

AMENDED IN ASSEMBLY JULY 28, 2004  
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**

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**Introduced by Senator Kuehl**

February 20, 2003

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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 *on and after July 1, 2005*, an excise tax on a distributor, as defined, of a timber product, as defined, in the amount of ~~2 cents~~ *1 cent* 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  $\frac{2}{3}$  of the membership of each house of the Legislature.

Vote:  $\frac{2}{3}$ . 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.



1 (b) Regulation of timber harvesting practices, including timber  
2 harvesting plans, nonindustrial timber management plans,  
3 exemptions, and emergency notices has become increasingly  
4 complex and expensive, even given the fact that some reviewing  
5 agencies review less than 20 percent of the proposed timber  
6 harvesting plans presented to them.

7 (c) The current budget crisis presents an opportunity to  
8 reevaluate financing of the timber harvesting plan review process  
9 that currently draws approximately twenty-one million dollars  
10 (\$21,000,000) annually from the General Fund.

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

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

26 (f) Under those conditions, it is inequitable to add twenty  
27 million dollars (\$20,000,000) or more in timber harvesting plan  
28 review costs to applicants, many of whom are individual  
29 landowners. If the approximately twenty million dollars  
30 (\$20,000,000) were evenly divided among the approximately  
31 1,000 timber harvesting plans applied for annually, the increase in  
32 review costs would be twenty thousand dollars (\$20,000) per  
33 timber harvesting plan application, which is too onerous a burden.

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

39 (h) It is fair and equitable to require purchasers of timber  
40 products to contribute to the public cost of reviewing timber



1 harvesting plan applications and further to contribute to the  
2 watershed and habitat restoration that are vital public trust  
3 resources that will also serve to rehabilitate California’s forest  
4 lands, as well as assist in the development of new and creative  
5 techniques to protect those forest lands now and in the future.

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

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

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

23

24 Article 10. Timber Harvest Review, Fire Protection, and  
25 Forest Restoration Account

26

27 4629. Unless the context requires otherwise, the following  
28 definitions apply to this article:

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

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

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

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

38 (1) For an engineered wood product, the board foot equivalent  
39 is calculated based on the cubic volume of the product using its



1 nominal size calculated by multiplying its length, width, and  
2 thickness.

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

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

9 (e) “Distributor” means a person who acquires title to and  
10 possession of a timber product for the purpose of selling that  
11 product in a transaction that is a retail sale pursuant to Chapter 1  
12 (commencing with Section 6001) of Part 1 of Division 2 of the  
13 Revenue and Taxation Code.

14 (f) “Engineered wood product” means a product, including,  
15 but not limited to, veneer-based sheeting material, plywood,  
16 laminated veneer lumber (LVL), parallel-laminated veneer (PLV),  
17 laminated beams, I-joists, edge-glued material, or composite  
18 material, as cellulosic fiberboard, hardboard, particleboard,  
19 waferboard, flakeboard, oriented strandboard (OSB), or any other  
20 panel product where wood is a component part.

21 (g) “Nominal size” means the dimensions used within the  
22 forest industry by which lumber volume is calculated and sold and  
23 not necessarily the exact dimensions of a product.

24 (h) “Person” means an individual, firm, partnership, joint  
25 venture, association, social club, cooperative organization,  
26 fraternal organization, corporation, limited liability company,  
27 limited liability partnership, estate, trust, business trust, receiver,  
28 trustee, syndicate, this state, any county, city, city and county,  
29 municipality, district, public agency, or subdivision of this state,  
30 or any other group or combination acting as a unit.

31 (i) “Principal component part” means  $\frac{1}{3}$  33.3 percentage of  
32 total content by  $\frac{1}{3}$  volume.

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

36 (1) In a transaction that is subject to use tax pursuant to Chapter  
37 3 (commencing with Section 6201) of Part 1 of Division 2 of the  
38 Revenue and Taxation Code.



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

4 (k) “Timber product” means a product in which wood or  
5 wood fiber is a principal component part, including, but not  
6 limited to, a solid sawn board, an engineered wood product, or a  
7 nonuniform solid wood product. The term “timber product” does  
8 not include a product sold at wholesale or at retail that requires no  
9 further manufacturing.

10 (l) “Timber product tax” or “tax” means an excise tax on  
11 timber products calculated at the rate of ~~two cents (\$0.02)~~ *one cent*  
12 *(\$0.01)* per board foot or board foot equivalent.

13 4629.1. The Timber Harvest Review, Fire Protection, and  
14 Forest Restoration Account is hereby established in the General  
15 Fund. Moneys in the account may be appropriated only for the uses  
16 set forth in this article.

17 4629.2. On and after July 1, 2005, the timber product tax shall  
18 be imposed:

19 (a) On a distributor at the time the distributor acquires title to  
20 and possession of a timber product.

21 (b) On a purchaser at the time the purchaser acquires title to and  
22 possession of a timber product.

23 4629.3. The board shall collect and administer the timber  
24 product tax in accordance with the Fee Collection Procedures Law  
25 Part 30 (commencing with Section 55001) of Division 2 of the  
26 Revenue and Taxation Code).

27 4629.4. (a) The following persons who have paid the tax  
28 imposed pursuant to Section 4629.2 directly to the board, shall be  
29 refunded those amounts:

30 (1) A distributor of a timber product that ultimately sells the  
31 timber product at a sale other than retail.

32 (2) A purchaser of a timber product to which the exclusion  
33 provided in Section 6009.1 of the Revenue and Taxation Code  
34 applies.

35 (b) In lieu of collection and refund of the tax on the timber  
36 products acquired by the taxpayer in the manner as would entitle  
37 the taxpayer to claim a refund under this article, credit may be  
38 given to the taxpayer upon the taxpayer’s tax return, and the  
39 determination of the amount of the tax shall be in accordance with  
40 rules and regulations that the board may prescribe.



1 4629.5. (a) The tax imposed pursuant to Section 4629.2 is  
2 due and payable to the board quarterly on or before the 25th day  
3 of the calendar month following the quarterly period for which the  
4 tax is due. A taxpayer, on or before the 25th day of the month  
5 following each quarterly period, shall make out a return for the  
6 preceding quarterly period, in the form prescribed by the board.

7 (b) All taxes imposed shall be paid in the form of remittances  
8 payable to the State Board of Equalization. The board shall  
9 transmit the payments to the Treasurer for deposit in the Timber  
10 Harvest Review, Fire Protection, and Forest Restoration Account.

11 4629.6. Money in the account shall, when appropriated by the  
12 Legislature, be spent solely for the following purposes:

13 (a) To pay for board administrative costs for administering,  
14 collecting, auditing, and making refunds associated with the  
15 administration of the tax program.

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

18 (c) (1) To administer and review operations directly connected  
19 with the review of timber harvesting plans of a department, board,  
20 or commission that reviews timber harvesting undertaken  
21 pursuant to this chapter, or pursuant to any regulation of the  
22 department or the State Board of Forestry and Fire Protection.

23 (2) For purposes of this paragraph, a reviewing department,  
24 board, or commission means the Department of Forestry and Fire  
25 Protection, the Department of Fish and Game, the Department of  
26 Conservation, and certain California regional water quality  
27 control boards.

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

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

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



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

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

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

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

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

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

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

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

26 (ii) Certify that 80 percent or more of the treated landscape will  
27 have a posttreatment fuel load that will result in a flamelength of  
28 4 feet or less and a minimum of 8 feet separation from the ground  
29 to the crown of live trees.

30 4629.7. (a) Notwithstanding any other provision of law, the  
31 revenues in any fiscal year may be accounted for on an accrued  
32 basis. The department may borrow against anticipated revenues to  
33 the Timber Harvest Review, Fire Protection, and Forest  
34 Restoration Account to meet cashflow needs.

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

39 4629.8. To implement this article in the 2004–05 fiscal year,  
40 \_\_\_\_\_ dollars (\$\_\_\_\_\_) is hereby appropriated from the Timber



- 1 Harvest Review, Fire Protection, and Forest Restoration Account
- 2 to the State Board of Equalization.

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