

2007 DRAFTING REQUEST

Bill

Received: 12/08/2006

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **Julie Lassa (608) 266-3123**

By/Representing: **Jessica Kelly**

This file may be shown to any legislator: **NO**

Drafter: **rkite**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Lassa@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Failure to pay compensation under a contract to remove raw forest products

Instructions:

Redraft 2005 Senate Bill 188 (LRB-2453)

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 12/12/2006	wjackson 12/13/2006		_____			S&L Crime
/1			rschluet 12/13/2006	_____	sbasford 12/13/2006	cduerst 01/23/2007	

FE Sent For:

<END>

→ At Intro.

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/?	rkite						
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1 wj 12/13

[Handwritten signature]
12/13/06

FE Sent For:

<END>

Kite, Robin

From: Kelly, Jessica
Sent: Thursday, December 07, 2006 4:30 PM
To: Kite, Robin
Subject: Redraft of 2005 legislation

Robin, can you please redraft LRB 2453... Senate Bill 188?

Thank you.

Jessica Ford Kelly
Office of Senator Julie Lassa
State Capitol, Room 109 - South
P.O. Box 7882
Madison, WI 53707-7882
608-266-3123
1-800-925-7491 toll-free
608-267-6797

Date (time) needed

other

Rm not run

LRB - 1076 11

BILL

LPS: Please PWF

RNK: NLj

Use the appropriate components and routines developed for bills.

AN ACT . . . ^{Regen} [generate catalog] to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . . of the statutes; relating to:

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: create → anal: → title: → head

For the subheading, execute: create → anal: → title: → sub

For the sub-subheading, execute: create → anal: → title: → sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: create → anal: → text

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

SECTION #.

2005 SENATE BILL 188

a2387

April 27, 2005 - Introduced by Senators LASSA and ROESSLER, cosponsored by Representatives MOLEPSKE, AINSWORTH, SHERIDAN, MUSSER, F. LASEE, BIES, HINES, JESKEWITZ, OTT and GUNDERSON. Referred to Committee on Agriculture and Insurance.

regen cut
↑ requiring mills that process forest products to provide receipts ↓

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.

① 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 harvested. The receipt must be furnished within ② months from the date the products were delivered to the mill.

SENATE BILL 188

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).

insert
2-7

SENATE BILL 188

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~~ sub. (2), is liable for the reasonable costs
4 incurred to establish the volume and value of the raw forest products cut, removed
5 or transported.

6 **SECTION 6. Initial applicability.**

7 (1) ~~This act first applies to acts committed~~ *actions commenced*
8 subsection.

STET

(END)

The treatment of sections 26.05(3)(b) and 26.05(3)(c) of the statutes

**SENATE AMENDMENT 1,
TO 2005 SENATE BILL 188**

INSERT 2-7

March 9, 2006 - Offered by Senators LASSA and KEDZIE.

At the locations indicated, amend the bill as follows:

1. Page 2, line 7: after that line insert:

~~SECTION 100.~~ [#] 26.045 of the statutes is created to read:

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

(a) "Mill" means any place where raw forest products are processed.

(b) "Raw forest products" has the meaning given in s. 26.05 (1).

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

(END)

Duerst, Christina

From: Kelly, Jessica
Sent: Tuesday, January 23, 2007 3:54 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-1076/1 Topic: Failure to pay compensation under a contract to remove raw forest products

Please Jacket LRB 07-1076/1 for the SENATE.