

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2343

To amend the Forest Resources Conservation and Shortage Relief Act of 1990 to permit States to adopt timber export programs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mrs. UNSOELD (for herself, Ms. CANTWELL, Mr. DEFAZIO, Mr. DICKS, Ms. DUNN, Ms. FURSE, Mr. HAMBURG, Mr. INSLEE, Mr. KOPETSKI, Mr. KREIDLER, Mr. LAROCO, Mr. McDERMOTT, Mr. SMITH of Oregon, Mr. SWIFT, Mr. WILLIAMS, and Mr. WYDEN) introduced the following bill; which was referred jointly to the Committees on Foreign Affairs, Agriculture, and Natural Resources

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## A BILL

To amend the Forest Resources Conservation and Shortage Relief Act of 1990 to permit States to adopt timber export programs, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Forest Resources Con-  
5       servation and Shortage Relief Amendments Act of 1993”.

1 **SEC. 2. RESTRICTION ON EXPORTS OF UNPROCESSED TIM-**  
2 **BER FROM STATE AND OTHER PUBLIC**  
3 **LANDS.**

4 Section 491 of the Forest Resources Conservation  
5 and Shortage Relief Act of 1990 (16 U.S.C. 620c) is  
6 amended—

7 (1) in subsection (a)—

8 (A) by striking “(e)” and inserting “(g)”;

9 and

10 (B) by striking “in the amounts specified”  
11 and inserting “as provided”;

12 (2) in subsection (b)—

13 (A) in paragraph (1)—

14 (i) by inserting “, notwithstanding  
15 any other provision of law,” after “pro-  
16 hibit”; and

17 (ii) by striking “not later than 21  
18 days after the date of the enactment of  
19 this Act” and inserting “, effective June 1,  
20 1993”;

21 (B) in paragraph (2)—

22 (i) by striking subparagraph (A) and  
23 inserting the following new subparagraph:

24 “(A) The Secretary of Commerce shall  
25 issue an order referred to in subsection (a) to  
26 prohibit, notwithstanding any other provision of

1 law, the export of unprocessed timber originat-  
2 ing from public lands, effective during the pe-  
3 riod beginning on June 1, 1993, and ending on  
4 December 31, 1995.”;

5 (ii) by striking subparagraphs (B) and  
6 (C); and

7 (iii) in subparagraph (D)—

8 (I) by redesignating such sub-  
9 paragraph as subparagraph (B); and

10 (II) by striking “total annual  
11 sales volume” and inserting “annual  
12 sales volume in that State of unproc-  
13 essed timber originating from public  
14 lands”;

15 (C) in paragraph (3)—

16 (i) by redesignating such paragraph  
17 as paragraph (4); and

18 (ii) by striking “States pursuant to  
19 this title” and inserting “the Secretary of  
20 Commerce pursuant to this title and the  
21 effectiveness of State programs authorized  
22 under subsection (d)”;

23 (D) by inserting after paragraph (2) the  
24 following new paragraph:

25 “(3) PROHIBITION ON SUBSTITUTION.—

1           “(A) PROHIBITION.—Subject to subpara-  
2 graph (B), each order of the Secretary of Com-  
3 merce under paragraph (1) or (2) shall also  
4 prohibit, notwithstanding any other provision of  
5 law, any person from purchasing, directly or in-  
6 directly, unprocessed timber originating from  
7 public lands in a State if—

8           “(i) such unprocessed timber would be  
9 used in substitution for exported unproc-  
10 essed timber originating from private lands  
11 in that State; or

12           “(ii) such person has, during the pre-  
13 ceding 24-month period, exported unproc-  
14 essed timber originating from private lands  
15 in that State.

16           “(B) EXEMPTION.—The prohibitions re-  
17 ferred to in subparagraph (A) shall not apply in  
18 a State on or after the date on which—

19           “(i) the Governor of that State pro-  
20 vides the Secretary of Commerce with noti-  
21 fication of a prior program under subpara-  
22 graph (C) of subsection (d)(2),

23           “(ii) the Secretary of Commerce ap-  
24 proves a program of that State under sub-  
25 paragraph (A) of subsection (d)(2), or

1 “(iii) regulations of the Secretary of  
2 Commerce issued under subsection (c) to  
3 carry out this section take effect,

4 whichever occurs first.”;

5 (3) by redesignating subsections (e) through (j)  
6 as subsections (g) through (l), respectively; and

7 (4) by striking subsections (c) and (d) and in-  
8 serting the following:

9 “(c) FEDERAL PROGRAM.—

10 “(1) ADMINISTRATION BY THE SECRETARY OF  
11 COMMERCE.—

12 “(A) IN GENERAL.—Subject to subpara-  
13 graph (B), the Secretary of Commerce shall, as  
14 soon as possible after the date of the enactment  
15 of the Forest Resources Conservation and  
16 Shortage Relief Amendments Act of 1993—

17 “(i) determine the species, grades,  
18 and geographic origin of unprocessed tim-  
19 ber to be prohibited from export in each  
20 State that is subject to an order issued  
21 under subsection (a);

22 “(ii) administer the prohibitions con-  
23 sistent with this title;

24 “(iii) ensure that the species, grades,  
25 and geographic origin of unprocessed tim-

1           ber prohibited from export within each  
2           State is representative of the species,  
3           grades, and geographic origin of timber  
4           comprising the total timber sales program  
5           of the State; and

6                   “(iv) issue such regulations as are  
7                   necessary to carry out this section.

8                   “(B) EXEMPTION.—The actions and regu-  
9                   lations of the Secretary under subparagraph  
10                  (A) shall not apply with respect to a State that  
11                  is administering and enforcing a program under  
12                  subsection (d).

13                  “(2) COOPERATION WITH OTHER AGENCIES.—  
14                  The Secretary of Commerce is authorized to enter  
15                  into agreements with Federal and State agencies  
16                  with appropriate jurisdiction to assist the Secretary  
17                  in carrying out this title.

18                  “(d) AUTHORIZED STATE PROGRAMS.—

19                   “(1) AUTHORIZATION OF NEW STATE  
20                   PROGRAMS.—Notwithstanding subsection (c), the  
21                   Governor of any State may submit a program to the  
22                   Secretary of Commerce for approval that—

23                           “(A) implements, with respect to unproc-  
24                           essed timber originating from public lands in  
25                           that State, the prohibition on exports set forth

1 in the Secretary's order under subsection (a);  
2 and

3 “(B) ensures that the species, grades, and  
4 geographic origin of unprocessed timber prohib-  
5 ited from export within the State is representa-  
6 tive of the species, grades, and geographic ori-  
7 gin of timber comprising the total timber sales  
8 program of the State.

9 “(2) APPROVAL OF STATE PROGRAMS.—

10 “(A) PROGRAM APPROVAL.—Not later  
11 than 30 days after the submission of a program  
12 under paragraph (1), the Secretary of Com-  
13 merce shall approve the program unless the  
14 Secretary finds that the program will result in  
15 the export of unprocessed timber from public  
16 lands in violation of this title and publishes that  
17 finding in the Federal Register.

18 “(B) STATE PROGRAM IN LIEU OF FED-  
19 ERAL PROGRAM.—If the Secretary of Commerce  
20 approves a program submitted under paragraph  
21 (1), the Governor of the State for which the  
22 program was submitted, or such other official  
23 of that State as the Governor may designate,  
24 may administer and enforce the program, which

1 shall apply in that State in lieu of the regula-  
2 tions issued under subsection (c).

3 “(C) PRIOR STATE PROGRAMS.—Not later  
4 than 30 days after the date of the enactment of  
5 the Forest Resources Conservation and Short-  
6 age Relief Amendments Act of 1993, the Gov-  
7 ernor of any State that had, before May 4,  
8 1993, issued regulations under this subsection  
9 as in effect before May 4, 1993, may provide  
10 the Secretary of Commerce with written notifi-  
11 cation that the State has a program that was  
12 in effect on May 3, 1993, and that meets the  
13 requirements of paragraph (1). Upon such noti-  
14 fication, that State may administer and enforce  
15 that program in that State until the end of the  
16 9-month period beginning on the date on which  
17 the Secretary of Commerce issues regulations  
18 under subsection (c), and that program shall,  
19 during that 9-month period, apply in that State  
20 in lieu of the regulations issued under sub-  
21 section (c). Such Governor may submit, with  
22 such notification, the program for approval by  
23 the Secretary under paragraph (1).

24 “(e) PRIOR CONTRACTS.—Nothing in this section  
25 shall apply to—

1           “(1) any contract for the purchase of unproc-  
2           essed timber from public lands that was entered into  
3           before October 24, 1990; or

4           “(2) any contract under which exports of un-  
5           processed timber were permitted pursuant to an  
6           order of the Secretary of Commerce in effect under  
7           this section before October 23, 1992.

8           “(f) WESTERN RED CEDAR.—Nothing in this section  
9           shall be construed to supersede section 7(i) of the Export  
10          Administration Act of 1979 (50 U.S.C. App. 2406(i)).”.

11       **SEC. 3. MONITORING AND ENFORCEMENT.**

12          (a) MONITORING.—Section 492(a) of the Forest Re-  
13          sources Conservation and Shortage Relief Act of 1990 (16  
14          U.S.C. 620d(a)) is amended—

15               (1) paragraph (1), by striking “and” at the end  
16               of the paragraph;

17               (2) in paragraph (2), by striking the period at  
18               the end of the paragraph and inserting a semicolon;

19               and

20               (3) by adding at the end the following new  
21               paragraphs:

22                       “(3) each person who acquires, either directly  
23                       or indirectly, unprocessed timber originating from  
24                       public lands in a State that is subject to an order  
25                       issued by the Secretary of Commerce under section

1 491(a), other than a State that is administering and  
2 enforcing a program under section 491(d), shall re-  
3 port the receipt and disposition of the timber to the  
4 Secretary of Commerce, in such form as the Sec-  
5 retary may by rule prescribe, except that nothing in  
6 this paragraph shall be construed to hold any person  
7 responsible for reporting the disposition of any tim-  
8 ber held by subsequent persons; and

9 “(4) each person who transfers to another per-  
10 son unprocessed timber originating from public  
11 lands in a State that is subject to an order issued  
12 by the Secretary of Commerce under section 491(a),  
13 other than a State that is administering and enforc-  
14 ing a program under section 491(d), shall, before  
15 completing the transfer—

16 “(A) provide to such other person a writ-  
17 ten notice, in such form as the Secretary of  
18 Commerce may prescribe, that shall identify the  
19 public lands from which the timber originated;  
20 and

21 “(B) receive from such other person—

22 “(i) a written acknowledgment of the  
23 notice, and

1           “(ii) a written agreement that the re-  
2           recipient of the timber will comply with the  
3           requirements of this title,

4           in such form as the Secretary of Commerce  
5           may prescribe; and

6           “(C) provide to the Secretary of Commerce  
7           copies of all notices, acknowledgments, and  
8           agreements referred to in subparagraphs (A)  
9           and (B).”.

10       (b) CIVIL PENALTIES.—Section 492(c) of the Forest  
11 Resources Conservation and Shortage Relief Act of  
12 1990—

13           (1) in paragraph (1)—

14               (A) by inserting “(A)” before “If the Sec-  
15               retary”; and

16               (B) by adding at the end the following:

17           “(B)(i) Subject to clause (ii), if the Secretary of  
18           Commerce finds, on the record and after an oppor-  
19           tunity for a hearing, that a person, with willful dis-  
20           regard for the restrictions contained in an order of  
21           the Secretary under section 491(a) on exports of un-  
22           processed timber from public lands, exported or  
23           caused to be exported unprocessed timber originat-  
24           ing from public lands in violation of such order, the  
25           Secretary may assess against such person a civil

1 penalty of not more than \$500,000 for each viola-  
2 tion, or 3 times the gross value of the unprocessed  
3 timber involved in the violation, whichever amount is  
4 greater.

5 “(ii) Clause (i) shall not apply with respect to  
6 exports of unprocessed timber originating from pub-  
7 lic lands in a State that is administering and enforc-  
8 ing a program under section 491(d).”; and

9 (2) in paragraph (2)—

10 (A) by redesignating subparagraphs (A),  
11 (B), and (C) as clauses (i), (ii), and (iii), re-  
12 spectively;

13 (B) by inserting “(A)” before “If the Sec-  
14 retary”; and

15 (C) by adding at the end the following:

16 “(B)(i) Subject to clause (ii), if the Secretary  
17 finds, on the record and after an opportunity for a  
18 hearing, that a person has violated, on or after June  
19 1, 1993, any provision of this title or any regulation  
20 issued under this title relating to the export of un-  
21 processed timber originating from public lands  
22 (whether or not the violation caused the export of  
23 unprocessed timber from public lands in violation of  
24 this title), the Secretary may assess against such  
25 person a civil penalty to the same extent as the Sec-

1       retary concerned may impose a penalty under clause  
2       (i), (ii), or (iii) of subparagraph (A).

3               “(ii) Clause (i) shall not apply with respect to  
4       unprocessed timber originating from public lands in  
5       a State that is administering and enforcing a pro-  
6       gram under section 491(d).”.

7       **SEC. 4. SEVERABILITY.**

8       If any provision of this Act or the amendments made  
9       by this Act, or the application thereof to any person or  
10      circumstance is held invalid, the remainder of this Act and  
11      such amendments and the application of such provision  
12      to other persons not similarly situated or to other cir-  
13      cumstances shall not be affected by such invalidation.

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