

BILL ANALYSIS

Senate Research Center
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H.B. 2246
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Natural Resources
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Engrossed

DIGEST AND PURPOSE

Investigating the crime of timber theft is challenging for law enforcement officials because of the potentially outdated language regarding timber harvesting. A paper trail of ownership of timber may ease the burden of investigating this crime. H.B. 2246 requires landowners and sellers to provide a bill of sale each time timber changes ownership and establishes penalties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 151, Natural Resources Code, as follows:

CHAPTER 151. PROVISIONS GENERALLY APPLICABLE

SUBCHAPTER A. BILL OF SALE FOR PURCHASE OF TREES AND TIMBER

Deletes Sections 151.001-151.007. Redesignates Sections 151.041-151.046 as Sections 151.001-151.006.

Sec. 151.001. **REQUIRED BILL OF SALE.** Requires a seller, rather than a person, firm, partnership, or corporation, before purchasing or accepting delivery of any trees, timber, logs, pulpwood, or in-wood chips, to provide and a purchaser to require a bill of sale for the trees, timber, logs, pulpwood, or in-wood chips executed by the seller. Deletes text regarding in the manner required by law for registration. Makes conforming changes. Authorizes the bill of sale to be a part of, a compilation of information taken from, or an addendum to, by way of example, a timber deed, scale ticket, weight ticket, cutting contract, harvest agreement, wood purchase agreement, or other records of the sale and purchase made at the time if all the information required by Section 151.002 is included.

Sec. 151.002. **INFORMATION IN BILL OF SALE.** (a) Requires the bill of sale, which may be filed of record in the appropriate real property records, to at a minimum include certain information.

(b) Authorizes the purchaser of trees, timber, logs, pulpwood, or in-woods chips conveyed in the bill of sale to, and provides that the purchaser is entitled to, rely on the information required to be provided by the seller to be incorporated into the bill of sale, as well as on the representations and warranty of the seller.

Sec. 151.003. **New heading: RETENTION OF BILL OF SALE.** Requires a person that purchases trees, timber, logs, pulpwood, or in-woods chips to retain the bill of sale for not less than two years following the later of the date of execution of the bill of sale or the expiration

date referenced in the bill of sale. Deletes text regarding notarial fees in connection with the bill of sale.

Sec. 151.004. New heading: NOTICE CONCERNING SALE OR PURCHASE OF TREES OR TIMBER. Requires, at each designated point of delivery for trees, timber, logs, pulpwood, or in-woods chips, a wood yard, transfer yard, mill site, or storage yard to post a certain written notice in lettering not less than one inch. Deletes text regarding a purchaser of staves or crossties.

Sec. 151.005. PENALTY. (a) Provides that a seller or purchaser who knowingly fails to provide, obtain, or retain a bill of sale as required by Sections 151.001, 151.002, and 151.003 is guilty of a misdemeanor and on conviction is subject to a fine of not more than \$500 for each offense. Deletes text regarding sale. Deletes text regarding securing a bill of sale. Deletes text regarding \$100 or confinement.

(b) Provides that a wood yard, transfer yard, mill site, or storage yard that knowingly fails to post the notice concerning sale or purchase of trees or timber as required by Section 151.004 is guilty of a misdemeanor and on conviction is subject to a fine of not more than \$500 for each offense.

Sec. 151.006. APPLICABILITY. Provides that this subchapter does not apply to certain criteria.

Sec. 151.007. PENALTIES CUMULATIVE. Provides that a penalty provided by this subchapter is in addition to a penalty provided under other law.

Sec. 151.008. CIVIL LIABILITY. Requires nothing in this subchapter to be construed to affect the liability under any other statute or under common law, provided that failure to comply with the provisions of this subchapter does not, by itself, create civil liability.

New heading: SUBCHAPTER B. UNAUTHORIZED HARVESTING OF TIMBER

Sec. 151.051. Redesignates section as 151.051.

New heading: SUBCHAPTER C. PAYMENT FOR TIMBER PURCHASED

Redesignates Sections 151.151-151.157 as Sections 151.101-151.106.

Sec. 151.107. Redesignates Section 151.157 as 151.107. ELECTION OF OFFENSES. Authorizes, the state, if conduct constituting an offense under Section 151.105, rather than 151.155 is an offense under another law of this state, to elect the offense for which it prosecutes the trustee.

SECTION 2. Effective date: September 1, 2001.