

ENROLLED HOUSE  
BILL NO. 1979

By: Fields of the House

and

Stipe of the Senate

An Act relating to timber; amending 2 O.S. 1991, Sections 1301-101, 1301-102 and 1301-310, which relate to the Oklahoma Forestry Code; making certain acts and codification part of Forestry Code; clarifying language; adding to certain exceptions; providing for liability of certain logging and timber harvesting operations, property owners, and certain other persons; requiring certain notice; requiring certain bills of sale or other evidence of ownership; adding and modifying certain terms; requiring certain marking of established property lines; providing exceptions; providing for liability of certain persons; providing penalty for certain actions; making certain actions unlawful; requiring certain documents; providing for certain delegation; providing for contents; providing exceptions; requiring evidence of ownership by certain purchasers; requiring certain duties for certain persons; requiring contents of bills of sale; authorizing certain contracts as proof of ownership; making certain actions unlawful; specifying certain penalties; amending 23 O.S. 1991, Section 72, which relates to wrongful injury to trees; modifying measure of damages to timber for certain operations; authorizing certain costs of actions; defining term; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 1991, Section 1301-101, is amended to read as follows:

Section 1301-101. ~~This act~~ A. Chapter 28 of Title 2 of the Oklahoma Statutes shall be known and may be cited as the Oklahoma Forestry Code.

B. All statutes hereinafter enacted and codified in Chapter 28 of Title 2 of the Oklahoma Statutes shall be considered and deemed part of the Oklahoma Forestry Code.

SECTION 2. AMENDATORY 2 O.S. 1991, Section 1301-102, is amended to read as follows:

Section 1301-102. As used in ~~this act~~ the Oklahoma Forestry Code:

1. ~~The term~~ "Board" means the State Board of Agriculture of the State of Oklahoma.;

2. ~~The term~~ "Division" means the Forestry Division of the State Board of Agriculture.;

3. ~~The term "Director"~~ means the Director of Forestry of the State Board of Agriculture-;

4. ~~The term "person"~~ "Person" means any individual, firm, partnership, corporation, organization or any combination thereof, whether or not incorporated-;

5. ~~The term "forests"~~ "Forests" means forest land that is at least ten percent (10%) stocked by forest trees of any size, whether of commercial or noncommercial species, or formerly having such tree cover and not currently developed for non-forest use, including woodlands, woodlots, windbreaks and shelterbelts-;

6. ~~The term "forest rangers"~~ "Forest rangers" means all employees of the Forestry Division who have responsibilities in forest protection, including laborers, mechanics, radio technicians and other employees who assist in forest protection-;

7. ~~The term "wildfires"~~ "Wildfires" includes any fire which is not controlled on forests, grasslands or fields-;

8. "Wild lands" refers to any unimproved lands regardless of kind of vegetative plant cover including forests, prairies, marshes and swamps-;

9. "Timber" means and includes live and dead trees and the profit in any live and dead trees including but not limited to bark, foliage, wood, vines, firewood, crossties and shrubbery;

10. "Logging or timber harvesting operations" means the cutting or harvesting of and removal of timber from a site, leaving the root mass intact;

11. "Established property line" means any boundary line which has been:

a. recognized by adjoining land owners as a boundary and uncontested for at least fifteen (15) years including but not limited to fence lines, roads and natural features,

b. established by a registered land surveyor, or

c. uncontested for at least fifteen (15) years; and

12. "Timber owner" means any person who owns the right to cut or harvest timber at the time the timber is to be cut or harvested, or who legally owns the severed timber.

SECTION 3. 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 timber 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 timber 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~~ timber 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~~ timber.

4. The necessary trimming and removal of ~~trees or logs~~ timber for boundary line maintenance, 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~~ timber.

B. In addition to the punishment prescribed in subsection A of this section, said person is liable in ~~treble~~ damages pursuant to Section 72 of Title 23 of the Oklahoma Statutes for the damage or injury done to such timber, 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 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1301-310.1 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. 1. Any timber owner or person designated in the timber contract, who authorizes a logging or timber harvesting operation shall clearly mark any established property lines which are within one hundred (100) feet of the area to be cut.

2. If there is no established property line, the timber owner authorizing the logging or timber harvesting operation shall send by certified mail, return receipt requested, written notice of the logging or timber harvesting operation to the owner of record in the office of the county assessor or records of the county treasurer of any real property adjoining the cutting area at least ten (10) days prior to the commencement of such operation.

3. If the timber owner is unable to ascertain the address of the legal residence of the owner of record as recorded in the office of the county assessor or records of the county treasurer of any real property adjoining the cutting area, notice of the logging or timber harvesting operation shall be given by publication. The notice shall be published once in a newspaper of general circulation in the county in which the operation is to occur specifying the owner of the property and the legal description. The notice shall be published at least ten (10) days prior to commencement of the operation.

B. If the timber owner fails to clearly mark any established property lines or fails to mail or publish any notice to the abutting real property owners 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, the timber owner shall be liable in damages pursuant to Section 72 of Title 23 of the Oklahoma Statutes to the owner of the abutting real property.

C. The provisions of this section shall not relieve the owner of the real property on which the timber is located from liability pursuant to Section 72 of Title 23 of the Oklahoma Statutes for failing to clearly mark or mismarking any property lines required by this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1301-310.2 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by this section, a timber owner who fails to ensure the requirements of subsection A of Section 4 of this act have been fulfilled and negligently authorizes or directs a logging or timber harvesting operation upon the lands of another, and cuts down, injures, removes, or destroys any timber without the permission 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 or by both such fine and imprisonment.

B. Except as otherwise provided by this section any person who negligently enters upon the lands of another and cuts down, injures, removes, or destroys any timber without the permission 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 or by both such fine and imprisonment.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1301-310.3 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person willingly, knowingly or fraudulently to represent, make, issue, deliver, use or submit or to participate in representing, making, issuing, delivering, using or submitting any fictitious, false or fraudulent offer, agreement, contract or other instrument concerning:

1. The sale of timber or the right to cut or harvest or remove timber from a site or from real property not owned or leased by such person; or

2. The sale of timber or the right to cut or harvest or remove timber which is not owned by such person.

B. Any person convicted of violating the provisions of this section shall be guilty of:

1. A felony if the timber to be sold or right to cut or harvest the timber pursuant to subsection A of this section is valued at more than Two Hundred Dollars (\$200.00). Upon conviction thereon, such person shall be subject to 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 both such fine and imprisonment; or

2. A misdemeanor if the timber to be sold or right to cut or harvest the timber pursuant to subsection A of this section is valued at Two Hundred Dollars (\$200.00) or less. Upon conviction thereof such person shall be subject to the imposition of a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail not to exceed one (1) year or by both such fine and imprisonment.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1301-310.4 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 logging or timber harvesting operation shall maintain at all times during such operation, for inspection purposes by law enforcement personnel, a written bill of sale, timber deed or timber contract, recording memorandum, or written consent of the timber owner for the timber being harvested.

B. The provisions of subsection A of this section shall not apply to any owner or operator of a logging or timber harvesting

operation if a timber deed, written bill of sale or timber contract or written consent, recording or memorandum 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 logging or timber harvesting operation pursuant to this section shall include:

1. A description of the timber to be removed;
2. The date of execution and expiration of the contract or consent, bill of sale, or deed;
3. The name and address of the timber owner and the timber purchaser; and
4. The legal description of the real property upon which the timber is harvested.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1301-310.5 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. 1. Except as otherwise provided by this section, it shall be the duty of any sawmill owner or operator or other person purchasing timber for resale, from a timber owner or owner or operator of a logging or timber harvesting operation to obtain from the timber owner or owner or operator of a logging or timber harvesting operation 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.

2. The bill of sale shall include:

- a. the name and address of the seller and purchaser,
- b. a legal description of the land from which the timber was harvested,
- c. a description of timber delivered,
- d. the date delivered,
- e. the printed name of the person delivering the timber, and
- f. 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.

B. In lieu of the bill of sale required by subsection A of this section, the purchaser may provide for proof of timber ownership through a written purchase contract which provides language declaring ownership of timber delivered for purchase to the purchaser by the timber owner. Such declaration shall be signed by the timber owner or by designee pursuant to a written authorization signed by the timber owner. Such written authorization shall be retained by the designee.

C. A violation of this section is a misdemeanor.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1301-310.6 of Title 2, unless there is created a duplication in numbering, reads as follows:

Any person selling timber who uses false or altered identification or a false declaration of ownership, pursuant to the provisions of Section 8 of this act, upon conviction thereof, shall be guilty of:

1. A felony if the timber to be sold by use of a false or altered identification or false declaration of ownership is valued at more than Two Hundred Dollars (\$200.00). Upon conviction thereon, such person shall be subject to 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 both such fine and imprisonment; or

2. A misdemeanor if the timber to be sold by use of a false or altered identification or false declaration of ownership is valued at Two Hundred Dollars (\$200.00) or less. Upon conviction thereof such person shall be subject to the imposition of a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail not to exceed one (1) year, or by both such imprisonment and fine.

SECTION 10. 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, the measure of damages is not less than three (3) times nor more than ten (10) times such a sum as would compensate for the actual detriment, ~~except where the~~ unless:

1. The trespass was casual and involuntary, ~~or committed;~~  
2. Committed under the belief that the timber or land belonged to the trespasser, ~~or where the wood;~~ or  
3. The timber 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.

B. The prevailing party shall be entitled to costs and attorneys fees.

C. For purposes of this section, the term "timber" shall be defined as the term is defined by Section 1301-102 of Title 2 of the Oklahoma Statutes.

SECTION 11. This act shall become effective November 1, 1995.

Passed the House of Representatives the 17th day of May, 1995.

Speaker of the House of  
Representatives

Passed the Senate the 17th day of May, 1995.

President of the Senate