



Empire State Forest Products Association

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2019 ESFPA Legislative Watch

For the 2019-20 Biennial Legislative Session ESFPA is monitoring over 160 bills that impact our members and your businesses. The following highlights those which were passed by both the Senate and Assembly (i.e. Passed Both Houses) and has or will likely be signed by Governor Cuomo. Others included did not get passed by both houses and for now will not become law.

ESFPA was effective in preventing some legislation from advancing but these same bills may come back again in 2020. We did our best under challenging circumstances. This included a legislature stacked against our interests in many respects as a result of last November's change in leadership. It included an Executive Chamber that is ambivalent at best about our industry in New York's economy, and far more focused on the political optics of "leading the nation" than on the consequences to our industry or any other industry for that matter.

Here is a summary of what did and did not happen in 2019. If anyone has any questions or would like additional information please do not hesitate to contact us.

What has or is likely to be signed into law:

A 8429/S 6559 – Climate Leadership & Community Protection Act Chapter 106, L. of 2019

This legislation enacts New York's comprehensive climate policy and framework for addressing climate change. The Climate Leadership & Community Protection Act has a tremendous impact on our forests, wood products manufacturing and biomass in the energy economy. ESFPA filed a memorandum to the Governor on July 18th with no recommendation, expressing our concerns yet commitment to work on addressing climate change through natural resource solutions to climate change.

A 2064/S 2072 – Right to clean air, clean water and a healthful environment Passed & Filed

This legislation is a Concurrent Resolution of the Senate and Assembly to amend Article I of the State Constitution (Bill of Rights) to include a right to clean air and water and a healthful environment. The sponsors claim that several other states including Pennsylvania, Hawaii, Massachusetts and Montana have constitutional protections in place to ensure access to clean air and water. This proposed constitutional amendment would follow those models and ensure that clean air and water are treated as fundamental rights for New Yorkers and to protect the overall health of the people and the environment. This passage is the first in two consecutive legislatures which could put this to a ballot measure to the voters in November 2021. This measure does not need to be signed by the Governor only filed with the NY secretary of State. Many see this as a signature mechanism to implement climate change let alone many other environmental laws.

A 1779/S 181 – Publish a list of high local environmental impact zones Passed Both Houses

This legislation will require the Department of Environmental Conservation (DEC) to publish a list of those areas in the State that are most adversely affected by existing environmental hazards and disproportionately impact disadvantaged communities. These bills seek to address this problem by requiring DEC to identify "high local environmental impact zones", which are defined as those areas of the State that are most adversely impacted by existing environmental hazards. We may see these areas in some of our older industrial facilities which may have historic occurrences of environmental contamination or emissions.

A 2477/ S 2156 - Relates to prohibiting the use of chlorpyrifos Passed Both Houses

This legislation relates to the use of the use of the organophosphate pesticide chlorpyrifos, specifically prohibiting "any person to use chlorpyrifos". Chlorpyrifos is an organophosphate insecticide, acaricide and miticide used primarily to control foliage and soil-borne insect pests on a variety of food and feed crops. We need to see how the Governor reacts to this as a means to ban certain pesticides (including herbicides) going forward. This is one of several pesticide ban bills introduced in 2019. ESFPA filed a Recommendation for Veto with the Governor on August 27th and signed onto the same with NY Farm Bureau and others.

A 4294/S 23 – Relates to maintain large scale renewable electric generation Passed Both Houses

This legislation will require the Public Service Commission (PSC) to modify the Clean Energy Standard (CES) to ensure that operating renewable electric generation facilities stay in operation in New York. The CES, as it is currently drafted, will likely lead to renewable energy projects leaving the State or retiring their units and lead to the state losing ground on its ambitious renewable energy targets. This legislation is being championed by ACENY and ReEnergy. ESFPA filed a Recommendation to Sign on August 13th.

A 6600/S 5098 – Designation of certain species as vulnerable species Passed Both Houses

This legislation will allow for designating certain species as vulnerable species and prohibiting the sale of articles made from such vulnerable species; and to require DEC to designate the giraffe as a vulnerable species. Bill appears to be, but may not be limited to, designating non-native global species (e.g. giraffe) and less with incidental take and more with trade.

What we dodged for 2019:

A 732-A/S 6502 – Prohibits the use of Glyphosate on State property.

Bills that started out as A 732/S 6502 which would have prohibited the use of glyphosate in parks, playgrounds and picnic area was amended to prohibit glyphosate use on all State lands. The bills made it to the Rules Committees in both the Senate and Assembly but did not make it to the floor for votes. One of 5 Glyphosate bills and of several other pesticide ban bills. ESFPA has objected to the circumvention on these proposals on the existing federal and State registry and limits to pesticide sales and applications. Bills were not reported out of the respective Rules committees.

A 1261/S 1947 - Expanding projects subject to Prevailing Wage

This legislation relates to the imposition of “prevailing wage” on many private projects receiving public funding receiving all or some financial support from State or local entities in the form of loans, grants, tax abatements or other governmental assistance and in some instances permits and approvals. These bills would significantly increase the labor costs and overall project costs subject to this new mandate. A 1261 made it to Third Reading in the Assembly and S 1947 was not reported out of committee in the Senate.

A 3658/ S 5576 – Relates to freshwater wetlands (1 acre)

These bills would amend the definition of freshwater wetlands; extend DEC’s jurisdiction to wetlands over 1 acre; revise the process for designation and notification of draft wetland areas; and, expand wetland regulatory jurisdiction to the subdivision of property. ESFPA is not opposed to updating the procedures and scope of regulating wetlands in New York State but it should be done in a more comprehensive fashion reflecting the science, current and dynamic nature of wetland systems, and with an aim toward streamlining wetlands regulation which presently can have as many as three different levels of government regulating the same wetland with varying criteria and standards to be met. There should also be an effort to streamline wetland jurisdiction among federal, state and local governments. A 3658 made it to Third Reading in the Assembly but never left Committee in the Senate.

A 4077/S 5196 – Requires a study prior to delisting an endangered species Passed Senate

This legislation would authorize the Commissioner of DEC to protect endangered and threatened species that still require such protection in New York in the event that the Department of Interior removes its endangered or threatened designation. Species which may be at risk of losing protection within New York State as a result of action by the U.S. Secretary of the Interior would be allowed to stay on NY’s list following the Commissioner’s own investigation. S 5196 passed the Senate but never made it to a vote in the Assembly.

A 4508-A/S 3314-A – Crimes for worker death or injury – Carlos’ Law

These bills seek to protect workers from employers and supervisors that negligently fail to comply with safety protocols by amending the penal code to created new offenses and substantially increasing the fines and penalties (misdemeanor to felony) that can be imposed upon a corporate defendant convicted of certain crimes. This bill would reinforce the purpose of the OSH Act by amending the penal code to include "endangering the welfare of the worker in the third degree", established as a class A misdemeanor, "endangering the welfare of the worker in the second degree", a class E felony, and "endangering the welfare of the worker in the first degree", a class D felony. These bills made it to Third Reading in both houses but never to a vote. ESFPA has joined the Business Council in opposing this legislation.

A 4739/S 2000 – Prohibits PFAS, PFOA, PFOS, etc. in paper and food packaging Passed Senate

The chemicals PFOA and PFOS have come under scrutiny in New York over the last several years due to water contamination cases. While existing federal and state efforts to regulate PFOA and PFOS are critical, there is a troubling gap in these efforts. PFOA and PFOS are part of a class of man-made

chemicals called PFAS, or perfluoroalkyl and polyfluoroalkyl chemicals. Regulations on PFOA and PFOS do not address less common chemicals in the PFAS family that could pose similar and unknown human health impacts, not to mention the potential for new PFAS chemicals to be developed in the future. This proposed legislation would ban PFAS chemicals in food packaging containers used in New York. This legislation passed the Senate but died on Third Reading in the Assembly.

A 6200/S 5478 – Penalties on R,T & E species (doubled)

Passed Senate

These bills would amend the Environmental Conservation Law, in relation to increasing certain penalties relating to endangered and special species, species of special concern and illegal ivory articles. Doubling a take fine from \$1,000 to \$2,000 plus doubling multiple specimen fines. This legislation passed the Senate but never made it out of committee in the Assembly.

A 7639-A/S 5816 – Birds & Bees Protection Act, bans neonicotinoids

These bills would amend the Environmental Conservation Law, in relation to increasing certain penalties relating to endangered and special species, species of special concern and illegal ivory articles. Doubling a take fine from \$1,000 to \$2,000 plus doubling multiple specimen fines. The bill as originally drafted would also ban neonicotinoids. A 7639-A was amended to allow for trunk injections of neonicotinoids for invasive species. Lost a Senate Same As Bill. Never reported out of committee.

A 8123-A/S 6484 – Adirondack Conservation Design Bill

The purpose of this bill is to minimize the ecological impacts of subdivisions in the Adirondack Park. This bill would require Adirondack Park residential subdivisions that meet certain size thresholds to comply with certain conservation subdivision design criteria. ESFPA had signed off on this legislation as it was drafted to not change anything relative to silviculture or timber harvesting within the Park. Non-industrial forest landowners remain very concerned about this legislation. A 8123 stalled on Third Reading in the Assembly and S 6484 was not reported out of Rules.

A 8349/S 5612-A – Relates to stream protection

Passed Senate

These bills would add all class C waterways to the list of additional protections for streams under the Protection of Waters Regulatory Program within DEC. Extending the added requirements to all class C streams by statute will add every class C stream to the Protection of Waters Regulatory Program and hinder forest land owner's ability to manage their forests and undertake responsible timber harvests. The bills originally included Class D streams but was amended in the Senate to only add Class C streams. S 5612 passed the Senate but never went beyond Third Reading in the Assembly.