

SENATE BILL 3065
By Cohen

AN ACT to amend Tennessee Code Annotated, Section 69-3-120(g), solely to require performance bonds for logging by persons who have previously been found to have violated forestry resource protection laws and regulations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 69-3-120(g), is amended by deleting that subsection in its entirety and inserting instead the following language:

(g)(1) Any person who engages in any logging operation, including but not limited to clear-cutting as that term is commonly understood in the logging industry, without regard to the size or area of the logging operation, who has:

(A) Been fined by any governmental entity, or been adjudicated in any litigation with any governmental entity or private party, to have violated any state or federal environmental statute, regulation, or common law duty with respect to protection of forest resources, including, but not limited to, this part; or

(B) Been found by the commissioner to have intentionally, willfully, knowingly or recklessly caused degradation to forest resources. Such person shall comply with each of the requirements of subdivisions (2) and (3);

(2) Such person shall notify the commissioner at least thirty (30) days in advance of beginning any such logging operation of the location, acreage, and time in which the logging will occur.

(3) Such person shall submit to the department a bond in form acceptable to the department to insure the performance of the duties of such person to clean up any pollution caused by such logging operation, and for the protection of the public health, welfare, and the environment of the state. Logging operations may not begin until the bond has been approved by the department. The bond shall be in the amount of two hundred dollars (\$200) per acre for each acre in which any logging operation may occur, with a minimum bond of ten thousand dollars (\$10,000) and a maximum bond of seventy-five thousand dollars (\$75,000). A separate bond shall be posted for each logging operation.

(4) The commissioner may petition the chancery court of the county in which the logging operation occurs for forfeiture of the bond if the department determines that:

(A) The continuation of the logging operation represents a threat to the health of the public or is causing or will cause pollution;

(B) All reasonable and practical efforts under the circumstances have been made to obtain corrective actions from persons responsible for the logging operation; and

(C) It does not appear that corrective actions can or will be taken within an appropriate time or it appears that the logging operation has been abandoned.

(5) The proceeds of such forfeiture shall be paid into the court and, pursuant to the order of the court, used in combination with any remedy provided

by law or equity which will correct or mitigate the pollution. If the court finds that a logging operation has been abandoned or otherwise terminated, the court may enter such orders regarding the continuance of the logging operation as it deems necessary to protect the public.

(6) Failure to comply with either the prior notification or bonding requirements of this subsection shall constitute a violation and shall subject such person to the penalties provided in this part, including, but not limited to, Section 69-3-115, as well as any other penalties or remedies available at law or in equity. Except as provided in this subsection, nothing whatsoever in this part shall be construed as applying to any agricultural or forestry activity or the activities necessary to the conduct and operations thereof or to any lands devoted to the production of any agricultural or forestry products, unless there is a point source discharge from a discernible, confined, and discrete water conveyance.

SECTION 2. This act shall take effect July 1, 2000, the public welfare requiring it.