



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2001 Assembly Bill 47

**Assembly
Amendment 1**

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Current Law

Under current law, it is prohibited to cut, remove or transport or direct the cutting, removal or transportation of raw forest products (timber) without the consent of the owner. A person who violates this prohibition is subject to a forfeiture of \$100 to \$10,000. Instead of this civil forfeiture, a person who *intentionally* violates this prohibition may be prosecuted for criminal theft, the penalty for which varies based on the value of the property stolen. In addition to any other penalty, a violator is liable for the reasonable costs incurred to establish the volume and value of the stolen timber.

Assembly Bill 47

Assembly Bill 47 establishes that it is further prohibited to fail to pay the owner of timber for timber cut, removed or transported under a contract with the owner. The same civil penalties apply to violators and the same option exists to prosecute intentional violators under the criminal theft statute. In addition, the bill directs a court to award court costs to the successful party in a civil action to recover the amount of compensation due under such a contract if the unsuccessful party had unreasonably refused to pay a demand for damages or to accept an offer of payment for damages before commencement of the action.

In an apparent drafting error, the bill is inconsistent in the circumstances under which a violator is liable for the reasonable costs incurred to establish the volume and value of the timber. Specifically, it applies this provision of current law to violations of both prohibitions--the current prohibition on removal of timber without the owner's consent and the new prohibition on the failure to pay the owner for timber cut under contract. However, it applies the provision to rules promulgated under the current prohibition, but not to rules promulgated under the new prohibition.

Assembly Amendment 1

Assembly Amendment 1 deletes the language that amends the provision of current law establishing a violator's liability for the reasonable costs incurred to establish the volume and value of the timber cut, removed or transported. The result of this deletion is that violators of either prohibition or of rules promulgated under either prohibition will be liable for the reasonable costs incurred to establish the volume and value of the timber.

Assembly Amendment 1 was introduced after the Assembly Committee on Rural Affairs and Forestry had voted to recommend passage of the bill. Consequently, there is no committee recommendation regarding the amendment.

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