

2021 Regular Session

HOUSE BILL NO. 239

BY REPRESENTATIVES RISER, BUTLER, DESHOTEL, MCMAHEN, MINCEY,
ROMERO, ST. BLANC, THOMPSON, WHEAT, AND WHITE

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 an effective date; to provide for the
6 designation of an Act of the Legislature by means of short title; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

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

10 §4278.5. Prohibited cutting of cypress trees; exceptions; penalty

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

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

17 (2) Clearing and maintenance of trails or roads on wildlife management
18 areas, rights-of-way, or to utility service situations where a utility is acting in good
19 faith to minimize the damage or harm occasioned by an act of God.

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

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

8 (5) Cutting, clearing, removing, or diverting for sale or use of any cypress
9 trees for integrated coastal protection as defined in R.S. 49:214.2(11) or a project
10 listed in the comprehensive master coastal protection plan as defined in R.S.
11 49:214.2(12).

12 (6) Cutting, clearing, removing, or diverting for sale or use of any cypress
13 trees for any levee or drainage project by the departments, agencies, boards, or
14 commissions of the state of Louisiana and their political subdivisions, including but
15 not limited to a levee district or levee and drainage district as identified in Chapter
16 4 of Title 38 of the Louisiana Revised Statutes of 1950, parishes or municipalities,
17 and the United States.

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

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

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

26 §1009. Cutting or sale, or both, of cypress timber on ~~stateowned water bottoms~~ state
27 property; prohibition

28 ~~Notwithstanding any other provision of law, particularly R.S. 41:1001~~
29 ~~through 1008, the~~ The cutting or sale, or both, of standing cypress timber located on

1 any ~~water bottom~~ property owned by the state of Louisiana is hereby prohibited
 2 pursuant to R.S. 3:4278.5. ~~except in the exercise of rights under a state lease, right-~~
 3 ~~of-way, or permit. However, the register of the state land office may, at his~~
 4 ~~discretion, permit the selective cutting of such timber.~~

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

6 Section 4. This Act shall become effective upon signature by the governor or, if not
 7 signed by the governor, upon expiration of the time for bills to become law without signature
 8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 9 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 10 effective on the day following such approval.

11 Section 5. This Act shall be known and may be cited as the "Hartwell Old Growth
 12 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 Engrossed

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) Clearing and maintenance of trails or roads on wildlife management areas.
- (3) Cutting or clearing as part of a management plan for managing aquatic vegetation and that plan is developed or approved by the Dept. of Wildlife and Fisheries.
- (4) 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.

- (5) For integrated coastal protection projects or a project listed in the comprehensive master coastal protection plan as defined in present law.
- (6) For levee or drainage project by the departments, agencies, boards, or commissions of the state and their political subdivisions, including but not limited to a levee district or levee and drainage district as identified in present law.

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".

Effective upon signature of governor or lapse of time for gubernatorial action.

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

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Agriculture, Forestry, Aquaculture, and Rural Development to the original bill:

1. Add exceptions to the cutting, clearing, removing, or diverting for sale or use of any cypress trees on state property for the following:
 - (a) Trails or roads on wildlife management areas.
 - (b) Integrated coastal protection projects or a project listed in the comprehensive master coastal protection plan as defined in present law.
 - (c) Levee or drainage project by the departments, agencies, boards, or commissions of the state and their political subdivisions, including but not limited to a levee district or levee and drainage district as identified in present law.
2. Make proposed law effective upon signature of governor or lapse of time for gubernatorial action.
3. Make technical changes.