

Assembly Bill No. 3085

CHAPTER 740

An act to amend Sections 4571, 4572, 4573, and 4574 of, and to add Sections 4570 and 4576.1 to, the Public Resources Code, relating to forest resources.

[Approved by Governor September 21, 1996. Filed
with Secretary of State September 23, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3085, Olberg. Timber operations: licenses.

(1) Existing law, the Z'berg-Nejedly Forest Practice Act of 1973, prohibits any person from engaging in timber operations without a license. The act requires the State Board of Forestry to prescribe the form and content of the application for a timber operator license, establish procedures, and require a reasonable filing fee. The act authorizes the board to deny a license for specified reasons, including if the applicant is not the real person in interest, and to suspend or revoke a license under specified circumstances. The act provides that a license is valid only during the calendar year in which it is issued.

A willful violation of the act, or of the rules and regulations adopted by the board pursuant to the act, is a crime.

This bill would authorize the board to issue a limited timber operator license for the commercial cutting or removal of Christmas trees, tanbark, fuelwood, root crown burls, posts, or split products.

The bill would specifically prohibit the amount of the application filing fee from exceeding the amount necessary to administer timber operator licensing. The bill would, except as specified, require first-time applicants for a license to furnish to the board proof of education and experience, as prescribed, and, except as specified, require all applicants to file with the Director of Forestry and Fire Protection written evidence of insurance policy coverage, as specified.

The bill would define "real person in interest."

The bill would provide that the failure or refusal of the applicant to pay a judgment arising from a violation, to keep current the insurance policy coverage, or to reimburse the Department of Forestry and Fire Protection for certain enforcement costs incurred by the department, are additional grounds for license denial.

The bill would instead require a timber operator license to be valid for a time period not to exceed 2 calendar years, as prescribed by the board.

The bill would authorize the board to issue a temporary license to permit an applicant for the renewal of a license to perform those

timber operations that are necessary to correct any violation that has resulted in a denial of license renewal.

The bill would authorize the board to deny an application for license renewal regarding a license first issued on or after January 1, 1997, if the real person in interest has not met certain education and work experience requirements.

The bill, except as specified, would prohibit the real person in interest, during the period in which a license has been suspended or revoked, from having any pecuniary interest in, or any responsibility for the conduct of, the timber operations of any person licensed under the act, thereby imposing a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 4570 is added to the Public Resources Code, to read:

4570. For purposes of this article, “real person in interest” means an individual who is one of the following:

(a) The sole proprietor, principal owner, or principal officer of an entity that is applying for a license or the renewal of a license under this article.

(b) The on-site supervisor responsible for the conduct of timber operations pursuant to the license, including the authority to hire and fire persons conducting those timber operations.

SEC. 2. Section 4571 of the Public Resources Code is amended to read:

4571. (a) No person shall engage in timber operations until that person has obtained a license from the board.

(b) The board may issue a limited timber operator license for the commercial cutting or removal of Christmas trees, tanbark, fuelwood, root crown burls, posts, or split products.

SEC. 3. Section 4572 of the Public Resources Code is amended to read:

4572. (a) The board shall, by regulation, prescribe the form and content of an application for a timber operator license or license renewal, establish procedures for filing the application, and require a reasonable filing fee. The amount of the filing fee shall not exceed the amount necessary to administer licensing under this article.



(b) First-time applicants for a timber operator license shall furnish to the board proof that the real person in interest has complied with both of the following requirements:

(1) Completion, within the preceding 12 months, of an education program approved by the director that covers the statutes and regulations governing timber operations in this state.

(2) (A) Except as specified in subparagraph (B) and subdivision (d), completion of 3000 hours of work experience in two or more areas of employment in timber operations.

(B) An applicant shall be exempt from this paragraph if the applicant furnishes proof to the board that the applicant is sole proprietor of, principal owner of, or principal officer of an entity that owns, the land on which all timber operations under the license will be conducted, and the applicant will supervise those timber operations.

(c) (1) Except as specified in paragraph (2) and subdivision (d), all applicants shall file with the director written evidence of timber operation insurance coverage under an insurance policy issued by an insurer eligible to do business in this state that includes both of the following:

(A) Commercial general liability insurance for not less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage combined, including within that limit, or in a separate limit, loggers third party property damage liability.

(B) A provision requiring the insurer to provide to the director a certificate of insurance and notice of any amendment to, or cancellation of, the policy within 30 days from the date of policy amendment or cancellation.

(2) This subdivision does not apply to an applicant who owns the land upon which the timber operations are to be conducted pursuant to the license.

(d) Subparagraph (A) of paragraph (2) of subdivision (b) and paragraph (1) of subdivision (c) do not apply to an applicant for a limited timber operator license.

SEC. 4. Section 4573 of the Public Resources Code is amended to read:

4573. The board may deny a timber operator license for any of the following reasons:

(a) The applicant is not the real person in interest.

(b) Material misrepresentation or false statement in the application.

(c) Conviction within one year of the application of unlawfully operating without a license.

(d) The failure or refusal of the applicant to comply with this chapter or the rules and regulations adopted by the board pursuant to this chapter, within three years prior to the date of application.



(e) The failure or refusal of the applicant to pay a judgment assessed or awarded by a court of competent jurisdiction that is the result of a violation of this chapter or the rules and regulations adopted by the board pursuant to this chapter.

(f) The failure or refusal of the applicant to keep current the insurance required by subdivision (c) of Section 4572.

(g) The failure or refusal of the applicant to reimburse the department for costs incurred by the department as the result of an action to correct a violation conducted in accordance with Article 8 (commencing with Section 4601).

SEC. 5. Section 4574 of the Public Resources Code is amended to read:

4574. (a) Timber operator licenses shall be valid for a period not to exceed two calendar years, as prescribed by the board.

(b) (1) The board may deny an application for license renewal until any violations by the applicant that exist on the date of submission of the renewal application, of which the applicant has been notified and given reasonable opportunity to correct, are corrected in accordance with any reasonable terms and conditions required by the board.

(2) The board may issue a temporary license to permit the applicant to perform those timber operations that are necessary to correct any violation that has resulted in a denial of license renewal.

(c) For a license first issued on or after January 1, 1997, the board may deny an application for license renewal if the real person in interest has not completed both an education program approved by the director that covers the statutes and regulations governing timber operations in this state, and 3,000 hours of work experience in two or more areas of employment in timber operations.

SEC. 6. Section 4576.1 is added to the Public Resources Code, to read:

4576.1. During the period in which a timber operator license has been suspended or revoked pursuant to Section 4576, the real person in interest, as defined in subdivision (a) of Section 4573, shall not have any ownership, possessory, security, or other pecuniary interest in, or any responsibility for the conduct of, the timber operations of any person licensed pursuant to this article. This provision does not preclude ownership of publicly traded stock in any corporation.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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