

1981 Assembly Bill 166

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**CHAPTER 67 , Laws of 1981**

AN ACT to repeal 26.04; to amend 26.09 and 895.17; and to repeal and recreate 26.05 of the statutes, relating to cutting, removing and transporting firewood and revising penalties.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 26.04 of the statutes is repealed.

SECTION 2. 26.05 of the statutes is repealed and recreated to read:

**26.05 Timber theft.** (1) **DEFINITION.** As used in this section, "raw forest products" means forest products not altered by a manufacturing process off the land from which they are taken. This term includes logs, pilings, posts, poles, cordwood products, pulpwood, fuel wood and Christmas trees.

(2) **CONSENT OF OWNER REQUIRED.** No person may cut, remove or transport raw forest products or direct the cutting, removal or transportation of raw forest products without the consent of the owner.

(3) **PENALTIES.** (a) A person who violates this section or a rule promulgated under this section is subject to a forfeiture of not less than \$100 nor more than \$10,000.

(b) Instead of the forfeiture provided under par. (a), a person who intentionally violates this section may be punished under s. 943.20 for theft.

(c) In addition to any other penalty, a person who violates this section or a rule promulgated under this section is liable for the reasonable costs incurred to establish the volume and value of the raw forest products cut, removed or transported.

SECTION 3. 26.09 of the statutes is amended to read:

**26.09 (title) Civil liability for unlawful cutting, removal and transport.** In addition to the other penalties provided in ss. 26.04 and 26.05 and costs, any person unlawfully cutting, removing or transporting raw forest products ~~shall be~~ is liable to the owner or to the county holding a tax certificate, or to the board of commissioners of public lands holding a land contract certificate under ch. 24, to the land on which the unlawful cutting was done or from which it was removed, in a civil action, for double the amount of damages suffered. This section ~~shall~~ does not apply to the cutting, removal and transporting of timber for the emergency repair of a highway, fire lane or bridge upon or adjacent to the land.

SECTION 4. 895.17 of the statutes is amended to read:

**895.17 Involuntary trespass.** A tender may also be made in all cases of involuntary trespass, ~~except timber trespass as defined in s. 26.04~~, before action is commenced; and when in the opinion of the court or jury a sufficient amount was tendered to the party injured, his agent or attorney for the trespass complained of, judgment shall be entered against the plaintiff for costs; provided, that the defendant kept his tender good by paying the money into court at the trial for the use of the plaintiff.

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