

2021 Regular Session

HOUSE BILL NO. 239

BY REPRESENTATIVE RISER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FORESTRY: Provides relative to the harvesting of cypress trees on state property

1 AN ACT

2 To amend and reenact R.S. 41:1009, to enact R.S. 3:4278.5, and to repeal R.S. 3:4278.1(F),
3 relative to cutting trees on state-owned property; to prohibit the harvest of cypress
4 trees on state property; to provide for exceptions; to provide for penalties; to provide
5 for a civil prescriptive period; to provide for the designation of an Act of the
6 Legislature by means of short title; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 3:4278.5 is hereby enacted to read as follows:

9 §4278.5. Prohibited cutting of cypress trees; exceptions; penalty

10 A. It shall be unlawful for any person or government entity, or his agent or
11 employee, to cut, fell, destroy, remove, or to divert for sale or use, any cypress trees
12 growing or lying on public land owned by or under the control of the state of
13 Louisiana or local governing authority with exception to the following:

14 (1) Removal of a fallen cypress tree or its stump with the consent of, or in
15 accordance with the direction of, the governmental entity that owns the land.

16 (2) Clearing and maintenance of rights-of-way or to utility service situations
17 where a utility is acting in good faith to minimize the damage or harm occasioned
18 by an act of God.

19 (3) Cutting or clearing as part of a management plan for managing aquatic
20 vegetation and that plan is approved by the Department of Wildlife and Fisheries.

1 (4) Cutting or clearing of cypress trees for the purpose of creating a
2 necessary boat lane or navigation corridor and the cutting or clearing of standing
3 cypress trees is unavoidable and approval is received from the Department of
4 Wildlife and Fisheries.

5 B. Whoever violates the provisions of Subsection A of this Section shall be
6 subject to the same penalties available in R.S. 3:4278.1(B) through (D). Additionally,
7 the violator shall be subject to a fine not to exceed five thousand dollars,
8 imprisonment not to exceed six months, or both.

9 C. Notwithstanding any other provision of law to the contrary, a civil action
10 instituted pursuant to the provisions of this Section shall be subject to a liberative
11 prescriptive period of five years.

12 Section 2. R.S. 41:1009 is hereby amended and reenacted to read as follows:

13 §1009. Cutting or sale, or both, of cypress timber on ~~state owned water bottoms~~ state
14 property; prohibition

15 ~~Notwithstanding any other provision of law, particularly R.S. 41:1001~~
16 ~~through 1008, the~~ The cutting or sale, or both, of standing cypress timber located on
17 any ~~water bottom~~ property owned by the state of Louisiana is hereby prohibited
18 pursuant to R.S. 3:4278.5. except in the exercise of rights under a state lease, right-
19 ~~of-way, or permit. However, the register of the state land office may, at his~~
20 ~~discretion, permit the selective cutting of such timber.~~

21 Section 3. R.S. 3:4278.1(F) is hereby repealed in its entirety.

22 Section 4. This Act shall be known and may be cited as the "Hartwell Old Growth
23 Act".

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 239 Original

2021 Regular Session

Riser

Abstract: Prohibits the cutting or removal of cypress trees on all property owned by the state except for in certain situations or authorizations. Creates penalties for the violation of this law.

Present law prohibits the cutting or removal of cypress trees on water bottoms owned by the state with the exception of doing so for the purpose of maintaining rights-of-way or by utilities when mitigating damage caused by acts of God and establishes additional penalties for anyone violating present law.

Proposed law repeals present law and moves the language to a new section. Proposed law expands present law to include all property owned by the state and creates additional exceptions to include the following:

- (1) Removal of a fallen cypress tree or its stump with the consent of, or in accordance with the direction of, the government entity owning the land.
- (2) Cutting or clearing as part of a management plan for managing aquatic vegetation and that plan is approved by the Dept. of Wildlife and Fisheries.
- (3) Cutting or clearing of cypress trees for the purpose of creating a necessary boat lane or navigation corridor and the cutting or clearing of standing cypress trees is unavoidable and approval is received from the Dept. of Wildlife and Fisheries.

Proposed law requires a five-year liberative prescriptive period for any civil action filed pursuant to proposed law.

Present law authorizes those acting under a lease agreement or permit with the state land office, and the register of the state land office, to permit the selective cutting of cypress on water bottoms owned by the state.

Proposed law removes the authorizations in present law.

Proposed law designates the Act as the "Hartwell Old Growth Act".

(Amends R.S. 41:1009; Adds R.S. 3:4278.5; Repeals R.S.3:4278.1(F))