

No. 292, S.]

[Published June 17, 1949.

CHAPTER 252.

AN ACT to repeal 26.02, 331.175, 331.18, 343.511, and 343.512; to amend chapter 26 (title) and 331.17; and to repeal and recreate 26.03, 26.04, 26.05, 26.06 and 26.09 of the statutes, relating to protection of forest lands and revising and codifying provisions and penalties pertaining to unlawful cutting of forest products, and providing penalties.

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

SECTION 1. The title of chapter 26 of the statutes is amended to read:

CHAPTER 26
PROTECTION OF * * * FOREST LANDS.

SECTION 2. 26.02 of the statutes is repealed.

SECTION 3. 26.03, 26.04, 26.05, 26.06 and 26.09 of the statutes are repealed and recreated to read:

26.03 NOTICE BEFORE CUTTING FOREST PRODUCTS. (1) FOREST AND WILD LAND AREAS. Before any person shall cut, or cause to be cut any logs, piling, poles, posts, pulpwood, Christmas trees or other forest products, except fuelwood, in, upon or adjoining any forest or wild land area he shall pay all delinquent taxes thereon and each year shall mail a notice in the English language giving his name and post office address, and listing all the lands upon which such cutting is to be done, designating the same by

each forty acre governmental subdivision or fraction thereof with the proper section, town and range, by registered letter addressed to the county clerk of each county in which the land is located; and the county clerk shall mail a copy of such notice to the district forest ranger and the town chairman of each town in which said lands upon which such forest products are to be cut are located, and to the county treasurer, who shall forthwith determine whether the county holds tax certificates or tax deeds to any of the land listed in the notice, and if he so finds, he shall take action to collect the unpaid taxes represented by county-owned tax certificates or to prevent cutting on land to which the county holds a tax deed or tax certificate. This section shall not apply to cutting for the purpose of clearing such land for agricultural use.

(2) PENALTY. Any person who fails to send the notice required by this section shall be punished as provided in section 26.15.

26.04 TIMBER TRESPASS. Any person who unlawfully cuts or directs or contracts for the cutting of forest products on the lands of another, which is defined to include privately owned lands and those of any unit of government, and lands to which the state holds a land contract certificate under the provisions of chapter 24, or lands to which any county holds a tax certificate, shall be punished as provided in section 26.15.

26.05 TIMBER LARCENY. Any person who unlawfully cuts or directs or contracts for the cutting of forest products on the lands of another as defined in the preceding section and who does not own or control adjoining land; or who, though owning adjoining land bearing merchantable forest products, cuts on an acreage substantially in excess of his adjoining land; or who, as part of an unlawful cutting operation, removes or destroys any survey monument or bearing tree, shall be punished as provided in section 343.17 for the larceny of property of the same value.

26.06 ENFORCEMENT, SEIZURE AND SALE OF MATERIALS. (1) In cases of unlawful cutting of forest products on the public lands of the state, or federal lands leased to the state, or forest crop lands entered under the provisions of chapter 77, the foresters, forest supervisors, rangers or wardens of the conservation commission and the cruisers or foresters of the commissioners of public lands shall have the enforcement powers specified in section 26.14 (1), and also to seize, without process, any forest products unlawfully severed from such lands. Seized products cut from lands under the control of the commissioners of public lands shall be held for them and those cut from forest crop lands shall be held for the owner, and subject to his payment of severance taxes thereon to the state. Products cut from state forest lands or federal lands leased to the conservation commission shall be appraised and sold. Products appraised at more than \$250 shall be sold on sealed bid, after not less than 10 days' published notice in a newspaper having general circulation in the county where the material is located. Any sheriff may seize and hold for the owner thereof, any forest products unlawfully severed or removed.

(2) Any person unlawfully removing any seized products or removing or defacing the seizure notice of the commission or of any sheriff posted thereon, shall be punished as provided in section 26.15.

(3) Any person who transports, receives or conceals any forest products, knowing the same to have been unlawfully severed from the lands of another, shall be liable to the owner for double the value thereof and in addition shall be punished as provided in section 343.19.

26.09 CIVIL LIABILITY FOR UNLAWFUL CUTTING. In addition to the penalties provided in sections 26.04 and 26.05, any person unlawfully cutting forest products shall be liable to the owner or to the county holding a tax certificate, or to the commissioners of public lands holding a land contract certificate under the provisions of chapter 24, to the land on which the unlawful cutting was done, in a civil action, for double the amount of damages suffered. This section shall not apply to the cutting of timber for the emergency repair of a highway, fire lane or bridge upon or adjacent to the land.

SECTION 4. 331.17 of the statutes is amended to read:

331.17 A tender may also be made in all cases of involuntary trespass, *except timber trespass as defined in section 26.04*, before action is commenced; and when in the opinion of the court or jury a sufficient amount was tendered to the party injured, his agent or attorney for the trespass complained of judgment shall be entered against the plaintiff for costs; provided, that the defendant kept his tender good by paying the money into court at the trial for the use of the plaintiff.

SECTION 5. 331.175, 331.18, 343.511 and 343.512 of the statutes are repealed.

Approved June 15, 1949.