2001 ASSEMBLY BILL 47

January 25, 2001 – Introduced by Representatives PETTIS, MUSSER, LA FAVE, FREESE, KRAWCZYK, LADWIG, VRAKAS, PETROWSKI, AINSWORTH, GRONEMUS, PLOUFF, GUNDERSON, SYKORA, WILLIAMS and SKINDRUD, cosponsored by Senators BRESKE, COWLES and HARSDORF. Referred to Committee on Rural Affairs and Forestry.

1 AN ACT *to amend* 26.05 (3) (b) and 26.05 (3) (c); and *to create* 26.04, 26.05 (2m)

2 and 26.05 (3) (bn) of the statutes; **relating to:** failure to pay owners of raw

3 forest products.

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 also 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, the person is subject to the penalties established for theft under current law.

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.

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

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

9   26.05 **(2m)** PAYMENT TO OWNER REQUIRED. No person who entered into a contract

10   with the owner of raw forest products under which the person received the owner's

11   consent to cut, remove, or transport the raw forest products may fail to pay to the

12   owner the total amount of any compensation for the raw forest products as agreed

13   upon under the contract.

14   SECTION 3. 26.05 (3) (b) of the statutes is amended to read:

15   26.05 **(3)** (b) Instead of the forfeiture provided under par. (a), a person who

16   intentionally violates ~~this section~~ sub. (2), or a rule promulgated under ~~this section~~

17   sub. (2), may be punished under s. 943.20 for theft.

18   SECTION 4. 26.05 (3) (bn) of the statutes is created to read:

19   26.05 **(3)** (bn) Instead of the forfeiture provided under par. (a), a person who

20   fails to pay for raw forest products under sub. (2m), with intent to defraud the owner

21   of the raw forest products, may be penalized as provided under s. 943.20 (3).

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ASSEMBLY BILL 47   SECTION 5

1   **SECTION 5.** 26.05 (3) (c) of the statutes is amended to read:

2   26.05 **(3)** (c) In addition to any other penalty, a person who violates this section,

3 or a rule promulgated under ~~this section~~ <u>sub. (2)</u>, is liable for the reasonable costs

4 incurred to establish the volume and value of the raw forest products cut, removed<u>,</u>

5 or transported.

6   **SECTION 6. Initial applicability.**

7   (1) This act first applies to acts committed on the effective date of this

8 subsection.

9   **(END)**