

Original sponsors: Davis and Boyer

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

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CS FOR HOUSE BILL NO. 339 (Judiciary) am

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act relating to timber, defining the crime of

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trespass by cutting or injuring timber, regulating

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commercial sales of firewood, and authorizing dispo-

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sition of state-owned unbranded and abandoned timber

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to persons for personal, noncommercial use."

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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\* Section 1. AS 09.45.730 is repealed and reenacted to read:

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Sec. 09.45.730. TRESPASS BY CUTTING OR INJURING TIMBER. (a) A

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person who cuts down, injures, or carries off timber without lawful

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authority is liable for treble the amount of damages that may be

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assessed in a civil action

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(1) to the owner of the land for destruction or removal of

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the timber from the owner's land;

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(2) to the state for destruction or removal of the timber

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from state land;

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(3) to a municipality or village for destruction or removal

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of the timber from the land of the municipality or village.

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(b) Notwithstanding (a) of this section, the person who cuts

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down, injures, or carries off timber without lawful authority is

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liable for actual damages to the owner of the land specified in (a) of

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this section if

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(1) the trespass was unintentional or involuntary;

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(2) the defendant had probable cause to believe that the

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land on which the trespass was committed was the defendant's own or

1 that of the person in whose service or by whose direction the act was  
2 done; or

3 (3) the timber was taken from unenclosed woodland for the  
4 purpose of repairing a public highway or bridge that is constructed on  
5 the land or adjoining it.

6 (c) In this section, "timber" means

7 (1) live trees and shrubs; and

8 (2) trees and shrubs grown on the land that are dead from  
9 any cause and remain on the land.

10 \* Sec. 2. AS 41.15 is amended by adding new sections to article 5 to  
11 read:

12 Sec. 41.15.910. COMMERCIAL FIREWOOD SALES. (a) A person may  
13 not sell firewood without first obtaining a commercial firewood sales  
14 permit from the commissioner.

15 (b) The commissioner shall issue a permit to a person who pro-  
16 vides the commissioner with adequate proof of ownership of the fire-  
17 wood to be sold. The commissioner may accept as proof of ownership

18 (1) a harvest permit, contract, or other legal instrument  
19 issued by the owner of the land from which the firewood was harvested  
20 or, if the firewood was harvested from public land, issued by a muni-  
21 cipality or a state or federal agency that specifies the

22 (A) date of execution of the legal instrument and the  
23 date of its termination, if any;

24 (B) name and address of the permittee or contractor  
25 who harvested the firewood;

26 (C) location, by legal description or legal address,  
27 where the firewood was harvested; and

28 (D) estimated amount, volume, and species of the  
29 firewood harvested from each location;

1 (2) a bill of sale showing title to the firewood that  
2 specifies the

3 (A) date of execution of the bill of sale;

4 (B) name and address of the person who sold the fire-  
5 wood to the permit applicant;

6 (C) name and address of the permit applicant;

7 (D) amount, volume, and species of the firewood trans-  
8 ferred by the bill of sale; and

9 (E) location, by legal description or legal address,  
10 from which the firewood was harvested; or

11 (3) a certificate of registration issued as evidence of  
12 compliance with AS 45.50.210 - 45.50.325.

13 (c) The commissioner may include in the permit the terms and  
14 conditions that the commissioner believes to be necessary to carry out  
15 this section.

16 (d) A permit is valid for one year.

17 (e) The commissioner may adopt regulations to implement and  
18 enforce this section.

19 Sec. 41.15.915. CIVIL PENALTY FOR SALES WITHOUT PERMIT. In  
20 addition to damages under AS 09.45.730, a person who sells firewood in  
21 violation of AS 41.15.910, who violates a term or condition of the  
22 permit issued under AS 41.15.910, or who violates a regulation adopted  
23 under AS 41.15.910 is liable to the state in a civil action for

24 (1) the reasonable costs incurred by the state in the  
25 detection, investigation, and attempted correction of the violation,  
26 including reasonable court costs and attorney's fees; and

27 (2) three times the retail value of the firewood, other  
28 than values already calculated as damages under AS 09.45.730, that is  
29 sold in violation of AS 41.15.910, the permit, or the regulations.

1           Sec. 41.15.920. SALES WITHOUT PERMIT MADE A VIOLATION. (a) A  
2 person who knowingly sells firewood in violation of AS 41.15.910 or  
3 who knowingly violates a term or condition of the permit issued under  
4 AS 41.15.910 or a regulation adopted under AS 41.15.910 is guilty of a  
5 violation.

6           (b) If, in a proceeding under this section, the defendant shows,  
7 by a preponderance of the evidence, that the commercial firewood was  
8 harvested from the property of the defendant or from the property of  
9 another with the permission of the property owner, the court may not  
10 impose a fine.

11           Sec. 41.15.925. INJUNCTIONS. (a) The superior court has juris-  
12 diction to enjoin a violation of AS 41.15.910 - 41.15.930, a regu-  
13 lation adopted under AS 41.15.910 - 41.15.930, or a permit, or a term  
14 or condition of a permit issued under AS 41.15.910 - 41.15.930.

15           (b) In an action brought under this section, temporary or pre-  
16 liminary relief may be obtained upon a showing of an imminent threat  
17 of continued violation and probable success on the merits, without the  
18 necessity of demonstrating irreparable physical harm.

19           Sec. 41.15.930. DEFINITIONS. In AS 41.15.910 - 41.15.930

20           (1) "commissioner" means the commissioner of natural re-  
21 sources;

22           (2) "firewood" means natural logs or portions of natural  
23 logs suitable for use as a solid fuel, with processing of the logs  
24 limited to cutting to length and splitting;

25           (3) "permit" means a commercial firewood sales permit  
26 authorized by AS 41.15.910.

27 \* Sec. 3. AS 45.50.235(b) is amended to read:

28           (b) Timber property that [WHICH] becomes state property under  
29 the provisions of (a) of this section may be

1                   (1) sold under terms and conditions established by the  
2 director of the division of lands; or  
3                   (2) recovered, without a permit, by any person for per-  
4 sonal, noncommercial use.