

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 681*
Agriculture/Environment/Natural Resources Committee Substitute Adopted
5/12/05
Third Edition Engrossed 5/17/05
House Committee Substitute Favorable 8/9/05

Short Title: Clarify Regulation of Forestry.

(Public)

Sponsors:

Referred to:

March 21, 2005

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE ROLE OF COUNTIES AND CITIES IN REGULATING
CERTAIN FORESTRY ACTIVITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 23 of Chapter 153A of the General Statutes is amended
by adding a new section to read:

"§ 153A-451. Restriction of certain forestry activities prohibited.

(a) The following definitions apply to this section:

- (1) Development. – Any activity, including timber harvesting, that is associated with the conversion of forestland to nonforest use.
- (2) Forestland. – Land that is devoted to growing trees for the production of timber, wood, and other forest products.
- (3) Forestry. – The professional practice embracing the science, business, and art of creating, conserving, and managing forests and forestland for the sustained use and enjoyment of their resources, materials, or other forest products.
- (4) Forest management plan. – A document that defines a landowner's forest management objectives and describes specific measures to be taken to achieve those objectives. A forest management plan shall include silvicultural practices that both ensure optimal forest productivity and environmental protection of land by either commercially growing timber through the establishment of forest stands or by ensuring the proper regeneration of forest stands to commercial levels of production after the harvest of timber.
- (5) Forestry activity. – Any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or

- 1 protection of trees and timber, provided that such activities comply
2 with existing State rules and regulations pertaining to forestry.
- 3 (b) A county shall not adopt or enforce any ordinance, rule, regulation, or
4 resolution that regulates either:
- 5 (1) Forestry activity on forestland that is taxed on the basis of its
6 present-use value as forestland under Article 12 of Chapter 105 of the
7 General Statutes.
- 8 (2) Forestry activity that is conducted in accordance with a forest
9 management plan.
- 10 (c) This section shall not be construed to limit, expand, or otherwise alter the
11 authority of a county to:
- 12 (1) Regulate activity associated with development. A county may deny a
13 building permit or refuse to approve a site or subdivision plan for
14 either a period of up to:
- 15 a. Three years after the completion of a timber harvest if the
16 harvest results in the removal of all or substantially all of the
17 trees that were protected under county regulations governing
18 development from the tract of land for which the permit or
19 approval is sought.
- 20 b. Five years after the completion of a timber harvest if the harvest
21 results in the removal of all or substantially all of the trees that
22 were protected under county regulations governing
23 development from the tract of land for which the permit or
24 approval is sought and the harvest was a willful violation of the
25 county regulations.
- 26 (2) Regulate trees pursuant to any local act of the General Assembly.
- 27 (3) Adopt ordinances that are necessary to comply with any federal or
28 State law, regulation, or rule.
- 29 (4) Exercise its planning or zoning authority under Article 18 of this
30 Chapter."

31 **SECTION 2.** Article 19 of Chapter 160A of the General Statutes is amended
32 by adding a new section to read:

33 "**§ 160A-458.5. Restriction of certain forestry activities prohibited.**

- 34 (a) The following definitions apply to this section:
- 35 (1) Development. – Any activity, including timber harvesting, that is
36 associated with the conversion of forestland to nonforest use.
- 37 (2) Forestland. – Land that is devoted to growing trees for the production
38 of timber, wood, and other forest products.
- 39 (3) Forestry. – The professional practice embracing the science, business,
40 and art of creating, conserving, and managing forests and forestland
41 for the sustained use and enjoyment of their resources, materials, or
42 other forest products.
- 43 (4) Forest management plan. – A document that defines a landowner's
44 forest management objectives and describes specific measures to be

1 taken to achieve those objectives. A forest management plan shall
2 include silvicultural practices that both ensure optimal forest
3 productivity and environmental protection of land by either
4 commercially growing timber through the establishment of forest
5 stands or by ensuring the proper regeneration of forest stands to
6 commercial levels of production after the harvest of timber.

7 (5) Forestry activity. – Any activity associated with the growing,
8 managing, harvesting, and related transportation, reforestation, or
9 protection of trees and timber, provided that such activities comply
10 with existing State rules and regulations pertaining to forestry.

11 (b) A city shall not adopt or enforce any ordinance, rule, regulation, or resolution
12 that regulates either:

13 (1) Forestry activity on forestland that is taxed on the basis of its
14 present-use value as forestland under Article 12 of Chapter 105 of the
15 General Statutes.

16 (2) Forestry activity that is conducted in accordance with a forest
17 management plan that is prepared or approved by a forester registered
18 in accordance with Chapter 89B of the General Statutes.

19 (c) This section shall not be construed to limit, expand, or otherwise alter the
20 authority of a city to:

21 (1) Regulate activity associated with development. A city may deny a
22 building permit or refuse to approve a site or subdivision plan for
23 either a period of up to:

24 a. Three years after the completion of a timber harvest if the
25 harvest results in the removal of all or substantially all of the
26 trees that were protected under city regulations governing
27 development from the tract of land for which the permit or
28 approval is sought.

29 b. Five years after the completion of a timber harvest if the harvest
30 results in the removal of all or substantially all of the trees that
31 were protected under city regulations governing development
32 from the tract of land for which the permit or approval is sought
33 and the harvest was a willful violation of the city regulations.

34 (2) Regulate trees pursuant to any local act of the General Assembly.

35 (3) Adopt ordinances that are necessary to comply with any federal or
36 State law, regulation, or rule.

37 (4) Exercise its planning or zoning authority under this Article.

38 (5) Regulate and protect streets under Article 15 of this Chapter."

39 **SECTION 3.** This act is effective when it becomes law.