

HB 1441-FN-LOCAL – AS INTRODUCED

2014 SESSION

14-2083
10/06

HOUSE BILL ***1441-FN-LOCAL***

AN ACT repealing the normal yield tax on timber.

SPONSORS: Rep. Lambert, Hills 44; Rep. Itse, Rock 10

COMMITTEE: Resources, Recreation and Development

ANALYSIS

This bill repeals RSA 79, which imposes the normal yield tax on the value of wood or timber cut.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT repealing the normal yield tax on timber.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Repeal; Normal Yield Tax on Timber. RSA 79, relative to forest conservation and taxation, is
2 repealed.

3 2 New Section; Property Taxation; Exemption for Wood and Timber. Amend RSA 72 by
4 inserting after section 7-c the following new section:

5 72:7-d Growing Wood and Timber. All growing wood and timber except fruit trees, sugar
6 orchards, nursery stock, Christmas trees, and trees maintained only for shade or ornamental
7 purposes or for genetically-engineered short rotation tree fiber, shall be released from the general
8 property tax, but the land on which such growing wood and timber stands shall be assessed. In this
9 section, “sugar orchard” means a stand of Sugar Maple (*Acer saccharum*) and/or Red Maple (*Acer*
10 *rubrum*) used actively and primarily as a source of sap for the production of maple syrup or related
11 maple products. Active use shall mean that a substantial portion of the maple trees appropriate for
12 tapping of sap are being tapped at least once every 3 years. Such stands shall have clearly
13 established boundaries, and a defined area. In the stand, 50 percent or more of the average basal
14 area of all live trees 2 inches or greater diameter at breast height (dbh) shall be composed of Sugar
15 Maples and/or Red Maples. The area and boundaries of a sugar orchard shall be certified by a
16 licensed forester. Individual Sugar Maple or Red Maple trees that are outside of the boundaries of
17 such a certified sugar orchard and that have been tapped for sap at least once every 3 years shall
18 also be considered to be sugar orchard trees.

19 3 Reference Removed; Excavation Tax; Bond. Amend RSA 72-B:5, I to read as follows:

20 I. If an owner does not own land in the town where such owner intends to excavate and has
21 filed an intent to excavate form with respect to any parcel of land, the assessing officials shall, within
22 30 days of the receipt of that filing, notify the owner in writing of the amount and conditions of any
23 bond or other security deemed necessary to secure the payment of the excavation tax to be due from
24 the excavation described in the notice of intent to excavate. The owner shall provide the bond within
25 30 days of notice or be guilty of a misdemeanor. No owner who owns land in the town where the
26 owner intends to excavate shall be required to post a bond or other security as a condition for filing
27 an intent to excavate or receiving a permit to excavate, unless the owner is delinquent on town
28 [~~timber taxes or~~] property taxes.

29 4 Reference Removed; Timber Harvesting; Wetlands. Amend RSA 227-J:6, II to read as follows:

30 II. Pursuant to RSA 482-A:3, V, persons who have [~~complied with notice of intent to cut wood~~
31 ~~requirements under RSA 79:10, and who have~~] filed an appropriate notification of forest

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1 management activities having minimum wetlands impact with the department of environmental
2 services and the department of resources and economic development, shall have satisfied the
3 permitting requirements for minimum impact activities.

4 5 Reference Removed; Timber Harvesting; Deceptive Forestry Business Practices. Amend
5 RSA 227-J:15, III to read as follows:

6 III. A person is guilty of a misdemeanor if, in the course of buying or selling a forest product
7 as defined in RSA 227-G:4, VII, he or she recklessly fails to provide a written contract to the owner,
8 prior to the cutting from the owner's property any forest products [~~which are subject to a notice of~~
9 ~~intent to cut as defined in RSA 79:10~~]. The contract shall be signed by both parties, specify the
10 remuneration for the forest products to be cut, and the time in which remuneration shall be made.

11 6 Timber Harvesting; Reference Removed. Amend RSA 227-J:7, II to read as follows:

12 II. Permits are obtained [~~by signing the intent to cut form~~] as provided in RSA 485-A:17, [~~III~~]
13 **IV.**

14 7 Excavating and Dredging Permits. Amend RSA 482-A:3, V to read as follows:

15 V.(a) Persons who have [~~complied with notice of intent to cut wood requirements under~~
16 ~~RSA 79:10, and who have~~] filed an appropriate notice of intent with the department and the
17 department of resources and economic development, shall have satisfied the permitting requirements
18 of this section for minimum impact activities only as defined by rules adopted by the commissioner.
19 Minimum impact notifications issued by the department shall be valid for 2 years.

20 (b) Appropriate notice to the department and the department of resources and economic
21 development shall include the following information:

- 22 (1) Name and address of property owner;
- 23 (2) Name and address of logger or forester;
- 24 (3) Town, tax map, number and lot number of job site; and
- 25 (4) A copy of the appropriate United States Geological Survey topographic map, or a
26 copy of the appropriate United States Natural Resources Conservation Service soils map, with the
27 type and location of all wetland and waterbody crossings clearly indicated.

28 (c) A \$25 filing fee shall accompany the notice to the department. Such fees shall be held
29 in accordance with paragraph III.

30 (d) The filing of an intent [~~to cut form under RSA 79:10~~] shall be considered as
31 permission to the department or the department of resources and economic development, or their
32 agents, to enter the property for determining compliance with this chapter.

33 [~~The certificate issued under RSA 79:10 shall be posted upon receipt. Prior to receipt~~
34 ~~of such certificate, a copy of the intent to cut form, signed by the appropriate municipal official, shall~~
35 ~~be available on the job site, and shall be shown to any person who asks to see it.]~~

36 8 Wetlands Impact Process. Amend RSA 482-A:11, IV(b)(1)(B) to read as follows:

- 37 (B) A written description of the work to be performed [~~and a copy of the notice of~~

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1 ~~intent to cut, if applicable~~; and

2 9 Terrain Alteration. Amend RSA 482-A:17, IV to read as follows:

3 IV. Timber harvesting operations shall be exempt from the fee provisions of this section.
4 Timber harvesting operations shall be considered in compliance with this section and shall be issued
5 a permit by rule provided such operations are in accordance with procedures prescribed in the Best
6 Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire,
7 published by the department of resources and economic development~~[, and provided that the~~
8 ~~department of revenue administration's intent to cut form is signed]~~.

9 10 Repeal. RSA 227-J:5, relative to notice of intent to cut and a report of wood cut, is repealed.

10 11 Effective Date. This act shall take effect July 1, 2014.

HB 1441-FN-LOCAL - FISCAL NOTE

AN ACT repealing the normal yield tax on timber.

FISCAL IMPACT:

The Department of Revenue Administration, Department of Resources and Economic Development, Judicial Branch, and New Hampshire Association of Counties state this bill, **as introduced**, may decrease state general fund expenditures by an indeterminable amount in FY 2015 and each year thereafter, decrease state restricted revenue by \$70,000 in FY 2015 and each year thereafter, decrease county revenue and expenditures by an indeterminable amount in FY 2015 and each year thereafter, and decrease local revenue by \$2,652,000 in FY 2015, \$2,705,040 in FY 2016, \$2,759,141 in FY 2017, and \$2,814,324 in FY 2018. There will be no impact on local expenditures.

METHODOLOGY:

The Department of Revenue Administration states this bill repeals RSA 79, which provides for a normal yield tax on timber. The Department states that from 2010 to 2012, municipalities collected an average of \$2,566,173 per year from the timber tax. The bill will repeal the tax effective July 1, 2014. By rounding up to \$2,600,000 and applying a two percent growth factor, the Department expects the bill will decrease municipal revenue by \$2,652,000 in FY 2015, \$2,705,040 in FY 2016, \$2,759,141 in FY 2017, and \$2,814,324 in FY 2018.

The Department of Resources and Economic Development states this bill will decrease revenue distributed by counties to the Department's Division of Forests and Lands. Currently, RSA 79:14 provides that any normal yield tax revenue collected from unincorporated towns and places, after reimbursing county commissioners the costs of collection, be distributed to the Division of Forests and Lands to be used for the benefit of the towns and places from which it was collected. The Department states that the annual amount distributed to the Division is approximately \$70,000.

The Judicial Branch states that any fiscal impact to the Branch will be in the form of cost savings resulting from the elimination of criminal offenses and civil injunction actions contained in RSA 79. The Department projects that the average cost of processing such cases will be \$45.46 in FY 2015, and \$46.45 in FY 2016. The Branch states that in the past 20 years, it has processed an average of two such cases per year. In addition, RSA 79:28-a provides for

injunction actions in the superior court for any timber operation in violation of the chapter. These cases are classified as complex equity cases, and the Branch projects that the average cost of processing such cases will be \$668.25 in FY 2015, and \$683.30 in FY 2016. These projections are based on data more than six years old, and do not include the cost of any appeals that may be undertaken. The Branch has no information on whether any injunction actions have been brought in the superior court.

The New Hampshire Association of Counties states the bill will decrease county revenue and expenditures by an equal amount, resulting in a net impact of zero to the counties. Currently, RSA 79:14 states that any taxes assessed under RSA 79:3 on unincorporated towns or unorganized places be collected by county commissioners of the counties in which the places are located. The county treasurer shall then reimburse county commissioners the cost of assessing and collecting such taxes, and distribute the remainder to the Department of Resources and Economic Development. These collections and expenditures will cease if RSA 79 is repealed, and the counties will experience a net fiscal impact of \$0.