

By: Representative Moody

To: Forestry

HOUSE BILL NO. 1148

1 AN ACT TO AMEND SECTION 69-29-1, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE DUTIES AND POWERS OF THE MISSISSIPPI AGRICULTURAL AND
3 LIVESTOCK THEFT BUREAU TO INCLUDE THE ENFORCEMENT OF ALL THE LAWS
4 PERTAINING TO TIMBER AND TIMBER PRODUCTS THEFT; TO REQUIRE THAT
5 PERSONS WHO ACQUIRE TIMBER PRODUCTS FOR RESALE SHALL MAKE PAYMENT
6 IN FULL TO THE OWNER OF THE TIMBER IN A TIMELY MANNER; TO PROVIDE
7 FOR PENALTIES FOR FAILURE TO MAKE SUCH PAYMENTS TO THE OWNER OF
8 THE TIMBER; TO AMEND SECTION 97-17-59, MISSISSIPPI CODE OF 1972,
9 TO REQUIRE RESTITUTION TO THE TIMBER OWNER FOR HIS STOLEN TIMBER
10 IN ADDITION TO ANY FINE OR IMPRISONMENT THAT MAY BE IMPOSED ON THE
11 CONVICTED OFFENDER; AND FOR RELATED PURPOSES.

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

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

15 69-29-1. (1) (a) There is established the Mississippi
16 Agricultural and Livestock Theft Bureau.

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

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

32 certification requirements of this paragraph. In the selection of
33 investigators under this section, preference shall be given to
34 persons who have previous law enforcement experience.

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

40 (2) The director appointed under this section and the
41 investigators employed under this section shall have the following
42 powers, duties and authority:

43 (a) To enforce all of the provisions of Sections
44 69-29-9 and 69-29-11, and particularly those portions requiring
45 persons transporting livestock to have a bill of sale in their
46 possession; to make investigations of violations of such sections
47 and to arrest persons violating same;

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

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

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

58 (e) To carry proper credentials evidencing their
59 authority, which shall be exhibited to any person making demand
60 therefor;

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

64 (g) To handle the registration of brands of cattle and
65 livestock;

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

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

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

86 (4) The State Tax Commission and its agents and employees
87 shall cooperate with such investigators by furnishing to them
88 information as to any possible or suspected violations of any of
89 the laws mentioned herein, including specifically Section
90 69-29-27, and in any other lawful manner.

91 (5) The conservation officers of the Department of Wildlife,
92 Fisheries and Parks are authorized to cooperate with and assist
93 the agricultural and livestock theft investigators in the
94 enforcement and apprehension of violators of laws regarding
95 agricultural and livestock theft.

96 (6) The Mississippi Forestry Commission employees are
97 excluded from any timber and timber products theft investigative
98 responsibilities except when technical expertise is needed and
99 requested through the State Forester or his designee.

100 (7) For the purposes of this section, "timber product" means
101 timber of all kinds, species or sizes, including, but not limited
102 to, logs, lumber, poles, pilings, posts, blocks, bolts, cordwood
103 and pulpwood, pine stumpwood, pine knots or other distillate wood,
104 crossties, turpentine (crude gum), pine straw, firewood and all
105 other products derived from timber or trees that have a sale or
106 commercial value.

107 **SECTION 2.** (1) Any person who acquires, with the consent of
108 an owner, any timber product from that owner and who receives
109 payment for the timber product shall, within thirty (30) days of
110 such receipt, make payment in full to the owner.

111 (2) If the owner has not received payment within the
112 required thirty (30) days, the owner shall notify the offender of
113 his demand for payment at the offender's last known address by
114 certified mail or by personal delivery of the written notice to
115 the offender. The offender shall make payment in full within ten
116 (10) days after the mailing or delivery of the written notice or
117 the offender shall be in violation of this section.

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

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

124 (a) "Timber product" means timber of all kinds, species
125 or sizes, including, but not limited to, logs, lumber, poles,
126 pilings, posts, blocks, bolts, cordwood and pulpwood, pine
127 stumpwood, pine knots or other distillate wood, crossties,
128 turpentine (crude gum), pine straw, firewood and all other

products derived from timber or trees which have a sale or commercial value.

(b) "Owner" means any person, partnership, corporation, unincorporated association or other legal entity having any interest in any timber product, any land upon which a timber product is growing or any land from which a timber product has been removed.

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

SECTION 3. Section 97-17-59, Mississippi Code of 1972, is amended as follows:

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

(2) Any person who shall knowingly, willfully and feloniously take, steal and carry away from the lands of another any merchantable timber on the property of another, of the value of Two Hundred Fifty Dollars (\$250.00) or more, whether such timber is growing, standing, or lying on the lands, shall be

guilty of a felony; and upon conviction thereof, shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the Penitentiary for a term of not less than one (1) year nor more than five (5) years, or both, in the discretion of the court.

(3) In addition to any such fine or imprisonment which may be imposed upon a convicted individual, the court shall order that restitution be made to the owner of any such stolen timber. The measure for restitution in money shall be the amount of the actual financial loss to the owner of the timber, including any loss of income, any court costs, expert fees and attorney's fees incurred by the owner to recover the loss and any other costs incurred by the owner as a result of actions in violation of subsections (1) and (2) of this section. The value of the timber shall be calculated by the fair market value of the timber at the time of the loss.

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