

Chapter 406

(House Bill 356)

AN ACT concerning

Forest Product Operators – Standards, Procedures, and Enforcement

FOR the purpose of establishing an application process for a forest product operator's license, including required demonstration of compliance with certain workers' compensation laws and payment of a certain fee; providing for the term of a forest product operator's license; establishing certain standards and requirements that apply to a forest product operator license holder; repealing certain obsolete provisions of law governing inspections of woodlands by district forestry boards and leases on woodlands for timber harvesting purposes; authorizing the Department of Natural Resources to suspend or revoke the license of a forest product operator under certain circumstances; providing for notice of, an administrative hearing for, and judicial review of the suspension or revocation of a forest product operator's license; authorizing the recovery of court costs and reasonable attorney's fees in certain civil actions brought against a forest product operator; authorizing the Department to adopt certain regulations; making certain stylistic changes; and generally relating to forest product operators.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 5–608
Annotated Code of Maryland
(2005 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Natural Resources

5–608.

(a) (1) (I) Any person engaged in a forest products business shall have a **FOREST PRODUCT OPERATOR'S** license issued by the Department.

(II) The license is secured from the Department for every type of forest products manufacturing plant.

(III) Before any sawmill or other plant is erected for the manufacture of lumber or other forest products or when the location of any

manufacturing plant is to be changed, the location shall be reported to the Department prior to erection of the plant or the change of location.

(2) AN APPLICANT FOR A LICENSE SHALL:

(I) SUBMIT TO THE DEPARTMENT AN APPLICATION ON THE FORM THAT THE DEPARTMENT PROVIDES;

(II) DEMONSTRATE COMPLIANCE WITH THE MARYLAND WORKERS' COMPENSATION ACT UNDER TITLE 9 OF THE LABOR AND EMPLOYMENT ARTICLE; AND

(III) PAY TO THE DEPARTMENT A FEE SET BY THE DEPARTMENT IN AN AMOUNT NOT TO EXCEED THE COSTS OF CARRYING OUT THIS SECTION.

(3) THE TERM OF A LICENSE IS 1 YEAR.

(b) Each person to whom this subtitle applies shall:

(1) Leave conditions favorable for regrowth. Any forest land on which cuttings are made shall be left by the operator in a favorable condition for regrowth, in order to maintain sufficient growing stock to supply raw materials for industry and furnish employment for forest communities continuously, if possible, or without long interruption;

(2) Leave young growth. As far as feasible, every desirable seedling and sapling shall be protected during logging operations. Except where unavoidable in logging, immature trees may not be cut for any purpose except to improve the spacing, quality, and composition or conditions for restocking, or to obtain timber or wood for home use;

(3) Arrange for restocking land after cutting by leaving trees of desirable species of suitable size singly, or in groups, well distributed and in a number to secure restocking. If the board approves, however, clear-cutting may be performed;

(4) Maintain adequate growing stock after partial cutting or selective logging. Rules and regulations of the Department, defining standards of forest practice to obtain and maintain adequate growing stock in the different forest types, may vary with different forest types of the State;

(5) [Provide for leases and timber cutting rights. The provisions of this subtitle and any rule or regulation promulgated under it apply to the owner of the land or stumpage, and to any person whose operation is in timber, trees, or wood held under a lease or cutting rights on June 1, 1943. However, due consideration shall be

given to ownership equities existing on June 1, 1943, in order to avoid causing unreasonable hardship. Any lease or cutting right entered into after June 1, 1943, is unreservedly subject thereto. Any owner or operator on his own forest property or property leased to him, may develop and inaugurate his own alternate plan of management and employ standards and methods to accomplish the purpose of this subtitle, as specified in paragraphs (2), (3), and (4) of this subsection, provided the plan is submitted on forms the Department furnishes to the board having jurisdiction and the board accepts the plan as one which gives reasonable assurance of accomplishing the purposes of this subtitle. In arriving at its decision, the board shall consider, among other factors, economic conditions of the area in which the land is situated, the valuation and rates for tax purposes, and social and economic effects of the proposed alternate plan. A landowner may present working plans for cutting and management of his forest to the board for approval. These plans shall be for the period prescribed by the Department. The Department shall furnish the necessary forms. Free advice and assistance of the Department is available to forest owners as far as possible; and

(6) Make application for inspection] **CONDUCT TIMBER HARVESTING OPERATIONS IN ACCORDANCE WITH THE SEDIMENT AND EROSION CONTROL STANDARDS UNDER TITLE 4 OF THE ENVIRONMENT ARTICLE;**

(6) **ACCURATELY REPORT TO THE DEPARTMENT THE QUALITY, QUANTITY, AND SPECIES OF FIREWOOD SOLD OR DELIVERED IN ACCORDANCE WITH TITLE 11 OF THE AGRICULTURE ARTICLE;**

(7) **COMPLY WITH THE TERMS OF ANY APPLICABLE FEDERAL, STATE, OR LOCAL PERMIT, LICENSE, OR APPROVAL;**

(8) **COMPLETE AND SUBMIT TO THE DEPARTMENT AN ANNUAL TIMBER CONSUMPTION REPORT; AND**

(9) **COMPLY WITH THE STANDARDS OF PRACTICE ADOPTED BY THE DEPARTMENT.**

[(c) Within three years, but not less than 30 days preceding a cutting, the owner of woodlands or his agent may apply to the board for inspection of the woodlands proposed to be cut. The application shall be made to the board of the district in which the lands are located, and shall state the location of the woodland, its approximate acreage, and the proposed cutting plan.

(d) Within 30 days after receipt of the application required under subsection (c), the board shall make or cause to be made by a qualified person, an examination of the woodlands covered in the application. The board, within a reasonable time, shall advise the owner or his agent, in writing, of the most practical and satisfactory method of cutting the woodland and assent to the method found best adapted.]

(C) (1) THE DEPARTMENT MAY SUSPEND OR REVOKE THE LICENSE OF A FOREST PRODUCT OPERATOR FOR FAILURE TO COMPLY WITH THIS SUBTITLE.

(2) BEFORE SUSPENDING OR REVOKING A LICENSE UNDER THIS SUBSECTION, THE DEPARTMENT, IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, SHALL:

(I) SEND BY REGISTERED OR CERTIFIED MAIL WRITTEN NOTICE OF THE BASIS OF THE SUSPENSION OR REVOCATION TO THE LICENSE HOLDER AT THE LAST KNOWN ADDRESS OF THE LICENSE HOLDER; AND

(II) HOLD A HEARING ON THE LICENSE SUSPENSION OR REVOCATION IF THE LICENSE HOLDER REQUESTS THE HEARING WITHIN 2 WEEKS AFTER RECEIVING THE WRITTEN NOTICE.

(3) A PERSON AGGRIEVED BY A FINAL DECISION OF THE DEPARTMENT IN A CONTESTED CASE RELATING TO A LICENSE SUSPENSION OR REVOCATION UNDER THIS SUBSECTION MAY APPEAL AS AUTHORIZED UNDER §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.

[(e)] (D) The provisions of this section do not apply to cutting firewood and timber for domestic use for the owner or his tenant, but apply to all cutting not specifically excepted.

(E) IN A CIVIL ACTION BEFORE A COURT OF COMPETENT JURISDICTION, A PERSON WHO SUFFERS DAMAGES AS A RESULT OF A VIOLATION OF THIS SECTION BY A LICENSE HOLDER MAY RECOVER COURT COSTS AND REASONABLE ATTORNEY'S FEES.

(F) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.