

STATE OF NEW YORK

8898

IN SENATE

March 25, 2024

Introduced by Sens. KRUEGER, COONEY, MAY, BRESLIN, BRISPORT, CHU, CLEARE, COMRIE, FERNANDEZ, GONZALEZ, HARCKHAM, HINCHEY, HOYLMAN-SIGAL, JACKSON, SALAZAR, SANDERS, SEPULVEDA, SERRANO, SKOUFIS, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the state finance law, in relation to enacting the tropical rainforest economic & environmental sustainability act; and to amend the economic development law, in relation to establishing the supply chain transparency assistance program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "tropical
2 rainforest economic & environmental sustainability act".

3 § 2. Legislative findings. The legislature finds and declares the
4 following:

5 1. Tropical forests cover roughly 7 percent of Earth's surface, but
6 harbor close to 50 percent of all species on Earth.

7 2. Human activity is the driving force behind the current rate of
8 species extinction, which is at least 100 to 1,000 times higher than
9 historical levels. The Intergovernmental Science-Policy Platform on
10 Biodiversity and Ecosystem Services reported in 2019 that around 1
11 million animal and plant species are now threatened with extinction,
12 many within decades, more than ever before in human history. This is
13 directly linked to habitat loss, with more than a third of the world's
14 land surface and nearly 75 percent of freshwater resources now devoted
15 to crop or livestock production.

16 3. Globally, an estimated 18,000,000 acres of forest, an area more
17 than half the size of New York state, are lost every year to deforesta-
18 tion according to the Food and Agriculture Organization of the United
19 Nations, with over one-half of Earth's tropical forests already gone. At
20 the current pace, the entirety of Earth's tropical rainforests will be
21 degraded or destroyed within the next 100 years.

22 4. It has been estimated that at least 30 percent of the world's
23 greenhouse gas emissions come from deforestation and forest degradation.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 Taking into account carbon sequestration potential, stopping the loss of
2 tropical forests, mangroves, and wetlands could provide over 20 percent
3 of climate mitigation by 2030.

4 5. Loss of biodiversity resulting from forest degradation and defores-
5 tation, as well as human encroachment on formerly undisturbed ecosys-
6 tems, increases the risks of zoonotic disease pandemics such as COVID-
7 19.

8 6. New York state is a leader in addressing the climate crisis, with a
9 statutory goal of achieving net-zero greenhouse gas emissions economy-
10 wide by 2050. However, our statutory goals miss an important element of
11 our climate footprint represented by our exported emissions, the emis-
12 sions created by the goods we consume. A significant portion of this
13 footprint is driven by tropical deforestation.

14 7. Tropical deforestation in many countries is closely associated with
15 violations of the land rights of indigenous peoples and local communi-
16 ties and with the exploitation of workers, including forced labor and
17 child labor, and in many cases is enabled by corruption, criminality,
18 and violence against conservationists and land defenders.

19 8. Tropical deforestation in many countries is also closely associated
20 with illegal wildlife trafficking, including, but not limited to, vari-
21 ous bird and reptile species, and many primate species, including great
22 apes, pangolins, and orangutans, as well as many tree and plant species,
23 including mahoganies, rosewoods, ebony, and ipe, all of which have
24 recently been listed on the Convention of International Trade in Endan-
25 gered Species of Fauna and Flora (CITES).

26 9. The primary factors leading to tropical deforestation are degrada-
27 tion and road-building associated with logging for timber, which opens
28 the door for deforestation caused by industrial-scale production of
29 agricultural commodities and conversion of forests into plantations for
30 the timber, pulp, paper, palm oil, soy, and livestock industries, among
31 others. Together, these are increasingly known as "forest-risk commod-
32 ities".

33 10. New York is inadvertently promoting and sanctioning deforestation
34 and forest degradation through the purchase of goods and products that
35 have been produced in supply chains that contribute to tropical defores-
36 tation and tropical forest degradation.

37 11. New York has one of the largest economies in the world and its
38 purchasing power has significant market force, allowing it to play a
39 leadership role in preventing forest loss and supporting markets for
40 sustainably-sourced products.

41 12. It is the intent of the legislature that it be the policy of this
42 state to ensure companies contracting with the state are not contribut-
43 ing to tropical deforestation or tropical forest degradation directly or
44 through their supply chains.

45 § 3. Paragraphs b, c, d and e of subdivision 1 of section 165 of the
46 state finance law, as added by chapter 83 of the laws of 1995, are
47 amended to read as follows:

48 b. (i) "Tropical hardwood" shall mean any and all hardwood, scientif-
49 ically classified as angiosperm, that grows in any tropical [~~moist~~]
50 forest. Tropical hardwoods shall [~~be~~] include but not be limited to the
51 following species:

52 Scientific Name

Examples of Common [~~Name~~]

Names

53 Prunus africana

African cherry, Red stinkwood

54 Caryocar costaricense

Ajo, Aji

55 Calophyllum spp.

Bintangor

1	<u>Cedrela spp.</u>	<u>Cedar</u>
2	<u>Neobalanocarpus heimii,</u>	<u>Chengal</u>
3	<u>Balanocarpus heimii</u>	
4	<u>Octomeles sumatrana</u> Miq.	<u>Erima, benuang</u>
5	<u>Myroxylon balsamum</u>	<u>Estoraque</u>
6	<u>Apuleia leiocarpa</u>	<u>Garapa</u>
7	<u>Parastemon urophyllus, Parastemon</u>	<u>Malas</u>
8	<u>spicatus</u> Ridley	
9	<u>Hopea spp.</u>	<u>Merawan</u>
10	<u>Araucaria araucana</u>	<u>Monkey Puzzle, Chilean pine</u>
11	<u>Pterocarpus tinctorius</u>	<u>Mukula</u>
12	<u>Senna siamea</u>	<u>Siamese senna</u>
13	<u>Pometia pinata</u>	<u>Taun</u>
14	<u>Millettia leucantha</u> Kurz	<u>Thinwin</u>
15	<u>Bulnesia arborea, Bulnesia</u>	<u>Verawood, Argentine lignum</u>
16	<u>sarmientoi</u>	<u>vitae</u>
17	<u>Tristaniopsis laurina</u>	<u>Water gum</u>
18	<u>Terminalia spp.</u>	
19	<u>Homalium foetidum</u>	<u>Malas</u>
20	<u>Dillenia papuana</u>	<u>Dillenia</u>
21	<u>Canarium spp.</u>	<u>Red Canarium, Grey Canarium</u>
22	<u>Burkrella macropoda</u>	<u>Rang rang</u>
23	<u>Octomeles sumatrana</u>	<u>Erima, Benuang</u>
24	<u>Dracontomelon dao</u>	<u>New Guinea walnut</u>
25	<u>Planchonella spp.</u>	<u>White Planchonella, Red</u>
26		<u>Planchonella</u>
27	<u>Lophopetalum spp.</u>	<u>Perupok</u>
28	<u>Carinian pyriformis</u>	<u>Abarco, Jequitiba</u>
29	<u>Mitragyna ciliate</u>	<u>Abura</u>
30	<u>Vouacapous americana</u>	<u>Acapu</u>
31	<u>Amburana caerensis</u>	<u>Amburana, Cerejeira</u>
32	<u>Dalbergia melanoxyton</u>	<u>African Blackwood</u>
33	<u>Lovoa spp.</u>	<u>African Walnut, Tigerwood</u>
34	<u>Pericopsis elata</u>	<u>[Afrormosis] Afrormosia</u>
35	<u>[Shorea-almon]</u>	<u>[Almon]</u>
36	<u>Aspidosperma megalocarpon</u>	<u>Acaretto</u>
37	<u>Peltogyne spp.</u>	<u>Amaranth, purpleheart</u>
38	<u>Terminalia amazonia</u>	<u>Amarillo Real</u>
39	<u>[Guibourtia] Guibourtia ehie</u>	<u>Amazaque</u>
40	<u>Amburana cearensis</u>	<u>Amburana, Cerejeira, cumare</u>
41	<u>Pterogyne nitens</u>	<u>Amendoim</u>
42	<u>Carapa guianensis</u>	<u>Andiroba, False Mahogany</u>
43	<u>Dicorynia guianensis</u>	<u>Angilique Cris</u>
44	<u>[Aningeris] Aningeria spp.</u>	<u>Aningeria, anegre,</u>
45		<u>anigre</u>
46	<u>Dipterocarpus [grandiflorus]</u>	<u>[Apilong] Apitong, Keruing</u>
47	<u>spp.</u>	
48	<u>Centrolobium spp.</u>	<u>Arariba, Amarillo</u>
49	<u>Brosimum utile</u>	<u>Baco</u>
50	<u>Shorea spp.</u>	<u>Balau, Selangan batu</u>
51	<u>Ochroma lagopus</u>	<u>Balsa</u>
52	<u>Ochroma pyramidale</u>	<u>Balsa</u>
53	<u>Myroxylon balsamum</u>	<u>Balsamo</u>
54	<u>[Virola spp.]</u>	<u>[Banak]</u>
55	<u>[Anisoptera thurifera]</u>	<u>[Bella-Rose]</u>
56	<u>[Guibourtia] Guibourtia arnoldiana</u>	

1		Benge, <u>Mutenye</u>
2	<u>Berlinia spp.</u>	<u>Berlinia, Rose Zebrano</u>
3	<u>Symphonia globulifera</u>	<u>Boar Wood</u>
4	Deterium [Senegalese] <u>senegalese</u>	Boire
5	<u>Caesalpinia echinata</u>	<u>Brazilwood, Pernambuco</u>
6	<u>Paubrasilia eschinata</u>	
7	<u>Bertholletia excels</u>	<u>Brazil Tree</u>
8	<u>Brosimum alicastrum</u>	<u>Breadnut</u>
9	<u>Guilbourtia spp.</u>	<u>Bubinga, African</u>
10	<u>(G. demusei, G. pellegriniana,</u>	<u>Rosewood, Kevazingo</u>
11	<u>G. tessmannii)</u>	
12	<u>Toona calantas, Cedrela calantas</u>	<u>Calantas, Kalantas</u>
13	Priora copaifera	Cativo
14	<u>Cedrela odorata, Cedrela fissilis</u>	<u>Cedro, Cedar, Spanish cedar,</u>
15		<u>South American cedar</u>
16	<u>Ceiba pentandra</u>	<u>Ceiba</u>
17	Antiaris africana	Chenchen, <u>Antiaris</u>
18	<u>Couratari guianensis</u>	<u>Coco Blanco</u>
19	[Dalbergis] <u>Dalbergia</u>	
20	retusa	[Concebela] <u>Cocobolo,</u>
21		<u>Granadillo</u>
22	<u>Tabebuia donnell-smithii</u>	<u>Copal</u>
23	<u>Daniellia spp.</u>	<u>Copal, Daniellia</u>
24	Cordia spp.	<u>Cordia, Bocote, Ziricote, Louro</u>
25	<u>Hymenaea courbaril</u>	<u>Courbaril, West Indian Locust</u>
26	<u>Dipteryx odorata</u>	<u>Cumaru</u>
27	<u>Piptadeniastrum africanum</u>	<u>Dahoma, Banzu</u>
28	<u>Calycophyllum candidissimum</u>	<u>Degame, Legame Lancewood,</u>
29		<u>Lemonwood</u>
30	<u>Afzelia spp.</u>	<u>Doussie, Lingue</u>
31	[Diospyres] <u>Diospyrus spp.</u>	<u>Ebony, Macassar</u>
32		<u>ebony,</u>
33		<u>Ceylon ebony</u>
34	<u>Lophira alata</u>	<u>Ekki, Azobe, Bangassi, Akoura,</u>
35		<u>Red Ironwood</u>
36	<u>Combretodendron macrocarpum</u>	<u>Esia, Essia</u>
37	<u>Cordia goeldiana</u>	<u>Freijo, Cordia Wood</u>
38	<u>Chlorophora tinctoria</u>	<u>Fustic, Yellow Wood, Tatajuba</u>
39	[Aucoumes] <u>Aucoumea klaineana</u>	<u>Gaboon, Okoume</u>
40	<u>Astronium spp.</u>	<u>Goncalo Alves, Zebrawood,</u>
41		<u>Tigerwood</u>
42	<u>Ocotea rodiaei</u>	<u>Greenheart</u>
43	<u>Enterolobium cyclocarpum</u>	<u>Guanacaste, Rain Tree,</u>
44		<u>Elephant Ear</u>
45	<u>Guarea spp.</u>	<u>Guarea, Bosse</u>
46	<u>Terminalia ivorensis</u>	<u>Idigbo, Framire, Black Afara</u>
47	<u>Phoebe porosa</u>	<u>Imbuia, Imbuya, Embuia,</u>
48		<u>Brazilian Walnut</u>
49	<u>Handroanthus spp.</u>	<u>Ipe, Brazilian walnut,</u>
50		<u>bethabarra, Pau d'arco,</u>
51		<u>Ironwood, Lapacho</u>
52	Chlorophors excelsa	Iroko
53	<u>Hymenaea courbaril</u>	<u>Jatoba, "Brazilian Cherry"</u>
54	<u>Jacaranda copaia</u>	<u>Jacaranda</u>
55	<u>Machaerium villosum</u>	<u>Jacaranda Pardo</u>
56	<u>Dyera costulata</u>	<u>Jelutong</u>

1	<u>Dryobalanops spp.</u>	<u>Kapur, Keladan</u>
2	<u>Koompassia malaccensis</u>	<u>Kempas, Impas</u>
3	Acacia koa	Koa
4	[Entandrophragma] <u>Entandrophragma</u>	<u>cKosipo, iOmu</u>
5	Pterygota macrocarpa	<u>Koto, African Pterygota, Ware</u>
6	<u>Oxandra lanceolata</u>	<u>Lancewood</u>
7	Shorea spp. [negrosensis]	[Red] <u>Lauan, Luan,</u>
8		<u>Lawaan, Meranti, White</u>
9		<u>meranti, yellow meranti, dark</u>
10		<u>red meranti, light red meranti,</u>
11		<u>Seraya, Tanguile, Bang,</u>
12		<u>Philippine Mahogany</u>
13	[Pentacme contorta]	[White-Lauan]
14	[Shorea ployssprma]	[Tanguile]
15	<u>Nothofagus pumilio</u>	<u>Lenga</u>
16	<u>Guaiacum officinale</u>	<u>Lignum Vitae, Guayacan,</u>
17		<u>Ironwood</u>
18	Terminalia superba	<u>Limba, Afara, Ofra</u>
19	[Aniba duckei] <u>Aniba rosedora</u>	[Loure] <u>Brazilian</u>
20		<u>rosewood, pau rosa, bois</u>
21		<u>de rose</u>
22	<u>Nectandra spp.</u>	<u>Louro Preto</u>
23	[Kyaya iverensis] <u>Khaya spp.</u>	[Africa] <u>African</u>
24		<u>Mahogany</u>
25	[Swietenia macrophylla]	[Amer. Mahogany]
26	<u>Swietenia spp.</u>	<u>American Mahogany, West Indian</u>
27		<u>Mahogany, Central American</u>
28		<u>Mahogany, Honduran Mahogany,</u>
29		<u>South American Mahogany,</u>
30		<u>Mexican Mahogany, Bigleaf</u>
31		<u>Mahogany, Little Leaf</u>
32		<u>Mahogany, Acajou, Caoba</u>
33		<u>Mogno</u>
34	Tieghemella [heckelii] <u>heckelii</u>	[Makora]
35		<u>Makore,</u>
36		<u>Baku</u>
37	<u>Diospyros marmorata</u>	<u>Marblewood, Zebrawood</u>
38	<u>Intsia bijuga, Intsia palembanica</u>	<u>Merbau, Ipil, Kwila</u>
39	<u>Anisoptera spp.</u>	<u>Mersawa, Krabak, Palosapis,</u>
40		<u>Bella Rosa</u>
41	<u>Mora excelsa</u>	<u>Mora</u>
42	Distemonanthus benthamianus	<u>Movingui, Ayan</u>
43	<u>Terminalia amazonia</u>	<u>Nargusta</u>
44	<u>Pterocarpus spp.</u>	<u>Narra, Ambyna, Papua New Guinea</u>
45		<u>Rosewood, Red Sanders, Mukula,</u>
46		<u>Kosso, zitan, Hongmu, Pandauk,</u>
47		<u>Vermillion Wood</u>
48	<u>Palaquium spp.</u>	<u>Nyatoh, Padang, Pencil Cedar</u>
49	<u>Triplochiton scleroxylon</u>	<u>Obeche, Samba</u>
50	<u>Nauclea diderrichii</u>	<u>Opepe, Sibo</u>
51	[Pterocarpus soyaukii]	[African-Padauk]
52	[Pterocarpus angolensis]	[Angola-Padauk]
53	<u>Millettia stuhlmannii</u>	<u>Panga Panga</u>
54	<u>Balfourodendron riedelianum</u>	<u>Pau Marfim</u>
55	Aspidosperma spp.	<u>Peroba, Rosa</u>
56	<u>Paratecoma peroba</u>	<u>Peroba Branca</u>

1	<u>Dalbergia frutescens, D. tomentosa</u>	<u>Pinkwood, Brazilia Tulipwood</u>
2	<u>Tabebuia donnell-smithii</u>	<u>Prima Vera, Roble, Durango</u>
3	<u>Peltogyne spp.</u>	<u>Purpleheart</u>
4	<u>Gonystylus spp.</u>	<u>Ramin</u>
5	<u>Melanorrhoea curtisii</u>	<u>Rengas, Borneo Rosewood</u>
6	<u>Nothofagus obliqua</u>	<u>Roble</u>
7	<u>Hevea brasiliensis</u>	<u>Rubberwood</u>
8	<u>Dalbergia spp.</u>	<u>Rosewood, Indian Rosewood,</u>
9		<u>Honduras Rosewood, cocobolo,</u>
10		<u>granadillo</u>
11	<u>Aniba duckei</u>	<u>Brazilian Rosewood</u>
12	<u>[Entandrophragma-a] Entandrophragma</u>	
13	<u>cylindricum</u>	<u>[Sapela] Sapele, Sapelli</u>
14	<u>Acanthopanax ricinofolius</u>	<u>Sen, Castor Arabia</u>
15	<u>Brosimum aubletti, Piratinera</u>	<u>Snakewood, Letterwood, Leopard</u>
16	<u>guianensis</u>	<u>Wood</u>
17	<u>[Shorea-philippinensis]</u>	<u>[Senora]</u>
18	<u>Juglans spp. (juglans</u>	<u>South American Walnut, Peruvian</u>
19	<u>australis, J. neotropica,</u>	<u>Walnut, Tropical Walnut</u>
20	<u>J. Olanchana, etc.)</u>	
21	<u>Sterculia rhinopetala</u>	<u>Sterculia</u>
22	<u>Bagassa guianensis</u>	<u>Tatajuba, Bagasse</u>
23	<u>Tectona grandis</u>	<u>Teak</u>
24	<u>Lovoa trichilloides</u>	<u>Tigerwood</u>
25	<u>Entandrophragma utile</u>	<u>Utile, Sipo</u>
26	<u>Virola spp.</u>	<u>Virola, Cumala, Banak, Tapsava</u>
27	<u>Millettia laurentii</u>	<u>Wenge</u>
28	<u>Pentacme contorta</u>	<u>White Lauan</u>
29	<u>Microberlinia [brazzavillensis]</u>	<u>Zebrawood,</u>
30	<u>spp.</u>	<u>Zebrano, Zingana</u>

31 (ii) No later than January first, two thousand twenty-seven, and at
32 least every three years thereafter, the office of general services, in
33 consultation with the department of environmental conservation, shall
34 through regulations update the list of tropical hardwood species in
35 subparagraph (i) of this paragraph to ensure that such list includes all
36 such species that are currently available or may be made available for
37 commercial use in the United States, reflecting the most current data on
38 production, trade, and marketing, and to account for any changes in
39 taxonomy, marketing or trade names, market preference, usage, or other
40 factors. Species shall not be removed from the list of examples except
41 for purposes of correcting errors.

42 c. "Tropical [~~rain~~] forests" shall mean [~~any and all forests classi-~~
43 ~~fied by the scientific term "Tropical moist forests", the classification~~
44 ~~determined by the equatorial region of the forest and average rainfall]~~
45 a natural ecosystem within the tropical regions, approximately bounded
46 geographically by the tropics of Cancer and Capricorn, but possibly
47 affected by other factors such as prevailing winds, containing native
48 species composition, structure, and ecological function, with a tree
49 canopy cover of more than ten percent over an area of at least 0.5
50 hectares. "Tropical forests" shall include all of the following: (i)
51 human-managed tropical forests or partially degraded tropical forests
52 that are regenerating; and (ii) tropical forests identified by multi-ob-
53 jective conservation based assessment methodologies, such as High
54 Conservation Value (HCV) areas, as defined by the HCV Resource Network,
55 or High Carbon Stock forests, as defined by the High Carbon Stock

1 Approach, or by another methodology with equivalent or higher standards
2 that includes primary forests and tropical peatlands of any depth.
3 "Tropical forests" shall not include tree plantations of any type.

4 d. "Tropical hardwood products" shall mean any wood products, whole-
5 sale or retail, in any form, including but not limited to plywood,
6 veneer, furniture, cabinets, paneling, siding, moldings, doors, doors-
7 kins, joinery, flooring or sawnwood, which are composed, in whole or in
8 part, of tropical hardwood [~~except plywood~~].

9 e. "Peat" means a soil that is rich in organic matter composed of
10 partially decomposed plant materials equal to or greater than 40 centi-
11 meters of the top 100 centimeters of the soil.

12 f. "Tropical peatlands" means wetlands with a layer of peat made up of
13 dead and decaying plant material. Tropical peatlands includes moors,
14 bogs, mires, and peat swamp forests.

15 g. "Secondary materials" means any material recovered from or other-
16 wise destined for the waste stream, including, but not limited to, post-
17 consumer material, industrial scrap material and overstock or obsolete
18 inventories from distributors, wholesalers and other companies but such
19 term does not include those materials and by-products generated from,
20 and commonly reused within, an original manufacturing process.

21 § 4. Paragraphs b and d of subdivision 2 of section 165 of the state
22 finance law, as added by chapter 83 of the laws of 1995, are amended and
23 three new paragraphs e, f, and g are added to read as follows:

24 b. The provisions of paragraph a of this subdivision shall not apply
25 to:

26 (i) [~~Any hardwoods purchased from a sustained, managed forest, or~~
27 ~~(ii)~~] Any binding contractual obligations for purchase of commodities
28 entered into prior to August twenty-fifth, nineteen hundred ninety-one;
29 or

30 [~~(iii) The purchase of any tropical hardwood or tropical hardwood~~
31 ~~product for which there is no acceptable non-tropical hardwood species,~~
32 ~~or~~

33 ~~(iv) Where the contracting officer finds that no person or entity~~
34 ~~doing business in the state is capable of providing acceptable non-trop-~~
35 ~~ical hardwood species sufficient to meet the particular contract~~
36 ~~requirements; or~~

37 ~~(v)]~~ (ii) Where the inclusion or application of such provisions will
38 violate or be inconsistent with the terms or conditions of a grant,
39 subvention or contract in an agency of the United States or the
40 instructions of an authorized representative of any such agency with
41 respect to any such grant, subvention or contract[~~, or~~

42 ~~(vi) Where inclusion or application of such provisions results in a~~
43 ~~substantial cost increase to the state, government agency, political~~
44 ~~subdivision, public corporation or public benefit corporation].~~

45 d. The provisions of paragraph c of this subdivision shall not apply:

46 (i) To bid packages advertised and made available to the public or any
47 competitive and sealed bids received or entered into prior to August
48 twenty-fifth, nineteen hundred ninety-one; or

49 (ii) To any amendment, modification or renewal of a contract, which
50 contract was entered into prior to August twenty-fifth, nineteen hundred
51 ninety-one, where such application would delay timely completion of a
52 project or involve an increase in the total monies to be paid under that
53 contract; or

54 (iii) Where the contracting officer finds that[+]

~~(A) No person or entity doing business in the state is capable of performing the contract using acceptable non-tropical hardwood species, or~~

~~(B) The~~ the inclusion or application of such provisions will violate or be inconsistent with the terms or conditions of a grant, subvention or contract with an agency of the United States or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or contract~~[- or~~

~~(C) The use of tropical woods is deemed necessary for purposes of historical restoration and there exists no available acceptable non-tropical wood species].~~

e. The use of any tropical hardwood or tropical hardwood product as part of the construction, renovation, maintenance, or installation of any public work, building or other structure, or improvement on lands owned or managed by the state or any governmental agency or political subdivision or public benefit corporation of the state shall be prohibited, except where such prohibition would violate or be inconsistent with the terms and conditions of a grant, subvention or contract with an agency of the United States or the instructions of an authorized representative of any such agency with respect to any such grant, subvention, or contract.

f. (i) Until January first, two thousand thirty, the provisions of paragraphs a, c, and e of this subdivision shall not apply to the use of ekki wood by the metropolitan transportation authority for the purpose of railroad ties in the New York city transit system, provided that the metropolitan transportation authority shall, no later than October first, two thousand twenty-five, after providing notice and an opportunity for public comment, develop and issue an ekki transition plan outlining the steps the authority will take to minimize and eventually phase out the use of ekki wood. Such plan shall be made publicly available on the authority's website. No later than October first, two thousand twenty-six, and annually thereafter until the expiration of this paragraph, the authority shall issue a public report outlining its progress toward achieving such plan.

(ii) If, on or after April first, two thousand twenty-nine, the director of the budget issues a determination, after providing notice and an opportunity for public comment, that the authority has made significant progress in phasing out the use of ekki wood, but that a full phase out has been delayed due to technical, financial, or safety considerations, the provisions of subparagraph (i) of this paragraph may be extended until December thirty-first of the subsequent calendar year. Such determination may be made annually thereafter, on or after April first of subsequent years, provided that under no circumstances shall the provisions of this paragraph extend beyond January first, two thousand thirty-five.

g. (i) Until January first, two thousand thirty, the provisions of paragraphs a, c, and e of this subdivision shall not apply to the use of greenheart wood by a ferry service directly owned and operated by an agency of a city of one million or more, provided that such agency shall, no later than October first, two thousand twenty-five, after providing notice and an opportunity for public comment, develop and issue a greenheart transition plan outlining the steps such agency will take to minimize and eventually phase out the use of greenheart wood. Such plan shall be made publicly available on the agency's website. No later than October first, two thousand twenty-six, and annually there-

1 after until the expiration of this paragraph, the agency shall issue a
2 public report outlining its progress toward achieving such plan.

3 (ii) If, on or after April first, two thousand twenty-nine, the direc-
4 tor of the budget issues a determination, after providing notice and an
5 opportunity for public comment, that such agency has made significant
6 progress in phasing out the use of greenheart wood, but that a full
7 phase out has been delayed due to technical, financial, or safety
8 considerations, the provisions of subparagraph (i) of this paragraph may
9 be extended until December thirty-first of the subsequent calendar year.
10 Such determination may be made annually thereafter, on or after April
11 first of subsequent years, provided that under no circumstances shall
12 the provisions of this paragraph extend beyond January first, two thou-
13 sand thirty-five.

14 § 5. Section 165 of the state finance law is amended by adding a new
15 subdivision 9 to read as follows:

16 9. Tropical deforestation-free procurement. a. For purposes of this
17 subdivision, the following definitions shall apply:

18 (i) "Contractor" means any person or entity that has a contract with a
19 state agency or state authority for public works or improvements to be
20 performed, for a franchise, concession or lease of property, for grant
21 monies or goods and services or supplies to be purchased at the expense
22 of the agency or authority or to be paid out of monies deposited in the
23 treasury or out of trust monies under the control or collected by the
24 agency or authority.

25 (ii) "Tropical forest-risk commodity" means any commodity and its
26 derived products, including agricultural and non-agricultural commod-
27 ities but excluding tropical hardwood and tropical hardwood products
28 covered by subdivisions one and two of this section, whether in raw or
29 processed form, that is commonly extracted from, or grown, derived,
30 harvested, reared, or produced on land where tropical deforestation or
31 tropical forest degradation has occurred or is likely to occur. Tropical
32 forest-risk commodities include palm oil, soy, beef, coffee, cocoa, wood
33 pulp, paper and any additional commodities defined by the commissioner
34 pursuant to subparagraph (i) of paragraph g of this subdivision, but do
35 not include recovered fiber.

36 (iii) "Free, prior, and informed consent" means the principle that a
37 community has the right to give or withhold its consent to proposed
38 developments that may affect the land and waters it legally or customar-
39 ily owns, occupies, or otherwise uses, as described in the United
40 Nations Declaration on the Rights of Indigenous Peoples, the Indigenous
41 and Tribal Peoples Convention of 1989, also known as the International
42 Labor Organization Convention 169, and other international instruments.
43 "Free, prior, and informed consent" means informed, noncoercive negoti-
44 ations between investors, companies, or governments, and indigenous
45 peoples and local communities, prior to project development.

46 (iv) "Large contractor" means any contractor whose annual revenue, or
47 that of their parent company, is equal to or greater than one hundred
48 million dollars.

49 (v) "Point-of-origin" means the geographical location, as identified
50 by the smallest administrative unit of land, where a commodity was
51 grown, derived, harvested, reared, or produced.

52 (vi) "Recovered Fiber" means postconsumer fiber such as paper, paper-
53 board, and fibrous materials from retail stores, office buildings,
54 homes, and so forth, after having passed through their end usage,
55 including used corrugated boxes, old newspapers, old magazines, mixed
56 waste paper, tabulating cards, and used cordage, and all paper, paper-

board, and fibrous materials that enter and are collected from municipal solid waste; and manufacturing wastes such as dry paper and paperboard waste generated after completion of the papermaking process, including envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting, forming, and other converting operations, bag, box, and carton manufacturing wastes, and butt rolls, mill wrappers, and rejected unused stock, and repulped finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, and others.

(vii) "Tree plantation" means an area of land predominantly composed of trees established through planting and/or deliberate seeding, usually by planting one or two species, for the purpose of producing and harvesting a particular commodity. Tree plantation does not include forest planted for ecosystem restoration.

(viii) "Tropical deforestation" means direct human-induced conversion of tropical forest to agriculture, a tree plantation, or other non-forest land use.

(ix) "Tropical forest degradation" means direct human-induced severe and sustained degradation of a tropical forest resulting in significant forest loss and/or a profound change in species composition, structure, or ecological function of that forest.

(x) "New York state products" means products that are grown, harvested, or produced in this state, or processed inside or outside this state comprising over fifty-one percent raw materials grown, harvested, or produced in this state, by weight or volume.

(xi) "Small business" means small business as defined in section one hundred thirty-one of the economic development law.

(xii) "Medium-sized business" shall mean a business that is resident in this state, independently owned and operated, not dominant in its field, and employs between one hundred and five hundred persons.

(xiii) "Minority-owned business enterprise" shall have the same meaning as in article fifteen-A of the executive law.

(xiv) "Women-owned business enterprise" shall have the same meaning as in article fifteen-A of the executive law.

b. (i) Every contract entered into by a state agency or authority that includes the procurement of any product comprised wholly or in part of a tropical forest-risk commodity shall require that the contractor certify, after completing necessary due diligence measures as determined by the commissioner pursuant to paragraph g of this subdivision, that, to the best of the contractor's knowledge, the product furnished to the state pursuant to the contract does not contain any commodities that were extracted from, grown, derived, harvested, reared, or produced on land where tropical deforestation or tropical forest degradation occurred on or after January first, two thousand twenty-three. The contractor shall agree to comply with this provision of the contract.

(ii) The contract shall specify that the contractor is required to cooperate fully in providing reasonable access to the contractor's records, documents, agents, employees, or premises if reasonably required by authorized officials of the contracting agency or authority, the office of general services, the office of the attorney general, or the department of environmental conservation, to determine the contractor's compliance with the requirements of this paragraph.

(iii) Contractors shall exercise due diligence in ensuring that their subcontractors comply with the requirements of this paragraph. Contrac-

tors shall require each subcontractor to certify that the subcontractor is in compliance with the requirements of this paragraph.

(iv) In addition to the requirements of subparagraphs (i), (ii) and (iii) of this paragraph, large contractors subject to this paragraph must certify that they have adopted a tropical forest policy that complies with regulations issued pursuant to subparagraph (vi) of paragraph g of this subdivision. Such tropical forest policy and all corresponding data shall be made publicly available, and shall at a minimum explicitly aim to achieve all of the following:

A. Due diligence measures to identify the point-of-origin of tropical forest-risk commodities and ensure compliance with the policy where supply chain risks are present.

B. Data detailing the complete list of direct and indirect suppliers and supply chain traceability information, including refineries, processing plants, farms, and plantations, and their respective owners, parent companies, and farmers, maps, and geo-locations, for each tropical forest-risk commodity found in products that may be furnished to the state.

C. Measures taken to ensure the product does not contribute to tropical deforestation or tropical forest degradation, including:

(1) no development in tropical forests, and that the product does not originate from a site where commodity production has replaced tropical forests after January first, two thousand twenty-three;

(2) no development of High Carbon Stock (HCS) Forests;

(3) no development of High Conservation Value (HCV) Areas;

(4) no burning;

(5) efforts to ensure progressive reductions of greenhouse gas emissions on existing plantations;

(6) no development on peat, regardless of depth;

(7) best management practices for existing plantations on peat; and

(8) where feasible, activities oriented towards peat restoration.

D. Measures taken to prevent exploitation and redress grievances of workers and local communities, including:

(1) Respect for and recognition of the rights of all workers including contract, temporary, and migrant workers.

(2) Respect for and recognition of land tenure rights of communities.

(3) Respect for the rights of indigenous and local communities to give or withhold their free, prior, and informed consent to operations on lands to which they hold legal, communal, or customary rights.

(4) Explicit policies and processes to prevent violence, intimidation, and coercion of workers and local communities.

(5) Formal, open, transparent, and consultative processes to address and redress all complaints and conflicts.

E. Measures taken to protect biodiversity and prevent the poaching of endangered species in all operations and adjacent areas.

F. Measures taken to ensure compliance with the laws of countries where tropical forest-risk commodities in a company's supply chain were produced.

G. Measures to deter violence, threats, and harassment against environmental human rights defenders (EHRDs), including respecting internationally recognized human rights standards, and educating employees, contractors, and partners on the rights of EHRDs to express their views, conduct peaceful protests, and criticize practices without intimidation or retaliation.

(v) The provisions of this paragraph shall not apply to primary, secondary, or tertiary packaging used for the purpose of containment,

1 protection, handling, delivery, transport, distribution, or presentation
2 of a covered product.

3 (vi) The provisions of this paragraph shall not apply when the inclu-
4 sion or application of such provisions will violate or be inconsistent
5 with the terms or conditions of a grant, subvention or contract with an
6 agency of the United States or the instructions of an authorized repre-
7 sentative of any such agency with respect to any such grant, subvention
8 or contract.

9 (vii) The provisions of this paragraph shall not apply if the head of
10 the contracting state agency or authority issuing a solicitation for
11 products comprised wholly or in part of tropical forest-risk commodities
12 issues a determination, after providing notice and an opportunity for
13 public comment, with the approval of the director of the budget, that
14 upon the closing of such solicitation such provisions have resulted in
15 the failure to receive any offers in response to such solicitation and
16 that there is no alternative product available that is able to meet the
17 generally accepted standard performance requirements for the specified
18 application within such solicitation. Such determination shall explain
19 in detail the necessity of such exemption for each specified applica-
20 tion, including a list of all available alternative products considered
21 and an explanation as to why each product does not meet the relevant
22 generally accepted performance requirements. Such determination shall be
23 made publicly available, in writing, on the website of the office of
24 general services and the relevant agency or authority. If the head of
25 the contracting state agency or authority has not issued such a determi-
26 nation for three consecutive years, then the power of the head of the
27 contracting state agency or authority to issue such a determination
28 shall be deemed expired, and any subsequent determination shall be null
29 and void.

30 c. (i) If it is determined that any contractor contracting with the
31 state knew or should have known that a product comprised wholly or in
32 part of a tropical forest-risk commodity was furnished to the state in
33 violation of this subdivision, the contracting agency or authority shall
34 issue a written notice of violation and provide an opportunity for such
35 contractor to come into compliance. If, after such notice, a contractor
36 fails to come into compliance within a timeframe established by the
37 commissioner of general services, such contractor may, subject to
38 subparagraph (ii) of this paragraph, have either or both of the follow-
39 ing sanctions imposed:

40 A. The contract under which the prohibited tropical forest-risk
41 commodity was furnished may be voided at the option of the state agency
42 or authority to which the commodity was furnished.

43 B. The contractor may be assessed a penalty that shall be the greater
44 of one thousand dollars or an amount equaling twenty percent of the
45 value of the product that the state agency or authority demonstrates was
46 comprised wholly or in part of a tropical forest-risk commodity and
47 furnished to the state in violation of this subdivision. A hearing or
48 opportunity to be heard shall be provided prior to the assessment of any
49 penalty.

50 (ii) Notwithstanding subparagraph (i) of this paragraph, a contractor
51 that has complied with the provisions of subparagraph (iii) of paragraph
52 b of this subdivision shall not be subject to sanctions for violations,
53 of which the contractor had no knowledge, of the requirements of this
54 subdivision that were committed solely by a subcontractor. Sanctions
55 described under subparagraph (i) of this paragraph shall instead be
56 imposed against the subcontractor that committed the violation.

1 d. (i) Any state agency or authority that investigates a complaint
2 against a contractor or subcontractor for violation of this subdivision
3 may limit its investigation to evaluating the information provided by
4 the person or entity submitting the complaint and the information
5 provided by the contractor or subcontractor.

6 (ii) Whenever a contracting officer of the contracting agency or
7 authority has reason to believe that the contractor failed to comply
8 with paragraph b of this subdivision, the agency or authority shall
9 refer the matter for investigation to the head of the agency or authori-
10 ty and, as the head of the agency or authority determines appropriate,
11 to either the office of general services, the office of the attorney
12 general, or the department of environmental conservation.

13 e. (i) When a state agency or authority's contract for the purchase of
14 a commodity or product covered by this subdivision is to be awarded to
15 the lowest responsible bidder, an otherwise qualified bidder who is a
16 small or medium-sized business or a minority or women-owned business
17 enterprise, or who will fulfill the contract through the use of New York
18 state products, may be given preference over other bidders, provided
19 that the cost included in the bid is not more than ten percent greater
20 than the cost included in a bid that is not from a small or medium-sized
21 business or a minority or women-owned business enterprise or fulfilled
22 through the use of New York state products.

23 (ii) The provisions of this paragraph shall not apply if the head of
24 the contracting state agency or authority purchasing such products, in
25 his or her sole discretion, determines that giving preference to bidders
26 pursuant to the provisions of this paragraph would be:

27 (a) against the public interest;

28 (b) would increase the cost of the contract by an unreasonable amount;
29 or

30 (c) New York state products cannot be obtained in sufficient and
31 reasonable available quantities and of satisfactory quality to meet the
32 contracting state agency or authority's requirements.

33 (iii) Nothing in this paragraph shall be construed to conflict with or
34 otherwise limit the goals and requirements set forth by section one
35 hundred sixty-two of this article, article fifteen-A of the executive
36 law, or article three of the veterans' services law.

37 f. Prior to issuing regulations pursuant to paragraph g of this subdi-
38 vision, the commissioner of general services shall convene four meetings
39 with relevant stakeholders, including but not limited to:

40 (i) representatives of current or former state contractors dealing in
41 products containing each of the tropical forest-risk commodities speci-
42 fied in subparagraph (ii) of paragraph a of this subdivision, with an
43 emphasis on small and medium-sized businesses;

44 (ii) representatives not affiliated with covered industries with rele-
45 vant expertise in supply chain traceability, tropical forest sustaina-
46 bility, biodiversity, climate science, human and labor rights, and
47 indigenous rights; and

48 (iii) representatives from indigenous communities within the geograph-
49 ic areas containing tropical forests covered by this subdivision.

50 g. On or before July first, two thousand twenty-six, the commissioner
51 of general services shall adopt regulations for the implementation of
52 this subdivision. Such regulations shall be developed in consultation
53 with the commissioner of the department of environmental conservation.
54 Such regulations shall include, but not be limited to, all of the
55 following:

(i) A list of tropical forest-risk commodities subject to the requirements of this subdivision, including, but not limited to, palm oil, soy, beef, coffee, cocoa, wood pulp and paper. The list shall be reviewed and updated at least every three years. When evaluating inclusion of additional commodities in the list, the commissioner of general services shall consider the impact of the commodity as a driver of tropical deforestation or tropical forest degradation, the state of existing supply chain transparency and traceability systems for the commodity, and the feasibility of including the commodity in the requirements of this subdivision. The first review shall include, but not be limited to, evaluation of rubber, bananas, corn, sugarcane, leather and other cattle-derived products, and mining products including petroleum, coal, iron, copper, gold, tin, diamonds, manganese, bauxite and nickel. Following a review of the list of tropical forest-risk commodities, the commissioner shall issue a report to the governor, the temporary president of the senate, and the speaker of the assembly, outlining the reasons for the inclusion or non-inclusion of any reviewed commodities.

(ii) A list of products derived wholly or in part from tropical forest-risk commodities.

(iii) A list of products furnished to the state or used by state contractors in high-volume purchases that may contain or be comprised wholly or in part of tropical forest-risk commodities.

(iv) Specific due diligence measures based on international best practices for supply chain traceability and transparency that contractors must perform before making the certification required by this subdivision.

(v) A list of favored suppliers of tropical forest-risk commodities and products derived therefrom whose products have been determined to meet the requirements of this subdivision, and a process through which suppliers may apply for inclusion on such list.

(vi) The full set of requirements for a large contractor's tropical forest policy pursuant to subparagraph (iv) of paragraph b of this subdivision.

(vii) The process through which contractors shall certify to the office of general services that they are in compliance with paragraph b of this subdivision.

(viii) A process for ensuring that details of certifications are made available for public inspection on the website of the office of general services.

(ix) An easily accessible procedure to receive public complaints and information regarding violations of this subdivision.

h. The certification requirements set forth in this subdivision shall not apply to a credit card purchase of goods of fifteen thousand dollars or less.

i. This subdivision shall apply to all contracts entered into, extended, or renewed on or after January first, two thousand twenty-seven.

j. Commencing two years after the effective date of this subdivision and biennially thereafter, the commissioner shall issue a report to the governor, the temporary president of the senate, and the speaker of the assembly, on the implementation of this subdivision and subdivisions one and two of this section.

§ 6. The economic development law is amended by adding a new article 27 to read as follows:

ARTICLE 27

SUPPLY CHAIN TRANSPARENCY ASSISTANCE PROGRAM

1 Section 490. Definitions.

2 491. The supply chain transparency assistance program.

3 § 490. Definitions. For purposes of this article:

4 1. "Small business" means a small business as defined in section one
5 hundred thirty-one of this chapter.

6 2. "Medium-sized business" shall mean a business that is resident in
7 this state, independently owned and operated, not dominant in its field,
8 and employs between one hundred and five hundred persons.

9 3. "Eligible business" shall mean any small and medium-sized business
10 as defined in this article, and any minority or women-owned business
11 enterprise as defined in article fifteen-A of the executive law.

12 4. "Supply chain" shall mean a system of extraction, production,
13 transportation, and distribution involving multiple processes, organiza-
14 tions, individuals, and resources, beginning with raw materials and
15 culminating in the delivery of a product or service to a consumer.

16 § 491. The supply chain transparency assistance program. 1. The
17 department is hereby authorized and directed, within one year of the
18 effective date of this article, to establish, develop, implement, and
19 maintain, within available appropriations, a supply chain transparency
20 assistance program to assist small and medium-sized businesses and
21 minority and women-owned businesses in achieving supply chains that are:

22 (a) Transparent, meaning a supply chain for which sufficient informa-
23 tion has been disclosed regarding all relevant units of production from
24 the raw material stage to the delivery of a product or service to a
25 consumer, including, but not limited to, extraction sites, suppliers,
26 manufacturers, transporters, wholesalers, and retailers, to allow
27 consumers to determine whether the supply chain is ethical and sustaina-
28 ble.

29 (b) Traceable, meaning a supply chain for which distributors, retail-
30 ers, and other businesses down the supply chain are able to gather
31 sufficient and relevant information regarding all units of production
32 further up the supply chain to determine whether a supply chain is
33 ethical and sustainable.

34 (c) Ethical, meaning a supply chain that upholds the human rights and
35 all other legal rights, supports the well-being, and prevents the
36 exploitation, of workers and communities, and guarantees the free,
37 prior, and informed consent, land, and other legal rights of affected
38 indigenous peoples and other local and traditional communities.

39 (d) Sustainable, meaning a supply chain that takes all necessary meas-
40 ures to avoid, minimize, and reduce degradation of natural environmental
41 systems, and maximizes efforts to contribute to the restoration and
42 regeneration of impacted ecosystems.

43 2. The purpose of such program shall be to:

44 (a) Develop and share best practices and provide technical assistance
45 to help participating eligible businesses develop and implement stand-
46 ards, plans, and benchmarks for transparency and traceability, environ-
47 mental sustainability, and ethical practices throughout their supply
48 chains.

49 (b) Assist participating eligible businesses with compliance with
50 supply chain related regulations, procurement standards, or contracting
51 requirements.

52 (c) Identify funding streams, grant monies, financial assistance and
53 other resources that may be available to help participating eligible
54 businesses achieve transparent, traceable, ethical, and sustainable
55 supply chains.

1 (d) Help participating eligible businesses with marketing, communi-
2 cation, and other activities to achieve maximum competitive advantage
3 from their transparent, traceable, ethical, and sustainable supply
4 chains.

5 (e) Conduct market analysis to identify opportunities for participat-
6 ing eligible businesses to access new markets and increase competitive-
7 ness through achieving transparent, traceable, ethical, and sustainable
8 supply chains.

9 (f) Conduct outreach to promote awareness of the program among eligi-
10 ble businesses, business organizations, and regional and local economic
11 development agencies.

12 § 7. This act shall take effect on the ninetieth day after it shall
13 have become a law and shall apply to all contracts and binding contrac-
14 tual obligations entered into on and after such effective date.