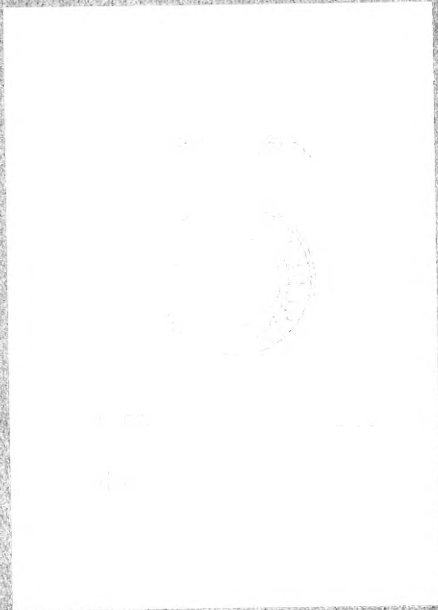


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Montana Laws Statutes etc.

State Forest Land Laws,

1909 & 1911.



STATE FOREST LAND LAWS

ENACTED

Sessions 1909 and 1911

CHAPTER 147-1909

CHAPTER 119-1911

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Montana State Forestry Board



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CHAPTERS 147 and 119

Montana Session Laws 1909 and Amend- ments by Legislative Assembly of the State of Montana, 1911

An Act providing for the Management and Control of the Forest Lands now owned by or hereafter to be acquired by the State of Montana, including the Sale thereof, and the Management, Protection, and Disposition of the Timber Growing thereon; Naming and Providing for Certain Officers subordinate to the State Board of Land Commissioners and prescribing their Duties and Compensation; and Defining and Providing for the punishment of Certain Offenses for Violating the Provisions of this Act.



State Forestry.

Section IX. The Governor, by and with the advice and consent of the Senate, shall appoint a state forester, who shall be skilled in the science of forestry, whose salary shall be twenty-five hundred (2500) dollars per annum, and actual necessary expense while engaged in outside work, connected with his office, and whose term of office shall be four years, or until his successor shall be appointed and qualified, and he shall give a bond to the state in the sum of ten thousand (10,000) dollars, to be approved by the board and filed with the Secretary of State; and he shall be a civil executive officer.

Duties of State Forester.

Section X. The State Forester shall, under the direction and control of the State Board of Land Commissioners, do all the field work in the selection, location, examination, appraisal, and re-appraisal of state timber lands, whether now belonging to the state or hereafter granted to the state; he shall do all acts required of him to be performed by the said board, and under the direction of said board shall have general charge of the timber lands of the state. He shall act as secretary of the Forestry Board. He shall, under the supervision of the State Board of Land Commissioners, execute all matters pertaining to forestry within the jurisdiction of the state; have charge of all fire wardens of the state, and direct and aid them in their duties; direct the protection and improvement of state parks and forests; take such action as is authorized by law to prevent and extinguish forest, brush, and grass fires; enforce the laws pertaining to forest and brush-covered lands, and prosecute for any violation of such laws. He shall deliver a course of at least six lectures on practical forestry to the students attending the State University, the State Agricultural College, and the State Normal School, during each school year. He shall prepare annually a report to the Governor on the progress and condition of the state forest work, and recommend therein plans for improving the state system of forest protection, management and replacement. He shall furnish notices, printed in large letters on cloth, calling

attention to the danger from forest fires, and to the forest fire and trespass laws and their penalties. Such notices shall be posted by the fire warden in conspicuous places in the several counties of the state, and particularly in brush and forest covered country, at frequent intervals along streams and lakes frequented by tourists, hunters, and fishermen, at established camping sites, and in every postoffice in the forested region.

Fire Wardens.

Section XI. The state forester shall appoint in such number and localities as he deems wise, public spirited citizens to act as volunteer fire wardens. Every sheriff, under sheriff, deputy sheriff, game warden and deputy game warden, shall be ex-officio a fire warden, but shall not receive any additional compensation by reason of the duties hereby imposed, and they shall be deemed paid fire wardens under the terms of this act. The supervisors and rangers of the federal forest reserves within this state, whenever they formally accept the duties and responsibilities of fire wardens, may be appointed volunteer fire wardens, and shall have all the powers given to fire wardens by this act. The fire wardens shall promptly report all fires to the state board of forestry, take immediate and active steps to-ward their extinguishment; report any violation of forest laws; and assist in apprehending and convicting the offenders.

Powers of Fire Wardens.

Section XII. The state forester, and all fire wardens, shall have the power of peace officers to make arrests without warrants for violations, in their presence, of any state or federal forest laws, and no fire warden shall be liable for civil action for trespass committed in the discharge of their duties. Any fire warden who has information which shows, with reasonable certainty, that any person has violated any provision of such forest laws shall immediately take action against the offender by making complaint before the proper magistrate, or by information to the proper county attorney, and shall obtain all possible evidence pertaining thereto. Failure on the part of any paid fire warden to comply with the duties prescribed in this act, shall be a misdemeanor, and punishable by a fine of not less than twenty dollars, nor more than one thousand dollars, or imprisonment in the county jail for not less than ten days nor more

than twelve months, or by both such fine and imprisonment; and upon his conviction the district court wherein he is convicted shall forthwith declare his office vacant, and notify the proper appointing power thereof.

Additional Powers of Fire Wardens.

Section XIII. All fire wardens shall have authority to call upon any able bodied citizen between the ages of eighteen and fifty years, resident in the vicinity, for assistance in putting out fires; and any such person who refuse to obey such summons, except for good and sufficient reason, is guilty of a misdemeanor, and upon conviction, shall be fined in the sum of not less than fifteen nor more than fifty dollars, or imprisonment in the county jail not less than one nor more than thirty days, or both such fine and imprisonment; provided, that no citizen shall be called upon to fight fire a total of more than five days in one year.

Duties of Fire Wardens.

Section XIV. The state forester, assistant forester, and all fire wardens (except volunteer wardens), under such rules and regulations as the state board of land commissioners may provide, shall protect the timber of the state, and especially the timber owned by the state, from destruction by fire, and for such purpose, in emergencies, may employ men and incur other expenses, when necessary; provided, that no fire warden shall incur any expense in excess of fifty dollars, without express authority of the state board of land commissioners.

Expenses of State Forester.

Section XV. That the actual expenses and expenditures of the state forester, assistant forester and fire wardens necessarily incurred under this act, shall be paid in the same manner as are other expenses incurred in managing the state lands.

Penalty for destroying Notices.

Section XVI. Any person who shall destroy, deface, remove or disfigure any sign, post or warning notice posted under the provisions of this act shall be guilty of a misdemeanor, and punishable upon conviction, by a fine of not less than fifteen dollars and not more than two hundred and fifty dollars, or imprisonment in the county jail for a period of not less than ten

days nor more than three months, or by both such fine and imprisonment.

Prosecutions.

Section XVII. Whenever an arrest shall be made for any violation of the provisions of this act, or whenever any information of such violations shall be lodged with him, the county attorney of the county in which this act was committed must prosecute the offender or offenders if in his judgment the facts warrant the same. If any county attorney shall fail to comply with the provisions of this section he shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than one hundred dollars nor more than one thousand dollars; and, upon his conviction, the district court wherein he is convicted shall forthwith declare his office vacant, and notify the proper appointing power thereof. Actions against the county attorney shall be brought by the attorney general in the name of the state. The penalties of this section shall also apply to any magistrate, with proper authority who refuses or neglects to cause the arrest and prosecution of any person or persons, when a complaint under oath of a violation of any of the provisions of this act has been lodged with him.

Forestry Board.

Section XX. The register of state lands, together with the state land agent and the state forester, shall constitute a forestry board, of which the register of state lands shall be chairman. A majority of said board shall constitute a quorum for the transaction of business.

Duties of Forestry Board.

Section XXI. It shall be the duty of the Forestry Board to ascertain the methods of reforesting the denuded forest lands of the state to prevent forestry waste, and the destruction of forests by fire, to manage the forests of the state on forestry principles, to encourage private owners in preserving and growing timber, and to conserve forest tracts around the head waters and on the water sheds of the water courses of the state; it shall make reports of its doings and recommendations to each session of the legislature, and, from time to time, with approval of the state board of land commissioners, publish, for popular distribution, such of its conclusions and recommen-

dations as may be of public interest and concern.

The state board of forestry may re-forest the water sheds of the state and expend such sums of money therefor as may be appropriated for that purpose by the legislative assembly.

Assistant Forester.

Section XXV. The state board of land commissioners is hereby authorized to appoint one assistant forester, with like qualification as the state forester, at such time or times as may be deemed necessary, to assist the state forester in any of the duties of his office; and he shall draw pay only when actually engaged in the performance of such work, and shall hold office at the pleasure of the board, and his pay shall be not to exceed one hundred and fifty (150) dollars per month, together with actual necessary expenses while engaged in outside work connected with the office. He shall give such bond for the faithful performance of his duties as the state board of land commissioners may require.

Records of Timber.

Section XXVII. The state board of land commissioners shall cause to be kept accurate records showing the location, extent and character of all forest lands, and the kind and character of timber growing thereon and also an account of all timber sold, the person or persons to whom sold, the amount of money received therefor, and the disposition of the moneys so received.

Confirmation of Sales.

Section XL. All sales of state lands and all sales of timber on state lands, shall be subject to the approval and confirmation by the state board of land commissioners, and no sale shall be deemed completed until after such approval and confirmation.

Section LIII. The State Board of Land Commissioners shall have power to sell timber on state lands at such price per thousand feet as in its judgment shall be for the best interest of the state, but not otherwise; but no such sale of live timber shall be made at a less price than three dollars per thousand feet. But no live timber less than eight inches in diameter, twenty feet from the ground, shall be sold or permitted to be cut from state lands. All timber sold or cut from state lands shall be cut and removed under such rules and reg-

ulations for the preservation of standing timber, and the prevention of fires, as the State Board of Land Commissioners shall prescribe; in all cases the board must require the person cutting the timber to pile the brush and slashings and dispose of the same in such manner as to prevent forest fires. Before any permit shall be granted, the timber shall be estimated and appraised under the direction of the state forester, upon the request, and subject to the approval of the State Board of Land Commissioners, which estimates and appraisal shall show as nearly as may be the amount and value per thousand feet of all timber measuring not less than eight inches in diameter, twenty feet from the ground, and also all other timber measuring below this standard on each tract or lot, together with a statement of the situation of the timber relative to risk from fires or damage of any kind, its distance from the nearest lake, stream, or railroad, and its value and position as a protection to a water shed."

Section LIV. No permit for cutting live timber shall be granted except to the highest bidder at a public sale held at the State Capitol, notice of which sale shall be published as provided by law, for the sale of state lands, but no sale shall be made at a less price than the appraised value of the timber as fixed by the State Board of Land Commissioners; and no timber shall be sold after the passage of this act until the same has been re-appraised and estimated since March 19, 1909. Every person purchasing timber at such sale, before the execution of the permit to cut the same, shall execute a bond to the State of Montana, in double the amount of the estimated value of the timber permitted to be cut, with sufficient sureties, to be approved by the board, conditioned upon the payment to the State Treasurer of the amount that may be found due under the terms of such permit, and according to the provisions of law, and further conditioned upon the cutting of such timber in compliance with such rules and regulations as may be prescribed by the State Board of Land Commissioners.

Section LV. All permits to cut live timber under the provisions of this Act, shall be made according to a form prescribed by the Attorney General, and shall be signed by the party applying for the same and by the president and secretary of the State Board of Land Commissioners.

Said permits shall contain a description of the land to be

cut upon, the estimated amount of timber upon the same, the amount of large timber, required to be left standing, the time within which said timber shall be removed, the price per thousand feet, or the entire value of the timber, if the right to clear the land has been sold, for which the same was bid in, the stipulated log mark, and such other terms and conditions as may be necessary to make all logs cut under its provisions the absolute property of the state, until the same are paid for. Such permits, when properly executed, shall be recorded in the office of the register of the State Board of Land Commissioners, and the log mark described therein shall vest the ownership of all logs bearing the same in the State. Provided, however, that the State Board of Land Commissioners may authorize the State Forester to issue permits without notice to citizens of Montana to cut and take away dead standing timber under such rules and regulations as to price and quality as may be prescribed by the board, and provided further that the State forester shall issue permits without notice to citizens of Montana to cut and take away down timber, without price, under such rules and regulations as may be prescribed by the board.

Section LVI. The State Forester shall select and designate a log mark for each person granted a permit to cut logs upon state lands, which log mark, when so selected and designated, shall be filed in the office of the register of state lands, and shall be distinctly different from any other log mark selected and designated by him. The State Forester shall cause all logs so cut to be scaled, and make a detailed report of the same, to the State Board of Land Commissioners on or before the first day of every month, showing the name of the party cutting, the description of the land cut upon, the number of logs cut and marked, the mark placed thereon, the total number of feet, and the value thereof per thousand, as shown by the records of this office, stating whether such cutting has been according to the terms of the permit, and, if not properly cut, the consequent damage to the state; and such timber, or logs, shall not be sold, transferred or manufactured into lumber until the amount due the state, according to the report of said forester, shall have been paid in full; and it shall be the duty of the state forester to report to the State Board of Land Commissioners all trespass which has been, or which

hereafter be made upon the state timber lands, and all logs cut by trespassers shall be disposed of as hereinafter provided.

Section LVII. Upon receipt of such report from the State Forester, the Register of State Lands shall draw a draft for the amount upon the party from whom the stumpage is due. If said party shall immediately make payment of the required amount, the Register shall execute a release of the logs, and transfer of the mark thereon; but in no case shall such release or transfer be made until the lien of the state has been fully satisfied. If such purchaser shall not pay the amount of such draft within ten days after receipt of same, it shall be the duty of the State Board of Land Commissioners to take possession of the logs in question, and sell the same at public auction to satisfy the claim of the State, paying the overplus, if any, after defraying the cost and expenses of such sale to the party entitled thereto, provided, that if the proceeds of such sale are insufficient to pay the amount due upon the purchase price, together with the costs and expenses of the sale the amount of such deficiency shall be certified to the Attorney General by the State Board of Land Commissioners and he shall immediately proceed to collect such deficiency from the purchaser or his bondsman; and, provided, that in lieu of taking possession of the logs upon which stumpage is due, the State Board of Land Commissioners may turn the account over to the Attorney General, who shall immediately proceed to collect the same upon the bond hereinbefore provided for; but in no case shall the logs be released until the account is paid. The proceedings upon the bond shall not prevent the State Board of Land Commissioners from seizing the logs at any time before the claim of the State is satisfied.

Penalty for false marks on Timber.

Section LVIII. If any person, or any officer or employee of a corporation, having a contract to cut timber under the provisions of this act, with intent to defraud the state, place any other log mark upon logs cut by him or if, under such contract than the one mentioned therein he shall be deemed guilty of felony, and when upon conviction thereof, shall be punished by a fine of not less than Five Hundred Dollars nor more than Five Thousand Dollars, or by imprisonment in the State Prison for not less than one year, nor more than three years,

or both; and all logs upon which such false mark has been placed shall be forfeited to the State.

Additional Penalty.

Section LIX. That in addition to the penalties provided for in this title against those committing trespass upon any of the lands owned or held in trust or otherwise by the State, the State Board of Land Commissioners is hereby authorized and empowered, without legal process, to seize and take, or cause to be seized and taken, any and all lumber, wood, grass or other property, unlawfully severed from the said lands, whether the same has been removed from said lands or not, and may dispose of the same at either public or private sale, in such manner as will be most conducive to the interests of the State, and all moneys arising therefrom, after deducting the reasonable and necessary expenses of such seizure and sale, shall be a part of the permanent fund to which such lands may belong.

Board Defend Suits.

Section LX. That for the purpose of determining the title to any property seized and taken under the provisions of this Act, the State Board of Land Commissioners is hereby authorized and empowered to defend, in the name of the State, any and all actions that may be brought for that purpose, and to do and perform all things necessary to protect the interests of the State.

Section LXI. The State Forester, under the direction of the State Board of Land Commissioners, shall select and designate a brand, which shall place, or cause to be placed, upon all timber logs, boards or planks, that may be seized, as provided for in this Act. Any person, or persons, or any officer or employee of any company, association, or corporation, who shall remove, sell or dispose of any property mentioned in this act, after the same has been seized or marked with the state brand, or who shall erase, deface, cut, or destroy any mark upon any such property, shall, upon conviction, be imprisoned in the state prison for a term of not less than one year, nor more than three years, and be subject to a fine of not less than Five Hundred (\$500.00) Dollars nor more than Five Thousand (\$5,000.00) Dollars.

Penalty for False Appraisements.

Section XCIV. Every person appointed or selected to appraise any of the State Lands, of the timber thereon who will fully and knowingly makes a false return of any survey or any classification or appraisal of the value of the land, or of the timber thereon, at variance from the true classification or value thereof, or without having personally examined and surveyed the same, is punishable as provided in Section 8234 (240) of the Penal Code.

Timber not to be Cut.

Section XCV. If any purchaser of State Land, before receiving his title therefor, cuts or destroys any timber on said land, more than shall be necessary in the building and repairing of fences and house and other necessary buildings thereon, and for fuel for the family of the occupant, he shall be liable in damages for all such excess, the amount of such damage to be recovered in an action in the name of the State, to be instituted by the Attorney General, in the county in which the land is situated.

County Commissioners may Protect Forests.

Section CV. The Board of County Commissioners of any county may provide money for the purposes of forest protection, improvement and management.

Penalty.

Section CVI. Any officer or employee of the State of Montana guilty of a violation of any of the provisions of this Act and not herein otherwise provided for is hereby declared guilty of a felony, and shall be punished by imprisonment in the State Prison for a term not exceeding ten years, or by a fine not exceeding Five Thousand Dollars, or by both fine and imprisonment.

Repealing.

Section CVII. All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

When in Force.

Section CVIII. This Act shall be in full force and effect from and after its passage and approval.

Approved March 7th, 1911.

CHAPTER NO. 119.

House Bill No. 409.

“An Act authorizing the issuance of permits to cut and take away timber for domestic purposes from State timber lands.”

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY
OF THE STATE OF MONTANA:

Section I. The State Board of Land Commissioners are hereby empowered to authorize the State Land Agent or the State Forester to issue permits without notice to bona fide citizens of the State of Montana authorizing such citizens to cut and take away from the timber lands of the State, timber in small quantities to be used by such citizens for domestic building and fuel purposes only, under such rules and regulations as to price and quantity as may be prescribed by the said Board.

Section II. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section III. This Act shall be in full force and effect from and after its passage and approval.

Approved March 7, 1911.

Gaylord Bros.
Makers
Syracuse, N. Y.
PAT. JAN. 21, 1908

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