

ACT No. 190

2021 Regular Session

HOUSE BILL NO. 239

BY REPRESENTATIVES RISER, ADAMS, BUTLER, ROBBY CARTER, WILFORD CARTER, CORMIER, DESHOTEL, EDMONDS, FREEMAN, FREIBERG, GAROFALO, TRAVIS JOHNSON, LARVADAIN, MCMAHEN, MIGUEZ, MINCEY, ROMERO, ST. BLANC, THOMPSON, WHEAT, AND WHITE

1 AN ACT

2 To amend and reenact R.S. 3:4278.2(B) and R.S. 41:1009, to enact R.S. 3:4278.5, and to
3 repeal R.S. 3:4278.1(F), relative to the sale of undivided timber interest; to provide
4 relative to removal of timber without consent; to provide relative to cutting trees on
5 state-owned property; to prohibit the harvest of cypress trees on state property; to
6 provide for exceptions; to provide for penalties; to provide for a civil prescriptive
7 period; to provide for an effective date; to provide for the designation of an Act of
8 the Legislature by means of short title; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 3:4278.2(B) is hereby amended and reenacted and R.S. 3:4278.5 is
11 hereby enacted to read as follows:

12 §4278.2. Sale of undivided timber interest; consent of co-owners; theft

13 * * *

14 B. A buyer who purchases the timber from a co-owner or co-heir of land may
15 not remove the timber without the consent of the co-owners or co-heirs representing
16 at least ~~eighty~~ seventy-five percent of the ownership interest in the land, provided
17 that he has made reasonable effort to contact the co-owners or co-heirs who have not
18 consented and, if contacted, has offered to contract with them on substantially the
19 same basis that he has contracted with the other co-owners or co-heirs.

20 * * *

21 §4278.5. Prohibited cutting of cypress trees; exceptions; penalty

22 A. It shall be unlawful for any person or government entity, or his agent or
23 employee, to cut, fell, destroy, remove, or to divert for sale or use, any cypress trees

1 growing or lying on public land owned by or under the control of the state of
2 Louisiana or local governing authority with exception to the following:

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

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

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

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

15 (5) Cutting, clearing, removing, or diverting for sale or use of any cypress
16 trees for integrated coastal protection as defined in R.S. 49:214.2(11) or a project
17 listed in the comprehensive master coastal protection plan as defined in R.S.
18 49:214.2(12).

19 (6) Cutting, clearing, removing, or diverting for sale or use of any cypress
20 trees for any levee or drainage project by the departments, agencies, boards, or
21 commissions of the state of Louisiana and their political subdivisions, including but
22 not limited to a levee district or levee and drainage district as identified in Chapter
23 4 of Title 38 of the Louisiana Revised Statutes of 1950, parishes or municipalities,
24 and the United States.

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

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

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

5 §1009. Cutting or sale, or both, of cypress timber on ~~stateowned water bottoms~~ state
6 property; prohibition

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

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

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

19 Section 5. This Act shall be known and may be cited as the "Hartwell Old Growth
20 Act".

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____