

1999 DRAFTING REQUEST

**Bill**

Received: **05/06/1999**

Received By: **gibsom**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Pettis (608) 267-2365**

By/Representing:

This file may be shown to any legislator: NO

Drafter: **gibsom**

May Contact:

Alt. Drafters:

Subject: **Nat. Res. - forests and parks**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Failure to pay for timber products

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reaured</u>
/1	gibsom 07/27/1999 r-kite 08/11/1999	gilfokm 08/03/1999	jfrantze 08/04/1999	_____	lrb-docadmin 08/04/1999		S&L
/2	gibsom 09/02/1999	gilfokm 09/03/1999	haugeca 09/03/1999	_____	lrb-docadmin 09/03/1999	lrbdocadminS&L 09/08/1999	
/3	gibsom 10/12/1999	gilfokm 10/12/1999	jfrantze 10/13/1999	_____	lrb-docadmin 10/13/1999	lrb_docadminS&L 10/13/1999	

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FE Sent For:

10/12  
13 King

10/13 Jb/mc

10/13  
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Ch 9-3  
JH 9-3  
Omb

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/?	gibsom	1-8-3-99 tmg	8/3	8/4 Km			

FE Sent For:

<END>

CORRESPONDENCE/MEMORANDUM

Date: October 22, 1998

File Ref:

To: ~~Bob Mather, Jim Miller~~ Robin N. KLTIEFrom: Phil Stromberg / <sup>R+P.</sup> MARK P ETTIS

Subject: Request for inclusion to Legislative change, 26.05 (2)(b)

Enclosed is a proposal for creation of a new statute to protect forest landowners from loggers who fail to compensate for timber cut from lands, WITH CONSENT.

Presently; landowners only option to restore themselves in this situation is to handle through a civil action. In practice and experience, this rarely happens. The process is intimidating to most citizens and costs will likely exceed compensation owed. Consequently, unscrupulous loggers will? conduct business as usual knowing landowners have no practical recourse.

An action through consumer protection is also cumbersome and unlikely to cause results.

Forest Rangers get sucked into these situations regardless of whether or not we can produce results. Sometimes, the logger **messes up** in some other way and we can do something, ie. trespass or cutting notice violation, however this does nothing to restore the landowner that has not been compensated,

Classic scenario, of which I have dealt with 3 cases by the same logger in Burnett County in the past 2 years; (1) logger contracts to cut timber direct with the landowner with no benefit to the landowner of any competitive bidding. Result, landowner gets paid 50 - 75 cents on the dollar, relative to the fair market value. (2) Landowner is given an accounting of wood that is short of actual, (this is **only alleged**). Now, if this is not insulting enough, and I accept that there is probably little we can do about it short of proving fraud, which is complex, (3), the landowner never receives full payment for what they believe to be owed. (Never mind that there are these other inequities already mentioned).

Now on top of all that, 2 of the three are vulnerable widowed women on short, fixed incomes.

Because consent has been given, there is nothing we, as Forest Rangers can do. We need statutory language that gives us some remedy to curtail the rip off of vulnerable people and to help keep loggers more hone&.

Ken Kutz, Burnett County District Attorney is familiar with these cases and composed the language I have proposed to you. I hope this can be included in your present work and believe that, once understood by legislators, will be easily embraced. I hope our administrators will be comfortable with it. While, yes, it will mean more work for us, as I have said, we get sucked in anyway and isn't this the business we are in, to protect and serve the resource and the public?

ITS THE RIGHT THING TO DO!

26.05 (2)(b) is created to read:

Any person who cuts, removes or transports raw forest products or directs the cutting, removal or transportation of the same, with the owners consent, and subsequently fails to pay any and all compensation agreed upon, is guilty **of** theft under this section.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-3039<sup>1</sup>  
MGG... King  
RNR

O Note

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

WPO  
Print w/line #'s

Could  
not print  
w/ line #'s

Gen. Cat

AN ACT <sup>Gen. Cat</sup> relating to: failure to pay owners of raw forest products.

---

for the products as  
**Analysis by the Legislative Reference Bureau** <sup>timber or other</sup>  
 Current law prohibits a person from cutting or removing raw forest products without the consent of the owner of the forest products. A person violating this provision is subject to a forfeiture or, if the violation is intentional, the may be punished for theft.  
 Under this bill, the same penalties apply to a person who cuts or removes raw forest products with the consent of the owner but who fails to pay the owner the total price agreed upon for the products by the owner and the person cutting the products. <sup>timber or other forest products</sup>  
 For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill. <sup>or removing</sup>

---

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

**SECTION 1.** 26.05 (2m) of the statutes is created to read:

**26.05 (2m) PAYMENT TO OWNER REQUIRED.** No person who cuts, removes or transports raw forest products, or who directs the cutting, removal or transportation of raw forest products, with the consent of the owner of the raw forest products, <sup>t</sup> may fail to pay to the owner the total amount of any compensation for the raw forest



products <sup>as</sup> ~~that is~~ agreed upon <sup>by</sup> ~~between~~ the owner and the person doing the cutting, removal or transportation.

SECTION 2. 26.05 (3) (c) of the statutes is amended to read:

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

History: 1981 c. 67.

(END)

*plain*

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3039/dn

MGG.....  
*hmg*

I amended s. 26.05 (3) (c) because it seemed inapplicable to the situations that are covered by s. 26.05 (2m).

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 2673215

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3039/1dn  
MGG:kmg:jf

August 3, 1999

I amended s. 26.05 (3) (c) because it seemed inapplicable to the situations that are covered by s. 26.05 (2m).

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

File  
9/3

# 1999 BILL

who entered ✓  
enters into a contract with

enters into a contract with an owner of raw forest products but who

Gen. Cat

1 AN ACT to amend 26.05 (3) (c); and to create 26.05 (2m) of the statutes; relating  
2 to: failure to pay owners of raw 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 violating this provision is subject to a forfeiture or, if the violation is intentional, may be punished for theft.

Under this bill, the same penalties apply to a person who cuts or removes timber or other forest products with the consent of the owner but who fails to pay the owner the total price for the products as agreed upon by the owner and the person cutting or removing the products.

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:

3 SECTION 1. 26.05 (2m) of the statutes is created to read:  
4 26.05 (2m) PAYMENT TO OWNER REQUIRED. No person who cuts, removes or  
5 transports raw forest products, or who directs the cutting, removal or transportation

**BILL**

1 of raw forest products, ~~with the consent of~~ the owner of ~~the~~ raw forest products, may  
 2 fail to pay to the owner the total amount of any compensation for the raw forest  
 3 products as agreed upon by the owner and the person doing the cutting, removal or  
 4 transportation.

**SECTION 2.** 26.05 (3) (c) of the statutes is amended to read:

6 26.05 (3) (c) In addition to any other penalty, a person who violates ~~this section~~  
 7 sub. (2) or a rule promulgated under ~~this section~~ sub. (2) is liable for the reasonable  
 8 costs incurred to establish the volume and value of the raw forest products cut,  
 9 removed or transported.

(END)

under which the owner gave the  
 person ~~to~~ received the owner's  
 consent to cut, remove ~~etc.~~  
 transport the raw forest products

**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

**Date:** 09/03/1999

**To:** Representative Pettis

**Relating to LRB drafting number:** LRB-3039

**Topic**

Failure to pay for timber products

**Subject(s)**

Nat. Res. - forests and parks

1. **JACKET** the draft for introduction Mark S. Pettis

in the **Senate** or the **Assembly**  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Mary Gibson-Glass, Senior Legislative Attorney  
Telephone: (608) 267-32 15

3 RMR

soon

# 1999 BILL

1 **AN ACT** to amend 26.05 (3) (c); and **to create** 26.05 (2m) of the statutes; relating  
 2 to: failure to pay owners of raw 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 violating this provision is subject to a forfeiture or, if the violation is intentional, may be punished for theft.

Under this bill, the same penalties apply to a person who enters into a contract with an owner of raw forest products to cut or remove the raw forest products but who fails to pay the owner the total price for the forest products as agreed upon ~~by the owner and the person doing the cutting or removal, under the contract.~~ *by the*

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:***

3 SECTION 1. 26.05 (2m) of the statutes is created to read:  
 4 26.05 (2m) PAYMENT TO OWNER REQUIRED. No person who entered into a contract  
 5 with the owner of raw forest products under which the person received the owner's

**BILL**

**SECTION 1**

1 consent to cut, remove or transport the raw forest products may fail to pay to the  
 2 owner the total amount of any compensation for the raw forest products as agreed  
 3 upon by the owner and the person <sup>with whom the owner entered the contract</sup> ~~doing the cutting, removal or transportation.~~

4 **SECTION 2.** 26.05 (3) (c) of the statutes is amended to read:

5 **26.05 (3)** (c) In addition to any other penalty, a person who violates ~~this section~~  
 6 sub. (2) or a rule promulgated under ~~this section sub. (2)~~ is liable for the reasonable  
 7 costs incurred to establish the volume and value of the raw forest products cut,  
 8 removed or transported.

9 (END)

<sup>d</sup>  
under the contract.