



## 2007 SENATE BILL 33

February 12, 2007 – Introduced by Senators LASSA, ROESSLER, BRESKE and KEDZIE, cosponsored by Representatives GUNDERSON, HAHN, MUSSER, HINES and MOLEPSKE. Referred to Committee on Environment and Natural Resources.

1     **AN ACT** *to amend* 26.05 (3) (b) and 26.05 (3) (c); and *to create* 26.04, 26.045,  
2           26.05 (2m) and 26.05 (3) (bn) of the statutes; **relating to:** failure to pay owners  
3           of raw forest products, requiring mills that process forest products to provide  
4           receipts, and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Current law prohibits a person from cutting or removing timber or other forest products without the consent of the owner of the forest products. A person who violates this provision is subject to a forfeiture or, if the violation is intentional, the person may be punished for theft.

This bill prohibits a person who enters into a contract with the owner of raw forest products to cut or remove those products from failing to pay the total amount of compensation required by the contract. Under the bill, a person who violates this provision is subject to a forfeiture and, if the failure to pay was with the intent to defraud the owner of the products, to the penalties for theft.

The bill also provides that, if a court enters a judgment in a civil action to recover the amount of compensation due under a contract to cut or remove raw forest products, the court must also award court costs and reasonable attorney fees to the successful party if the unsuccessful party, before commencement of the action, unreasonably refused to pay a demand for damages or to accept an offer of payment for damages.

Finally, the bill requires that every mill that receives raw forest products for processing provide a receipt to the person from whose land the products were

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harvested. The receipt must be furnished within three months from the date the products were delivered to the mill.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 26.04 of the statutes is created to read:

2           **26.04 Recovery of costs under timber contracts.** Notwithstanding s.  
3 814.04, if a court enters a judgment in a civil action to recover the amount of any  
4 compensation due under a contract to cut, remove, or transport raw forest products,  
5 the court shall also award the successful party court costs and reasonable attorney  
6 fees if the unsuccessful party, before the commencement of the action, unreasonably  
7 refused to pay a demand for damages or to accept an offer of payment for damages.

8           **SECTION 2.** 26.045 of the statutes is created to read:

9           **26.045 Sales of forest products. (1)** In this section:

10           (a) “Mill” means any place where raw forest products are processed.

11           (b) “Raw forest products” has the meaning given in s. 26.05 (1).

12           **(2)** Every mill that receives raw forest products for processing by that mill shall  
13 give to the person from whose land the raw forest products were harvested a receipt  
14 within 3 months from the date of the delivery of those raw forest products to the mill.  
15 The receipt shall state the amount of raw forest products received by the mill and the  
16 species and grade of those raw forest products.

17           **SECTION 3.** 26.05 (2m) of the statutes is created to read:

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1           26.05 **(2m)** PAYMENT TO OWNER REQUIRED. No person who entered into a contract  
2 with the owner of raw forest products under which the person received the owner's  
3 consent to cut, remove, or transport the raw forest products may fail to pay to the  
4 owner the total amount of any compensation for the raw forest products as agreed  
5 upon under the contract.

6           **SECTION 4.** 26.05 (3) (b) of the statutes is amended to read:

7           26.05 **(3)** (b) Instead of the forfeiture provided under par. (a), a person who  
8 intentionally violates ~~this section~~ sub. (2), or a rule promulgated under ~~this section~~  
9 sub. (2), may be punished under s. 943.20 for theft.

10          **SECTION 5.** 26.05 (3) (bn) of the statutes is created to read:

11          26.05 **(3)** (bn) Instead of the forfeiture provided under par. (a), a person who  
12 fails to pay for raw forest products under sub. (2m), with intent to defraud the owner  
13 of the raw forest products, may be penalized as provided under s. 943.20 (3).

14          **SECTION 6.** 26.05 (3) (c) of the statutes is amended to read:

15          26.05 **(3)** (c) In addition to any other penalty, a person who violates this section,  
16 or a rule promulgated under ~~this section~~ sub. (2), is liable for the reasonable costs  
17 incurred to establish the volume and value of the raw forest products cut, removed  
18 or transported.

19          **SECTION 7. Initial applicability.**

20          (1) The treatment of sections 26.04 and 26.05 (3) (b), (bn), and (c) of the statutes  
21 first applies to actions commenced on the effective date of this subsection.

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(END)