

Original sponsors: Davis and Boyer

1 IN THE HOUSE BY THE RESOURCES COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 339 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to timber, defining the crime of
7 trespass by cutting or injuring timber, regulating
8 commercial sales of firewood, and authorizing dispo-
9 sition of state-owned unbranded and abandoned timber
10 to persons for personal, noncommercial use."

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

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 AS 09.45.730 is repealed and reenacted to read:

13 Sec. 09.45.730. TRESPASS BY CUTTING OR INJURING TIMBER. (a) A
14 person who cuts down, injures, or carries off timber without lawful
15 authority is liable for treble the amount of damages that may be
16 assessed in a civil action

17 (1) to the owner of the land for destruction or removal of
18 the timber from the owner's land;

19 (2) to the state for destruction or removal of the timber
20 from state land;

21 (3) to a municipality or village for destruction or removal
22 of the timber from the land of the municipality or village.

23 (b) Notwithstanding (a) of this section, the person who cuts
24 down, injures, or carries off timber without lawful authority is
25 liable for actual damages to the owner of the land specified in (a) of
26 this section if

27 (1) the trespass was unintentional or involuntary;

28 (2) the defendant had probable cause to believe that the
29 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) Except as
13 provided in (e) of this section, a person may not sell firewood with-
14 out first obtaining a commercial firewood sales permit from the com-
15 missioner.

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

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

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

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

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

29 (D) estimated amount, volume, and species of the

1 firewood harvested from each location;

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

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

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

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

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

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

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

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

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

18 (e) The provisions of this section do not apply to a person who
19 sells firewood harvested from land that the person owns.

20 (f) The commissioner may adopt regulations to implement and
21 enforce this section.

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

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

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

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

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

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

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

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

22 (1) "commissioner" means the commissioner of natural re-
23 sources;

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

27 (3) "permit" means a commercial firewood sales permit
28 authorized by AS 41.15.910.

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

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

3 (1) sold under terms and conditions established by the
4 director of the division of lands; or

5 (2) recovered, without a permit, by any person for per-
6 sonal, noncommercial use.