

HOUSE BILL NO. 724

INTRODUCED BY ELLIOTT, PIPINICH, STANG, KENNEDY, B. BROWN,
SVRCEK, DARKO, VAUGHN, SWIFT, PETERSON, FARRELL, HARP

IN THE HOUSE

FEBRUARY 8, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON NATURAL RESOURCES.

FEBRUARY 9, 1991 FIRST READING.

FEBRUARY 21, 1991 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

FEBRUARY 22, 1991 PRINTING REPORT.

FEBRUARY 23, 1991 SECOND READING, DO PASS.

FEBRUARY 25, 1991 ENGROSSING REPORT.

FEBRUARY 26, 1991 THIRD READING, PASSED.
AYES, 92; NOES, 7.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 27, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON NATURAL RESOURCES.

FIRST READING.

MARCH 19, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 23, 1991 SECOND READING, CONCURRED IN.

MARCH 25, 1991 THIRD READING, CONCURRED IN.
AYES, 47; NOES, 1.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 25, 1991 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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INTRODUCED BY *House* *BILL NO. 72*
Bob Brown *Frank* *Marko* *Laughlin* *Swift* *Blerson*
Amell *Spinnick* *Henry* *Kameda*

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE USE OF UNPROCESSED TIMBER FROM STATE LANDS AS A SUBSTITUTE FOR UNPROCESSED TIMBER EXPORTED FROM THE UNITED STATES; AND DIRECTING THE AMENDMENT OF RULE 26.6.411, ADMINISTRATIVE RULES OF MONTANA."

WHEREAS, the forest products industry accounts for 46% of the economic base of Montana's seven western counties; and

WHEREAS, the jobs of American mill workers are lost when raw logs are exported overseas; and

WHEREAS, the United States Congress enacted the Forest Resources Conservation and Shortage Relief Act of 1990 to prohibit the export of unprocessed timber originating from federally owned and state-owned lands; and

WHEREAS, the Department of State Lands has promulgated rules prohibiting the export of unprocessed timber originating from state-owned lands in Montana; and

WHEREAS, existing law creates a loophole that allows private landowners in Montana to export unprocessed timber from their own lands and then substitute timber purchased from state lands for the exported supply; and

WHEREAS, the decrease in timber available for export from the states of Oregon and Washington may increase the pressure to export unprocessed timber from private lands in Montana.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. The Department of State Lands shall amend Rule 26.6.411, Administrative Rules of Montana, to read:

"26.6.411 AGREEMENT NOT TO EXPORT STATE LOGS (1) This rule carries out the purposes of section 491 of the Forest Resources Conservation and Shortage Relief Act of 1990 (referred to hereinafter as the Act) which became effective on September 10, 1990 and the definitions stated in that Act are hereby incorporated by reference. The text of the Act may be found on pages H5920 through H5924 of the Congressional Record for July 30, 1990. [proper citation to be added when available] This rule replaces and supercedes any prohibitions imposed by subsection 491(d)(3)(B) of the Act.

(2) Any person purchasing timber from the state of Montana must first have entered into an agreement with the department (referred to hereinafter as a nonexport agreement) containing the following commitments on behalf of the purchaser:

(a) Unprocessed timber, as defined in the Act,



INTRODUCED BILL
HB 724

1 originating from lands owned by the state of Montana shall
2 not:

- 3 (i) be exported from the United States; or
4 (ii) be sold, traded, exchanged, or otherwise given to
5 any person unless that person agrees not to export such
6 unprocessed timber from the United States and agrees to
7 require such a prohibition in any subsequent resale or other
8 transaction involving such unprocessed timber; ~~or~~
9 (iii) be used in substitution for exported unprocessed
10 timber originating from private lands in Montana;

11 (b) in the event purchaser violates any of the
12 provisions of the nonexport agreement, the department, after
13 notice and opportunity for a hearing, may:

- 14 (i) terminate any timber sale contracts or timber sale
15 permits with that purchaser; and/or
16 (ii) bar purchaser from entering into any future
17 contracts for the purchase of timber with the state of
18 Montana for a period of up to five (5) years.

19 ~~(d)~~(c) For purposes of such nonexport agreement, the
20 following definitions apply: term—"export"

21 (i) "Export" shall-mean means either direct or indirect
22 export to a foreign country and occurs on the date that a
23 person enters into a contract or other binding transaction
24 for the export of unprocessed timber or, if that date cannot
25 be established, when unprocessed timber is found in an

1 export yard or pond, bundled or otherwise prepared for
2 shipment, or aboard an ocean-going vessel. An export yard or
3 pond is an area where sorting and/or bundling of logs for
4 shipment outside the United States is accomplished. Timber
5 is exported indirectly when export occurs as a result of a
6 sale to another person or as a result of any subsequent
7 transaction.

8 (ii) "Substitution" means the purchase of unprocessed
9 timber originating from state forests as provided in
10 77-5-101, MCA, to be used as replacement for unprocessed
11 timber from private lands in Montana that is exported by the
12 purchaser. Substitution occurs when a person purchasing
13 timber from the state of Montana has exported unprocessed
14 timber from private lands in the state during the period of
15 one (1) year prior to the purchase date.

16 ~~(e)~~(d) The nonexport agreement may be terminated by the
17 purchaser upon the termination of any and all contracts or
18 permits for the purchase of unprocessed timber originating
19 from lands owned by the state of Montana. The nonexport
20 agreement may be terminated by the department upon thirty
21 (30) days notice.

22 (3) The provisions of such nonexport agreement shall
23 not apply to any contract or permit for the purchase of
24 unprocessed timber from state lands entered into before the
25 effective date of such nonexport agreement.

1 (4) The prohibitions of such nonexport agreement shall
2 not apply to specific quantities of grades and species of
3 unprocessed timber originating from state lands which the
4 United States secretary of commerce determines by rule to be
5 surplus to the needs of timber manufacturing facilities in
6 the United States as provided in the Act.

7 (5) The provisions of such nonexport agreement shall be
8 suspended or modified as provided in any order of the
9 president of the United States pursuant to subsections 491
10 (e), (f), or (i) of the Act."

-End-

APPROVED BY COMM. ON NATURAL RESOURCES

1 HOUSE BILL NO. 72
2 INTRODUCED BY *Bob Brown*
3 *Marko* *Chapman* *Swift* *Petersen*

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE USE OF
5 UNPROCESSED TIMBER FROM STATE LANDS AS A SUBSTITUTE FOR
6 UNPROCESSED TIMBER EXPORTED FROM THE UNITED STATES; AND
7 DIRECTING THE AMENDMENT OF RULE 26.6.411, ADMINISTRATIVE
8 RULES OF MONTANA."

10 WHEREAS, the forest products industry accounts for 46%
11 of the economic base of Montana's seven western counties;
12 and

13 WHEREAS, the jobs of American mill workers are lost when
14 raw logs are exported overseas; and

15 WHEREAS, the United States Congress enacted the Forest
16 Resources Conservation and Shortage Relief Act of 1990 to
17 prohibit the export of unprocessed timber originating from
18 federally owned and state-owned lands; and

19 WHEREAS, the Department of State Lands has promulgated
20 rules prohibiting the export of unprocessed timber
21 originating from state-owned lands in Montana; and

22 WHEREAS, existing law creates a loophole that allows
23 private landowners in Montana to export unprocessed timber
24 from their own lands and then substitute timber purchased
25 from state lands for the exported supply; and

1 WHEREAS, the decrease in timber available for export
2 from the states of Oregon and Washington may increase the
3 pressure to export unprocessed timber from private lands in
4 Montana.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

7 Section 1. The Department of State Lands shall amend
8 Rule 26.6.411, Administrative Rules of Montana, to read:

9 "26.6.411 AGREEMENT NOT TO EXPORT STATE LOGS (1) This
10 rule carries out the purposes of section 491 of the Forest
11 Resources Conservation and Shortage Relief Act of 1990
12 (referred to hereinafter as the Act) which became effective
13 on September 10, 1990 and the definitions stated in that Act
14 are hereby incorporated by reference. The text of the Act
15 may be found on pages H5920 through H5924 of the
16 Congressional Record for July 30, 1990. [proper citation to
17 be added when available] This rule replaces and supercedes
18 any prohibitions imposed by subsection 491(d)(3)(B) of the
19 Act.

20 (2) Any person purchasing timber from the state of
21 Montana must first have entered into an agreement with the
22 department (referred to hereinafter as a nonexport
23 agreement) containing the following commitments on behalf of
24 the purchaser:

25 (a) Unprocessed timber, as defined in the Act,



1 originating from lands owned by the state of Montana shall
2 not:

3 (i) be exported from the United States; or
4 (ii) be sold, traded, exchanged, or otherwise given to
5 any person unless that person agrees not to export such
6 unprocessed timber from the United States and agrees to
7 require such a prohibition in any subsequent resale or other
8 transaction involving such unprocessed timber; or

9 (iii) be used in substitution for exported unprocessed
10 timber originating from private lands in Montana;

11 (b) in the event purchaser violates any of the
12 provisions of the nonexport agreement, the department, after
13 notice and opportunity for a hearing, may:

14 (i) terminate any timber sale contracts or timber sale
15 permits with that purchaser; and/or

16 (ii) bar purchaser from entering into any future
17 contracts for the purchase of timber with the state of
18 Montana for a period of up to five (5) years.

19 ~~(d)~~(c) For purposes of such nonexport agreement, the
20 following definitions apply: ~~term--"export"~~

21 (i) "Export" ~~shall mean means~~ either direct or indirect
22 export to a foreign country and occurs on the date that a
23 person enters into a contract or other binding transaction
24 for the export of unprocessed timber or, if that date cannot
25 be established, when unprocessed timber is found in an

1 export yard or pond, bundled or otherwise prepared for
2 shipment, or aboard an ocean-going vessel. An export yard or
3 pond is an area where sorting and/or bundling of logs for
4 shipment outside the United States is accomplished. Timber
5 is exported indirectly when export occurs as a result of a
6 sale to another person or as a result of any subsequent
7 transaction.

8 (ii) "Substitution" means the purchase of unprocessed
9 timber originating from state forests as provided in
10 77-5-101, MCA, to be used as replacement for unprocessed
11 timber from private lands in Montana that is exported by the
12 purchaser. Substitution occurs when a person purchasing
13 timber from the state of Montana has exported unprocessed
14 timber from private lands in the state during the period of
15 one (1) year prior to the purchase date.

16 ~~(e)~~(d) The nonexport agreement may be terminated by the
17 purchaser upon the termination of any and all contracts or
18 permits for the purchase of unprocessed timber originating
19 from lands owned by the state of Montana. The nonexport
20 agreement may be terminated by the department upon thirty
21 (30) days notice.

22 (3) The provisions of such nonexport agreement shall
23 not apply to any contract or permit for the purchase of
24 unprocessed timber from state lands entered into before the
25 effective date of such nonexport agreement.

1 (4) The prohibitions of such nonexport agreement shall
2 not apply to specific quantities of grades and species of
3 unprocessed timber originating from state lands which the
4 United States secretary of commerce determines by rule to be
5 surplus to the needs of timber manufacturing facilities in
6 the United States as provided in the Act.

7 (5) The provisions of such nonexport agreement shall be
8 suspended or modified as provided in any order of the
9 president of the United States pursuant to subsections 491
10 (e), (f), or (i) of the Act."

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HOUSE BIDL NO. *72*
Bob Brown
Frank Marks
Steve Swift
Ken Kenedy

INTRODUCED BY
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WHEREAS, the jobs of American mill workers are lost when raw logs are exported overseas; and

WHEREAS, the United States Congress enacted the Forest Resources Conservation and Shortage Relief Act of 1990 to prohibit the export of unprocessed timber originating from federally owned and state-owned lands; and

WHEREAS, the Department of State Lands has promulgated rules prohibiting the export of unprocessed timber originating from state-owned lands in Montana; and

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7 require such a prohibition in any subsequent resale or other
8 transaction involving such unprocessed timber; or

9 (iii) be used in substitution for exported unprocessed
10 timber originating from private lands in Montana;

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WHEREAS, the jobs of American mill workers are lost when
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-End-