

CHAPTER 66

(SB 38)

AN ACT relating to timber theft.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

→Section 1. KRS 364.130 is amended to read as follows:

- (1) Except as provided in *subsections*~~[-subsection]~~ (2) and (4) of this section, any person, ***regardless of state of mind or whether the person believes to be authorized or not***, who cuts or saws down, or causes to be cut or sawed down~~[-with intent]~~ to convert to his own use timber growing upon the land of another without legal right or without color of title in himself to the timber or to the land upon which the timber was growing shall pay to the rightful owner of the timber three (3) times the stumpage value of the timber and shall pay to the rightful owner of the property three (3) times the cost of any damages to the property as well as any legal costs incurred by the owner of the timber.
- (2) (a) If a defendant can certify that prior to cutting:
 1. A signed statement was obtained from the person whom the defendant believed to be the owner of all trees scheduled to be cut that:
 - a. All of the trees to be cut were on his property and that none were on the property of another; and
 - b. He has given his permission, in writing, for the trees on his property to be cut; and
 2. Either:
 - a. A written agreement was made with owners of the land adjacent to the cut that the trees to be cut were not on their property; or
 - b. Owners of the land adjacent to the cut were notified in writing, delivered by certified mail, restricted delivery, and return receipt requested, of the pending cut and they raised no objection,

the court may render a judgment for no more than the reasonable value of the timber, actual damages caused to the property, and any legal costs incurred by the owner of the timber.
- (b) With respect to subsection (2)(a)2.b. of this section, if no written objection was received from the persons notified within seven (7) days from the date of signed receipt of mail, it shall be presumed, for the purposes of setting penalties only, that the notified owner had no objection to the proposed cut.
- (3) This section shall not be construed as repealing any of the provisions of KRS 514.030 of the Kentucky Revised Statutes and any penalties provided by this chapter shall be considered as additional thereto.
- (4) ***A residential property owner or farmland owner maintaining his or her fence row who unintentionally cuts, saws down, or otherwise removes the timber of an adjoining property owner as the result of a good-faith mistake in the location of an unmarked boundary line between the properties shall only be liable to the adjoining property owner for the reasonable value of the timber, the actual damages caused to the property, and any legal costs incurred by the adjoining property owner if the cutting of the timber is later found to be unauthorized by a court of competent jurisdiction.***

Signed by Governor March 21, 2017.