestry and Fire Protection.

9 (2) For purposes of this paragraph, a reviewing department,  
10 board, or commission means the Department of Forestry and Fire  
11 Protection, the Department of Fish and Game, the Department of  
12 Conservation, and certain California regional water quality  
13 control boards.

14 ~~(c)~~

15 (d) For transfer to the Forest Resources Improvement Fund  
16 within the Department of Forestry and Fire Protection.

17 ~~(d)~~

18 (e) To provide grants to local agencies responsible for fire  
19 protection and to voluntary associations, including fire safe  
20 councils, to undertake hazardous fuel reduction projects on forest  
21 lands to reduce the costs of wildland fire suppression, improve  
22 forest health, and protect homes and communities.

23 (1) The Legislature shall appropriate the funds specified in this  
24 subdivision to the Department of Forestry and Fire Protection to  
25 operate a grant program to fund hazardous fuel reduction projects  
26 and may reserve no more than 4 percent of the total appropriation  
27 for its administrative costs.

28 (2) The department shall ensure that all grants made pursuant  
29 to this subdivision fund only hazardous fuel reduction projects and  
30 shall give first priority, in issuing these grants, to projects in the  
31 urban-wildland interface that will help implement the California  
32 Fire Plan.

33 (3) A hazardous fuel reduction project funded pursuant to this  
34 subdivision shall meet all of the following requirements:

35 (A) The project shall result in the application of management  
36 practices to wildlands in which the primary impact to the  
37 vegetation is the reduction of surface and ladder fuels.

38 (B) The management practices that are applied by the project  
39 shall include, but are not limited to, prescribed fire, machine or  
40 hand piling for burning, pruning and thinning.



1 (C) The tree removal shall be by the method known as thinning  
2 from below, and shall be limited to trees that are 16 inches or less  
3 in diameter at breast height.

4 (D) The treatments that reduce crown densities on timberlands  
5 shall be included only for the purpose of affecting fire behavior,  
6 and where it is reasonably demonstrated that the likelihood of  
7 crown fire is reduced.

8 (E) A registered professional forester with the department or  
9 on behalf of a private landowner shall do both of the following:

10 (i) Certify that the fuel reduction objectives were achieved for  
11 removal of surface fuels, brush, and ladder fuels and were  
12 accomplished by means that are consistent with this subdivision.

13 (ii) Certify that 80 percent or more of the treated landscape will  
14 have a posttreatment fuel load that will result in a flamelength of  
15 4 feet or less and a minimum of 8 feet separation from the ground  
16 to the crown of live trees.

17 ~~4629.6.—~~

18 4629.7. (a) Notwithstanding any other provision of law, the  
19 revenues in any fiscal year may be accounted for on an accrued  
20 basis. The department may borrow against anticipated revenues to  
21 the Timber Harvest Review, Fire Protection, and Forest  
22 Restoration Account to meet cashflow needs.

23 (b) Notwithstanding any other provision of law, a loan obtained  
24 pursuant to subdivision (a) shall be interest free. The department  
25 shall repay the loan in a timely manner from revenues received into  
26 the account.

27 ~~4629.7.—~~

28 4629.8. To implement this article in the 2004–05 fiscal year,  
29 \_\_\_\_\_ dollars (\$\_\_\_\_\_) is hereby appropriated from the Timber  
30 Harvest Review, Fire Protection, and Forest Restoration Account  
31 to the State Board of Equalization.

