

By: Senator(s) Harvey

To: Forestry

SENATE BILL NO. 3025

1 AN ACT TO AMEND SECTION 69-29-1, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE AGRICULTURAL AND LIVESTOCK THEFT BUREAU TO ENFORCE
3 LAWS PERTAINING TO PREVENTING TIMBER THEFT AND TO AUTHORIZE ACCESS
4 TO CERTAIN RECORDS; TO AMEND SECTION 97-17-59, MISSISSIPPI CODE OF
5 1972, TO REQUIRE RESTITUTION IN TIMBER THEFT CASES; TO PROVIDE A
6 PENALTY FOR FAILURE TO PAY OWNER FOR TIMBER PRODUCTS; AND FOR
7 RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** Section 69-29-1, Mississippi Code of 1972, is
10 amended as follows:

11 69-29-1. (1) (a) There is established the Mississippi
12 Agricultural and Livestock Theft Bureau.

13 (b) The Commissioner of Agriculture and Commerce shall
14 appoint a director of the Mississippi Agricultural and Livestock
15 Theft Bureau. Such director shall have at least five (5) years of
16 law enforcement experience. Such director shall be responsible
17 solely to the supervision of the Commissioner of Agriculture and
18 to no other person or entity. Such director may be discharged
19 only for just cause shown.

20 (c) The director may employ nine (9) agricultural and
21 livestock theft investigators, one (1) from each highway patrol
22 district, and each investigator is required to reside within the
23 highway patrol district from which he or she is selected. Each
24 investigator shall be certified as a law enforcement officer,
25 successfully completing at least a nine-week training course, in
26 accordance with Section 45-6-11. The curriculum for the training
27 of constables shall not be sufficient for meeting the
28 certification requirements of this paragraph. In the selection of

29 investigators under this section, preference shall be given to
30 persons who have previous law enforcement experience.

31 (d) The director appointed under this section, under
32 the direction, control and supervision of the commissioner, and
33 the investigators employed under this section shall perform only
34 the duties described in subsection (2) of this section and shall
35 not be assigned any other duties.

36 (2) The director appointed under this section and the
37 investigators employed under this section shall have the following
38 powers, duties and authority:

39 (a) To enforce all of the provisions of Sections
40 69-29-9 and 69-29-11, and particularly those portions requiring
41 persons transporting livestock to have a bill of sale in their
42 possession; to make investigations of violations of such sections
43 and to arrest persons violating same;

44 (b) To enforce all of the laws of this state enacted
45 for the purpose of preventing the theft of livestock, poultry, and
46 timber and agricultural, aquacultural, and timber products and
47 implements; to make investigations of violations thereof and to
48 arrest persons violating same;

49 (c) To cooperate with all regularly constituted law
50 enforcement officers relative to the matters herein set forth;

51 (d) To serve warrants and other process emanating from
52 any court of lawful jurisdiction, including search warrants, in
53 all matters herein set forth;

54 (e) To carry proper credentials evidencing their
55 authority, which shall be exhibited to any person making demand
56 therefor;

57 (f) To make arrests without warrant in all matters
58 herein set forth in cases where same is authorized under the
59 constitutional and general laws of this state;

60 (g) To handle the registration of brands of cattle and
61 livestock;

62 (h) To investigate, prevent, apprehend and arrest those
63 persons anywhere in the state who are violating any of the laws
64 administered by the Department of Agriculture and Commerce
65 including, but not limited to, all agriculture-related crimes.

66 (i) To access and examine records of any person,
67 business or entity that harvests, loads, carries, receives or
68 manufactures timber products as defined in this section. Each
69 person or entity shall permit the director or any investigator of
70 the Mississippi Agricultural and Livestock Theft Bureau to examine
71 records of the sale, transfer or purchase of timber or timber
72 products, including, but not limited to, contracts, load tickets,
73 settlement sheet, drivers logs, invoices, checks and any other
74 records or documents related to an ongoing investigation of the
75 Mississippi Agricultural and Livestock Theft Bureau.

76 (3) The Commissioner of Agriculture and Commerce shall
77 furnish such investigators with such vehicles, equipment and
78 supplies as may be necessary. All expenses of same, and all other
79 expenses incurred in the administration of this section, shall be
80 paid from such appropriation as may be made by the Legislature.

81 (4) The State Tax Commission and its agents and employees
82 shall cooperate with such investigators by furnishing to them
83 information as to any possible or suspected violations of any of
84 the laws mentioned herein, including specifically Section
85 69-29-27, and in any other lawful manner.

86 (5) The conservation officers of the Department of Wildlife,
87 Fisheries and Parks are authorized to cooperate with and assist
88 the agricultural and livestock theft investigators in the
89 enforcement and apprehension of violators of laws regarding
90 agricultural and livestock theft.

91 (6) The Mississippi Forestry Commission employees are
92 excluded from any timber and timber products theft investigative
93 responsibilities except when technical expertise is needed and
94 requested through the State Forester, or his designee.

95 (7) For purposes of this section, "Timber product" is
96 defined as follows:

97 "Timber of all kinds, species or sizes, including, but not
98 limited to: logs, lumber, poles, pilings, posts, blocks, bolts,
99 cordwood, pulpwood, pine stump wood, pine knots or other
100 distillate wood, crossties, turpentine (crude gum), pine straw,
101 firewood and all other products derived from timber or trees,
102 which have a sale or commercial value.

103 **SECTION 2.** Section 97-17-59, Mississippi Code of 1972, is
104 amended as follows:

105 97-17-59. (1) Any person who shall knowingly, willfully and
106 feloniously take, steal and carry away from the lands of another
107 any merchantable timber on the property of another, of the value
108 of less than Two Hundred Fifty Dollars (\$250.00), whether such
109 timber is growing, standing or lying on the lands, shall be guilty
110 of a misdemeanor; and upon conviction thereof, shall be punished
111 by a fine of not less than Two Hundred Dollars (\$200.00) nor more
112 than Five Hundred Dollars (\$500.00), or by imprisonment in the
113 county jail for a term of not less than thirty (30) days nor more
114 than one hundred (100) days, or both, in the discretion of the
115 court.

116 (2) Any person who shall knowingly, willfully and
117 feloniously take, steal and carry away from the lands of another
118 any merchantable timber on the property of another, of the value
119 of Two Hundred Fifty Dollars (\$250.00) or more, whether such
120 timber is growing, standing, or lying on the lands, shall be
121 guilty of a felony; and upon conviction thereof, shall be punished
122 by a fine of not less than One Thousand Dollars (\$1,000.00) nor
123 more than Five Thousand Dollars (\$5,000.00), or by imprisonment in
124 the penitentiary for a term of not less than one (1) year nor more
125 than five (5) years, or both, in the discretion of the court.

126 (3) In addition to any fine or imprisonment, the court shall
127 order that restitution be made to the owner of any stolen timber.

128 The measure for restitution shall be the amount of the actual
129 financial loss to the owner of the timber, including any loss of
130 income, any court costs, expert fees and attorney's fees incurred
131 by the owner to recover the loss, and any other costs incurred by
132 the owner as a result of actions in violation of subsections (1)
133 and (2) of this section. The value of the timber shall be
134 calculated by the fair market value of the timber at the time of
135 the loss.

136 **SECTION 3.** (1) Any person who acquires, with the consent of
137 the owner, any timber product from the owner and who receives
138 payment for the timber product shall, within thirty (30) days of
139 such receipt, make payment in full to the owner.

140 (2) If the owner has not received payment within the
141 required thirty (30) days, the owner shall notify the offender of
142 his demand for payment at the offender's last known address by
143 certified mail or by personal delivery of the written notice of
144 the offender. The offender shall make payment in-full within ten
145 (10) days after the mailing or delivery of the written notice or
146 the offender shall be in violation of this section.

147 (3) A written agreement signed by the owner providing for a
148 means of payment contrary to this section shall constitute an
149 affirmative defense.

150 (4) For the purposes of this section, the following terms
151 shall have the meanings ascribed to them herein unless the context
152 clearly indicates otherwise:

153 (a) "Timber product" means timber of all kinds, species
154 or sizes, including, but not limited to: logs, lumber, poles,
155 pilings, posts, blocks, bolts, cordwood and pulpwood, pine stump
156 wood, pine knots or other distillate wood, crossties, turpentine
157 (crude gum), pine straw, firewood and all other products derived
158 from timber or trees, which have a sale or commercial value.

159 (b) "Owner" means any person, partnership, corporation,
160 unincorporated association or other legal entity having any

161 interest in any timber product, any land upon which a timber
162 product is growing, or any land from which a timber product has
163 been removed.

164 (5) Whoever violates this section when the value of the
165 timber product is Five Hundred Dollars (\$500.00) or less shall be
166 fined not more than One Thousand Dollars (\$1,000.00), or
167 imprisoned for not more than one (1) year, or both. When the
168 value of the timber product is more than Five Hundred Dollars
169 (\$500.00), the violator shall be fined not more than Five Thousand
170 Dollars (\$5,000.00), or imprisoned for not more than ten (10)
171 years, or both.

172 **SECTION 4.** This act shall take effect and be in force from
173 and after July 1, 2004.