

- SUBJECT:** Penalties for harvesting standing timber without an owner's permission
- COMMITTEE:** Natural Resources — favorable, without amendment
- VOTE:** 8 ayes — Ritter, T. King, Beck, Creighton, Hopson, Larson, D. Miller, Price
0 nays
3 absent — Keffer, Lucio, Martinez Fischer
- WITNESSES:** For — Ed Small, Texas Forestry Association; (*Registered, but did not testify*: Norman Garza, Texas Farm Bureau; Matt Phillips, The Nature Conservancy; Jim Reaves, Texas Nursery and Landscape Association)
Against — None
On — Kevin Pierce, Texas Forest Service
- BACKGROUND:** Under Natural Resources Code, sec. 151.051, a person who harvests standing timber without the owner's permission is liable for damages equal to three times the market price of the timber. Payment of damages does not preclude criminal prosecution for selling timber without a bill of sale.
- DIGEST:** HB 613 would change the value of the damages payable for harvesting standing timber without the owner's permission to the sum of the mill price of the timber and all reasonable expenses incurred by the owner as a direct result of the theft. Payment of damages would not preclude criminal prosecution for harvesting standing timber without the owner's permission.
HB 613 also would create a criminal offense for harvesting standing timber without the owner's permission. The offense would be based on the value of the timber, as follows:
- state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) if the value of the timber was \$500 to \$19,999;

- third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the value of the timber was \$20,000 to \$99,999;
- second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if the value of the timber was \$100,000 to \$199,999;
- first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) if the value of the timber was at least \$200,000.

HB 613 would apply only to acts occurring on or after the bill's September 1, 2011, effective date.

**SUPPORTERS
SAY:**

HB 613 would allow landowners to seek adequate compensation of the expenses that directly result from the timber theft. Timber theft is often accompanied by property damage such as cut fences and damaged roads. Also, landowners often have to pay out of pocket for a forester to determine the market value of the theft.

HB 613 also would reduce confusion among prosecutors. By incorporating felony theft charges like those found in the Penal Code, HB 613 would clarify that harvesting standing timber without the owner's permission would be a criminal offense.

**OPPONENTS
SAY:**

HB 612 would strain the already limited resources of the criminal justice system. Harvesting high-dollar standing timber without the owner's permission could mean a life sentence. This would increase pressure on the state correctional system due to longer probation terms or longer confinement in state jail or prison.

NOTES:

The Senate companion bill, SB 584 by Nichols, was considered in a March 28 public hearing and left pending by the Senate Agriculture and Rural Affairs Committee.