

By: Senator(s) Harvey

To: Forestry

SENATE BILL NO. 2418

1 AN ACT TO AMEND SECTION 95-5-10, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY DAMAGES FOR CUTTING OF TIMBER WITHOUT THE OWNER'S CONSENT;
3 TO AMEND SECTION 95-5-29, MISSISSIPPI CODE OF 1972, TO REVISE THE
4 STATUTE OF LIMITATIONS FOR SEEKING RELIEF UNDER SECTION 95-5-10,
5 MISSISSIPPI CODE OF 1972; AND FOR RELATED PURPOSES. BE IT
6 ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

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8 SECTION 1. Section 95-5-10, Mississippi Code of 1972, is
9 amended as follows:

10 95-5-10. (1) If any person shall cut down, deaden, destroy
11 or take away any tree without the consent of the owner of such
12 tree, such person shall pay to the owner of such tree a sum equal
13 to double the fair market value of the tree cut down, deadened,
14 destroyed or taken away, together with the reasonable cost of
15 reforestation, which cost shall not exceed Two Hundred Fifty
16 Dollars (\$250.00) per acre. The liability for the damages
17 established in this subsection shall be absolute and unconditional
18 and the fact that a person cut down, deadened, destroyed or took
19 away any tree in good faith or by honest mistake shall not be an
20 exception or defense to liability. To establish a right of the
21 owner prima facie to recover under the provisions of this
22 subsection, the owner shall only be required to show that such
23 timber belonged to such owner, and that such timber was cut down,
24 deadened, destroyed or taken away by the defendant, his agents or
25 employees, without the consent of such owner. If relief is
26 granted under this section, the remedy provided for in this
27 section shall be the exclusive remedy for the cutting down,
28 deadening, destroying or taking away of trees and shall be in lieu

29 of any other compensatory, punitive or exemplary damages for the
30 cutting down, deadening, destroying or taking away of trees but
31 shall not limit actions or awards for other damages caused by a
32 person.

33 (2) If the cutting down, deadening, destruction or taking
34 away of a tree without the consent of the owner of such tree be
35 done willfully, or in reckless disregard for the rights of the
36 owner of such tree, then in addition to the damages provided for
37 in subsection (1) of this section, the person cutting down,
38 deadening, destroying or taking away such tree shall pay to the
39 owner as a penalty Fifty-five Dollars (\$55.00) for every tree so
40 cut down, deadened, destroyed or taken away if such tree is seven
41 (7) inches or more in diameter at a height of eighteen (18) inches
42 above ground level, or Ten Dollars (\$10.00) for every such tree so
43 cut down, deadened, destroyed or taken away if such tree is less
44 than seven (7) inches in diameter at a height of eighteen (18)
45 inches above ground level, as established by a preponderance of
46 the evidence. To establish the right of the owner prima facie, to
47 recover under the provisions of this subsection, it shall be
48 required of the owner to show that the defendant or his agents or
49 employees, acting under the command or consent of their principal,
50 willfully and knowingly, in conscious disregard for the rights of
51 the owner, cut down, deadened, destroyed or took away such trees.

52 (3) All reasonable expert witness fees and attorney's fees
53 shall be assessed as court costs in the discretion of the court.

54 SECTION 2. Section 95-5-29, Mississippi Code of 1972, is
55 amended as follows:

56 95-5-29. An action for remedies and penalties provided by
57 Section 95-5-10 may be prosecuted in any court of competent
58 jurisdiction within twenty-four (24) months from the time the
59 injury was committed and not after. All other actions for any
60 specific penalty given by this chapter may be prosecuted in any
61 court of competent jurisdiction within twelve (12) months from the
62 time the injury was committed, and not after. * * * A recovery of
63 any penalty herein given shall not be a bar to any action for
64 further damages, or to any criminal prosecution for any * * *
65 offense as herein enumerated. A party, if he so elect, may, under

66 any of the provisions of this chapter, claim less than the penalty
67 given.

68 SECTION 3. This act shall take effect and be in force from
69 and after its passage.