

## 2005 ASSEMBLY BILL 165

March 3, 2005 – Introduced by Representatives PETTIS, MURSAU, AINSWORTH, ALBERS, BIES, GUNDERSON, HAHN, HINES, MUSSER, OTT, PRIDEMORE and TOWNSEND, cosponsored by Senators A. LASEE and GROTHMAN. Referred to Committee on 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 and providing a penalty.

---

### ***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.

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.

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.

**ASSEMBLY BILL 165**

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).

