

2001 DRAFTING REQUEST

Bill

Received: 12/06/2000

Received By: rkite

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: rkite

May Contact:

Alt. Drafters:

Subject: Nat. Res. - parks and forestry

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Payment for raw forest products

Instructions:

Redraft 99 AB 669 (LRB-4228)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite 12/13/2000	wjackson 12/13/2000		_____			S&L
/1			pgreensl 12/18/2000	_____	lrb_docadmin 12/18/2000	lrb_docadmin 01/12/2001	

FE Sent For:

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LRB-4228/11  
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**1999 ASSEMBLY BILL 669**

2001 BILL

January 25, 2000 - Introduced by Representatives PETTIS, MUSSER, KESTELL, HASENOHRL, AINSWORTH, GUNDERSON, SYKORA and SKINDRUP, cosponsored by Senator BRESKE. Referred to Committee on Rural Affairs and Forestry.

REGEN

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, ~~to the penalties 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.

*the person is subject to the*  
*penalties established*

**ASSEMBLY BILL 669**

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<sup>↓</sup> of the statutes is created to read:

2 **26.04 Recovery of costs under timber contracts.** Notwithstanding s.  
3 814.04,<sup>↓</sup> 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)<sup>↓</sup> 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)<sup>↓</sup> 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 sub. (2) may  
17 be punished under s. 943.20 for theft.

LPS Please Proof  
w/ stats

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~~this section~~

← strikethru

18 SECTION 4. 26.05 (3) (bn)<sup>↓</sup> 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)<sup>↓</sup>, with intent to defraud the owner  
21 of the raw forest products, may be penalized as provided under s. 943.20 (3)<sup>↓</sup>

**ASSEMBLY BILL 669**

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**SECTION 5.** 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  
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.

**SECTION 6. Initial applicability.**

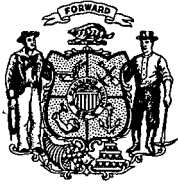
(1) This act first applies to acts committed on the effective date of this  
subsection.

(END)

Please  
Proof w/ stats.

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COMMA

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STEPHEN R. MILLER  
CHIEF

# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

December 18, 2000

### MEMORANDUM

To: Representative Pettis

From: Robin N. Kite, Legislative Attorney

Re: LRB-1342 Payment for raw forest products

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY  JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-7291 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.