

ENGROSSED HOUSE
BILL NO. 1979

By: Fields

An Act relating to timber; defining terms; requiring certain marking of established property lines; providing exceptions; providing for liability; providing penalty for certain actions; requiring certain documents; providing for contents; providing exceptions; requiring evidence of ownership by certain purchasers; requiring contents of bills of sale; making certain actions unlawful; specifying certain penalties; amending 2 O.S. 1991, Section 1301-310, which relates to injury to certain trees or timber; clarifying language; providing for liability for commercial logging and timber harvesting operations; amending 23 O.S. 1991, Section 72, which relates to wrongful injury to trees; modifying measure of damages to timber for certain operations; defining term; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1301-351 of Title 2, unless there is created a duplication in numbering, reads as follows:

For purposes of Sections 2 through 6 of this act:

1. "Timber" means and includes trees, whether standing, lying down, or prepared for sale, sawlogs and other logs, cross and railroad ties, boards, planks, staves and headings, and all other timber cut or prepared for market;

2. "Commercial logging or timber harvesting operations" means the cutting or harvesting of and removal of tree stems from a site for commercial purposes, leaving the root mass intact; and

3. "Established property line" means any established boundary line which has been historically recognized and uncontested for at least fifteen (15) years or a boundary line which has been established by a licensed surveyor.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1301-352 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Any person who authorizes a commercial logging or timber harvesting operation on his own property shall clearly mark any established property lines which are within one hundred (100) feet of the area to be cut. If there is no established property line, the person authorizing the commercial logging or timber harvesting operation shall send by certified mail, return receipt requested, written notice of the commercial logging or timber harvesting operation to the owner of record of any real property located within two hundred (200) feet of the edge of the cutting area at least ten (10) days prior to the commencement of such operation.

B. If such person fails to clearly mark any established property lines or fails to notify any abutting real property owner as required by this section and as a result of such failure timber is harvested or other damage occurs on any abutting real property without the consent of the owner thereof, such person shall be liable in damages pursuant to Section 8 of this act to the owner of the abutting real property.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1301-353 of Title 2, unless there is created a duplication in numbering, reads as follows:

Any person who fails to ensure the requirements of subsection A of Section 2 of this act have been fulfilled and carelessly enters upon the lands of another, and cuts down, injures, removes, or destroys any live tree or trees planted or growing for ornament, shelter, shade, or profit in any forest, woods, woodlands, town, village, city, avenue, yard, garden, orchard, or plantation, or removes or destroys any logs without the permission of the owner or the representative of the owner is guilty, upon conviction, of a misdemeanor, punishable by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not more than thirty (30) days.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1301-354 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by subsection B of this section, any owner or operator of a commercial logging or timber harvesting operation shall maintain at all times during such operation a written bill of sale, timber deed or timber contract, or written consent of the owner for the timber being harvested.

B. The provisions of subsection A shall not apply to any owner or operator of a commercial logging or timber harvesting operation if a timber deed, written bill of sale or timber contract or written consent is recorded in the records of the county clerk of the county in which the timber is harvested or to be harvested.

C. Any deed, bill of sale, contract or consent for commercial logging or timber harvesting operation pursuant to this section shall include:

1. The name and address of the legal owner of the property upon which the operation is occurring or has occurred;

2. The volume or amount of timber to be removed;
3. The date of execution and expiration of the contract or consent, bill of sale, or deed;
4. The name and address of the owner or operator of the commercial logging or timber harvesting operation; and
5. The legal description of the real property upon which the timber is harvested.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1301-355 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. It shall be the duty of any sawmill owner or operator or other person purchasing timber in the form of logs, dye wood, cord wood, hickory blocks, stave blocks, hoop poles, cross ties, shrubbery or any other kind of timber, to obtain from the seller a bill of sale for the same or other evidence of ownership which shall be preserved by the purchaser for a period of three (3) years and shall be available for inspection to any person concerned in such timber.

B. The bill of sale shall include:

1. The name and address of the seller and purchaser;
2. A legal description of the land from which the timber was harvested;
3. The number of trees purchased and description of timber delivered;
4. The date delivered;
5. The printed name of the person delivering the timber; and
6. The date and signature of the person delivering the timber with language declaring ownership of the timber or naming the person to whom the person delivering the timber is an agent.

C. A violation of this section is a misdemeanor.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1301-356 of Title 2, unless there is created a duplication in numbering, reads as follows:

Any person selling who uses false or altered identification or a false declaration of ownership, pursuant to the provisions of Section 5 of this act, upon conviction thereof, shall be guilty of a felony and shall be punished by imprisonment in the State Penitentiary not to exceed five (5) years or in the county jail not to exceed one (1) year, or by a fine not to exceed Five Hundred Dollars (\$500.00), or by both such imprisonment and fine.

SECTION 7. AMENDATORY 2 O.S. 1991, Section 1301-310, is amended to read as follows:

Section 1301-310. A. 1. Any person who willfully and maliciously and with intent to do harm shall unlawfully enter upon the lands of another, cut down, injure, remove, or destroy any live tree or trees planted or growing for ornament, shelter, shade, or profit in any forest, woods, woodland, town, village, city, avenue, yard, garden, orchard, or plantation, or remove or destroy any logs, which trees or logs are valued at more than Two Hundred Dollars (\$200.00), without the permission of the owner or his representative shall be guilty, upon conviction, of a felony, punishable by the imposition of a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment in the State Penitentiary for not more than five (5) years, or by both. ~~If the value of the trees or logs is Two Hundred Dollars (\$200.00) or less, such person~~

2. Any person who willfully and maliciously and with intent to do harm shall unlawfully enter upon the lands of another, cut down, injure, remove, or destroy any live tree or trees planted or growing for ornament, shelter, shade, or profit in any forest, woods, woodland, town, village, city, avenue, yard, garden, orchard, or plantation, or remove or destroy any logs, which trees or logs are valued at Two Hundred Dollars (\$200.00) or less, without the

permission of the owner or his representative shall be guilty, upon conviction, of a misdemeanor, punishable by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not more than thirty (30) days.

3. The necessary trimming and removal of said trees or logs to permit the construction, repair, maintenance, cleanup, and operations of pipelines and utility lines and appurtenances of public utilities, public service corporations, and to aid registered land surveyors and professional engineers in the performance of their professional services, and municipalities, and pipeline companies, or lawful operators and product purchasers of oil and gas shall not be deemed a willful and intentional cutting down, injuring, removing, or destroying of said trees or logs. The necessary trimming and removal of trees or logs for the construction, maintenance, and repair of streets, roads, and highways or for the control and regulation of traffic thereon by the state and its political subdivisions or registered land surveyors and professional engineers shall not be deemed a willful and intentional cutting down, injuring, removing, or destroying of said trees or logs.

B. In addition to the punishment prescribed in subsection A of this section, said person is liable in ~~treble~~ damages for the injury done pursuant to Section 8 of this act, said damages to be recovered in a civil action by the owner of the property or the public officer having charge of the property.

SECTION 8. AMENDATORY 23 O.S. 1991, Section 72, is amended to read as follows:

Section 72. A. For wrongful injuries to timber, trees or underwood upon the land of another, or removal thereof for noncommercial purposes, the measure of damages is three times such a sum as would compensate for the ~~actual detriment~~ current market value of the timber, ~~except where the~~ unless:

1. The trespass was casual and involuntary, ~~or committed;~~

2. Committed under the belief that the land belonged to the trespasser, ~~or where the;~~ or

3. The wood was taken by the authority of highway officers for the purposes of a highway, in which case the damages are a sum equal to the ~~actual detriment~~ current market value of the timber.

B. For wrongful injuries to timber, trees or underwood upon the land of another or removal thereof by a commercial logging or timber harvesting operation, the measure of damages is ten (10) times such a sum as would compensate for the actual detriment unless the trespass and taking was committed under the belief that the land belonged to the person authorizing the commercial logging or timber harvesting operation based upon an established property line in which case the damages are a sum equal to the current market value of the timber.

C. "Current market value" as used in this section, applies to the property in question which is cut timber; therefore, the current market value is that of the timber after being harvested.

D. Nothing in this section precludes an owner of property on which timber has been cut by another from recovering damages for loss of value other than commercial timber value, if any, of the timber negligently harvested.

SECTION 9. This act shall become effective November 1, 1995.

Passed the House of Representatives the 2nd day of March, 1995.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate