

STATE OF NEW YORK

5125

2023-2024 Regular Sessions

IN SENATE

February 23, 2023

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to enacting the "New York deforestation protection act"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York deforestation protection act".

3 § 2. Article 9 of the environmental conservation law is amended by
4 adding a new title 23 to read as follows:

TITLE 23

NEW YORK DEFORESTATION PROTECTION ACT

Section 9-2301. Purpose.

8 9-2303. Powers of the department; timber.

9 9-2305. Powers of the department; pests and invasive species.

10 9-2307. Powers of the department; water and land management.

§ 9-2301. Purpose.

12 It is the public policy of the state to control forest pests threaten-
13 ing forests of the state and to protect the forest resources, promote
14 good forest management, enhance the growth and maintenance of forests,
15 promote stability of forest-using industries, aid in fire control by
16 reducing the menace created by dying and dead trees, conserve forest
17 cover on watersheds and protect wildlife, recreational values and other
18 values of the forest.

§ 9-2303. Powers of the department; timber.

20 1. In accordance with the purposes of section 9-0105 of this article
21 and no later than December first, two thousand twenty-six, the commis-
22 sioner shall adopt rules to (a) ensure adequate protection against
23 deforestation of agricultural, forest, and other undeveloped land; and
24 (b) establish performance standards for timber harvesting activities.
25 The rules shall provide the maximum opportunity for flexibility that

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

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1 achieves the goal of protecting the public resources while minimizing
2 the impact on private resources. In developing forest protection and
3 regeneration standards, the commissioner shall take into consideration
4 local and regional differences in forest types, tree species and physio-
5 graphic conditions.

6 2. (a) The commissioner shall establish, by rule, performance stand-
7 ards for clear-cuts, including limitations on size. These standards
8 shall protect water quality, minimize soil erosion, ensure adequate
9 regeneration, address adverse impacts on wildlife habitat and provide
10 for a healthy and sustainable forest. The commissioner shall incorporate
11 regional variations in developing performance standards that consider
12 growing conditions, tree species and site quality.

13 (b) The commissioner shall adopt rules to ensure adequate regeneration
14 of commercial tree species on a site within five years of completion of
15 any timber harvest. Rules to implement such requirements shall include
16 identification of commercial tree species, minimum stocking standards
17 and methods to mitigate inadequate regeneration. Rules shall protect
18 against soil erosion and stream sedimentation.

19 3. (a) The commissioner shall administer and enforce the regulation of
20 timber harvesting and timber harvesting activities in areas classified,
21 under his or her rulemaking, as protected areas. The commissioner shall
22 establish standards in rule to implement this subdivision.

23 (b) The commissioner, in consultation with the department of agricul-
24 ture and markets, shall investigate the feasibility of the department
25 entering into arrangements for removal and sale of merchantable timber,
26 taking into consideration the following:

27 (i) local market conditions;

28 (ii) adaptability of terrain for cutting and removal of timber;

29 (iii) potential hazards to surrounding stands of timber; and

30 (iv) other matters that the department requests.

31 (c) A state forester or a state forester's designee shall inspect
32 areas in which timber is removed to determine if cutting and removal of
33 timber is conducted in a manner that protects and preserves topsoil and
34 surrounding growths.

35 (d) The department, on a finding that it is in furtherance of the
36 purposes of this chapter, may encourage selection, shelterwood, or other
37 types of management of timber if consistent with the biological require-
38 ments of the tree species and may regulate the size and shape of areas
39 in which even-age management of timber is utilized.

40 § 9-2305. Powers of the department; pests and invasive species.

41 1. The department is vested with the authority and jurisdiction in all
42 matters relating to the prevention, detection and control of forest
43 pests on the forest lands of the state, and to do all things necessary
44 in the exercise of such authority and jurisdiction, except that this
45 subdivision shall not be construed to grant any powers or authority to
46 the department for the silvicultural control of forest pests on any
47 land.

48 2. The department shall survey and investigate the presence, condition
49 and extent of infestations and shall carry out control measures when
50 necessary.

51 3. To carry out the purposes of this section, the department may enter
52 into arrangements or agreements with universities, the department of
53 agriculture and markets, other departments of this and other states, the
54 United States department of agriculture and other federal agencies and
55 with any counties, towns, corporations and individuals.

1 4. Every owner of forest lands or timber shall exercise every reason-
2 able effort to control and destroy forest pests on forest lands or
3 timber owned by or under the control of the owner. In case of the
4 owner's failure, neglect or inability to do so, the work may be
5 performed by the department as provided in this section.

6 § 9-2307. Powers of the department; water and land management.

7 1. The commissioner shall adopt rules to allow activities that enhance
8 cold water fishery habitats without a permit or fee. The rules shall
9 establish standards for the placement of wood in stream channels and
10 specify that such placement shall only be done by a licensed forester.

11 2. The commissioner shall administer and enforce the regulations of
12 construction, maintenance and repair of land management roads, water
13 crossings and gravel pits of less than five acres in areas designated as
14 protection districts and management districts by the commissioner. The
15 department shall establish forest management regulations and standards
16 including a forest management plan. Landowners shall carry out the
17 activities listed in such forest management plan. Prescribed activities
18 shall meet or exceed the following minimum standards and be carried out
19 in accordance with United States forest service or other appropriate
20 silvicultural or management guides or handbooks. The
21 regulations/standards shall:

22 (a) require a permit from the department for activities located within
23 areas of special flood hazard as defined by rule;

24 (b) include standards to protect outstanding river segments, historic,
25 scenic, scientific, recreational and aesthetic resources in areas clas-
26 sified by the department for special protection under rulemaking; and

27 (c) require review by and approval from the commissioner for any
28 activity in a protection district described in paragraph (b) of this
29 subdivision that requires a permit.

30 § 3. This act shall take effect immediately.