

BILL ANALYSIS

Senate Research Center

H.B. 1128
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Jurisprudence
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Engrossed

DIGEST

Timber is the number one agriculture commodity in the eastern part of Texas. Over 500,000 acres in this region are harvested each year at a value of almost \$900 million. Roughly 7.2 million acres of East Texas timberland are owned by non-industrial private landowners, many of which are absentee landowners. Absentee landowners coupled with high timber prices make the forests in East Texas a target for timber thieves. The Texas Forest Service estimates timberland owners have lost millions of dollars worth of trees to thieves. This bill will provide regulations regarding the harvesting of and payment for timber; provide for damages; and create an offense.

PURPOSE

As proposed, H.B. 1128 provides regulations regarding the harvesting of and payment for timber; provides for damages; and creates an offense.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 151, Natural Resources Code, by adding Subchapters C and D, as follows:

SUBCHAPTER C. UNAUTHORIZED HARVESTING OF TIMBER

Sec. 151.101. DAMAGES FOR UNAUTHORIZED HARVESTING. Provides that a person who harvests standing timber with knowledge that the harvesting is without the permission of the owner of the standing timber and a person who causes another person to harvest standing timber without the permission of the owner of the standing timber are jointly and severally liable to the owner for damages in an amount equal to three times the market price of the timber harvested without permission. Provides that payment of damages by a person under this section does not preclude a prosecution of the person under Section 151.045. Provides that this section does not apply to the trimming or clearing of trees in the vicinity of a utility line or right-of-way.

SUBCHAPTER D. PAYMENT FOR TIMBER PURCHASED

Sec. 151.151. DEFINITION. Defines "timber purchaser."

Sec. 151.152. MONEY COLLECTED FOR TIMBER AS TRUST MONEY. Provides that money a timber purchaser collects for harvested timber is trust money.

Sec. 151.153. TIMBER PURCHASER AS TRUSTEE. Provides that a timber purchaser and each officer, director, partner, or agent of a timber purchaser are trustees of trust money.

Sec. 151.154. BENEFICIARY OF TRUST. Provides that each seller of standing timber is a beneficiary of trust money to the extent of the beneficiary's share of the purchase price for the timber.

Sec. 151.155. OFFENSE. Sets forth actions by a trustee which are offenses. Provides that an offense under this section is a state jail felony.

Sec. 151.156. DEFENSES TO PROSECUTION. Sets forth affirmative defenses to prosecution under this section.

Sec. 151.157. ELECTION OF OFFENSES. Authorizes the state, if conduct constituting an offense under Section 151.155 is an offense under another law of this state, to elect the offense for which it prosecutes the trustee.

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Emergency clause.