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68

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

January 25, 1989

The Honorable Jan Faiks, Chair
Senate Judiciary Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

Subject: SB 68, An Act relating to theft of timber products.

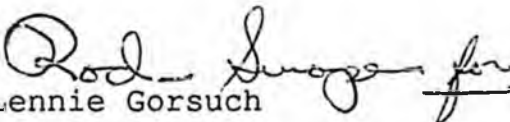
Position: The Department of Natural Resources supports SB 68 with changes as proposed by the sponsors.

Background: SB 68 attempts to address a problem faced by the Division of Forestry and many commercial firewood dealers in the Matanuska-Susitna valley and the Fairbanks area. This problem involves the unauthorized harvest of timber from state lands. The existing statutes provide inadequate authority to deal with this problem. At present, the Division of Forestry must prove that the firewood seller unlawfully obtained timber from state land, which is difficult to do once timber has been removed from the harvest site. This bill will require a harvest permit before any firewood is harvested and make it easier to determine a trespasser from a legitimate operator.

Recommendation: The department supports the concept of the bill as originally written but believes the changes as drafted by the sponsors make for a more effective way to address the problem.

We look forward to working with the Committee and staff through the progress of this legislation.

Sincerely,


Lennie Gorsuch
Commissioner

cc: Committee Members
Bill Sponsors
Bob Evans
Denby Lloyd
Bob Dick

FISCAL NOTE

REQUEST:

Revision Date: 1-23-89
Title: An Act relating to Timber Trespass and Commercial Harvest of Firewood
Sponsor: Coghill and Kerttula
Requestor: Senate Judiciary

Agency Affected: Natural Resources
BRU: Forest Management
Components: Forest Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: George K. Hollett Phone: 465-2491
Division: Forestry Date: 1-24-89

Approved by Commissioner: [Signature] Date: 1/25/89
Agency: Natural Resources

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

ANALYSIS SSSB 68

Assumptions - SSSB 68 attempts to address a serious problem faced by the Division of Forestry and many commercial firewood dealers in Northern Alaska. This problem involves the unauthorized harvest of timber from state lands. The existing statutes provide inadequate authority to deal with this problem whereas this bill will allow division personnel to check anyone harvesting firewood for a permit.

The zero fiscal note is predicated on the assumption that the Division of Forestry personnel will continue to work on the trespass problem on an as needed basis and the Attorney General's office will continue with its limited help. If much increased enforcement is seen as a passage of the bill, then additional help within the Division of Forestry and/or State Troopers and the Attorney General's office will be needed.

Senator John B. (Jack) Coghill

Alaska State Legislature

Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0862



MEMORANDUM

To: Senator Jan Faiks
Senate Judiciary Committee, Chair

From: Senator Jack Coghill

Re: Sponsor Position: SB 68 relating to Timber Trespass

Date: January 24, 1989

RECEIVED

JAN 24 1989

JAN FAIKS
SENATE OFFICE

Intent: This legislation proposes to fill a gap in the management of both public and private timber resources. Presently, our laws protecting timber from theft are not enforceable. This legislation is intended to fill that gap.

Background: During the 15th legislative session this measure worked its way through the committee process and nearly passed both houses.

This bill was originally the work of the late Senator Don Bennett, but in its present form, it has gone through substantial transformation.

I reintroduced the bill this session essentially the same as the last House version we worked on in Senate Resource Committee in 1988.

Attachments: Staff Sectional Analysis, identifying differences between SB 68 and a work draft CS SB 68; and relevant statutes.

Recommendation: I recommend you adopt the attached draft CS SB 68 as a Judiciary Committee Substitute, and pass the CS out of Judiciary Committee with do pass recommendations.

Rational: The draft Committee Substitute for SB 68 contains changes from a resource committee substitute that was put together in the closing hours of the fifteenth legislature. Additionally, the draft before you, removes several flaws I found in both the 1988 House and Senate versions of the bill.

One flaw that should be noted here is that SB 68 spoke to timber trespass or theft, in relation to land ownership. In many cases as you know, the ownership of the timber may be different from the ownership of the land, as in the case of a timber sale on state land. The state owns the land, and the winning competitive bidder, a private entity, owns the timber. Therefore, the draft CS SB 68 speaks to trespass in relation to timber ownership, rather than land ownership.

Senator John B. (Jack) Coghill

Alaska State Legislature

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MEMORANDUM

To: Senator Jack Coghill
From: Bruce Geraghty *BRG*
Re: Staff Sectional Analysis: SB 68 (Relating to Timber Trespass) in relation to draft CS SB 68.
Date: January 23, 1989

At your direction legal services has drafted the attached blank committee substitute working draft. This analysis focuses on this CS, making note of the effects changes contained in the CS have on the original bill, SB 68.

CS SECTION 1. AS 09.45.730. is repealed and reenacted as:

AS 09.45.730. TRESPASS BY CUTTING OR INJURING TIMBER.

This section makes a person liable for triple or actual damages for the unauthorized acts of cutting down, injuring, or carrying off timber, owned by a private, state, or municipal interest.

The original bill has the same intent except that the owner of the land was the recipient of the damage award instead of the owner of the timber. This is a clarification of the property interest.

The reference to "village" in lines 21 and 22 was also removed as being redundant.

The existing statute, AS 09.45.730. Trespass by cutting or injuring trees or shrubs[.], expresses similar intent and a copy is attached to this memo. Please note that law was passed in 1962, with revisors amendments in 1988 which had no effect.

CS SECTION 2. AS 41.15 is amended by adding 5 new sections.

1. Sec. 41.15.910. COMMERCIAL FIREWOOD HARVEST PERMITS.

This section requires all commercial harvesters of firewood, above sales of 20 cords or land owners with greater than 10 acres of land, to acquire an annual permit from the

department of natural resources. It also defines the criteria for making application to the commissioner of DNR.

The original bill did not require a permit before the timber was cut and the exemption for owned timber, lines 17-19 page 3 (SB 68), was so broad the legislation would have been unenforceable.

2. Sec. 41.15.915 CIVIL PENALTY FOR SALES WITHOUT PERMIT.

This section establishes civil penalties for firewood sales, in addition to trespass penalties from SECTION 1, for the costs incurred by the timber owner in bringing the civil action. i.e. costs incurred in detection, investigation, attempted correction, reasonable court costs and attorney's fees.

The original bill (SB 68) stated a violator was liable to the state for damages, regardless of timber ownership. A technical change in the draft CS was made to reflect liability to the timber owner.

3. Sec. 41.15.920 HARVESTS WITHOUT PERMIT MADE A VIOLATION.

The act of knowingly harvesting firewood without a permit, or violating a permit term or condition, is made a violation.

The original bill spoke to knowing sales, rather than on knowing harvests. Leaving the emphasis on sales may have resulted in 'locking the barn after the horse had already been stolen.'

This section in SB 68 also contained a subsection (b), lines 6-9 page 4, which allowed a defense in a proceeding brought under this section. The defense was so broad as to make the section unenforceable.

The draft CS deletes subsection (b).

It is also noteworthy that the CS contains less ambiguous criteria for those needing to acquire a harvest permit, Sec.41.15.910(e), making this defense section in SB 68 unnecessary.

4. Sec. 41.15.925 INJUNCTIONS.

This section gives the superior court the authority to enjoin a violation under this legislation and to grant temporary or preliminary relief, "upon a showing of an imminent threat of continued violation and probable success on the merits".

The draft CS contains no changes from the original.

5. Sec. 41.15.930 DEFINITIONS.

This section defines three terms, "commissioner", "firewood", and "permit".

The draft CS contains no changes from the original.

CS SECTION 3. AS 45.50.235(b) OWNERSHIP OF UNBRANDED AND ABANDONED TIMBER PROPERTY is amended.

The section grants a person the right to recover and use state timber for noncommercial purposes, when the timber is unbranded or the brand is not distinguishable and which is located in a coastal water, lake, river, creek or other waterway of the state or on state owned coastline.

AS 45.50.235(a) also cites AS 45.50.230-234 (attached) which sets out a procedure and time lines for recovery of lost, rafted, or drift timber.

The draft CS contains no changes from the original.

Sec. 09.45.640. Damages for withholding property and value of improvements as setoff.

NOTES TO DECISIONS

Quoted in *Etalook v. Exxon Pipeline Co.*, 831 F.2d 1440 (9th Cir. 1987).

Sec. 09.45.690. Failure to pay rent.

NOTES TO DECISIONS

Cited in *Murray v. Feight*, Sup. Ct. Op. No. 3210 (File No. S-1378), P.2d (1987).

Sec. 09.45.720. Actions to recover possession by tenant in dower. [Repealed, § 1 ch 89 SLA 1984.]

Article 7. Trespass.

Section

730. Trespass by cutting or injuring trees or shrubs

Section

735. Trespass related to geotechnical surveys and mining

Sec. 09.45.730. Trespass by cutting or injuring trees or shrubs. A person who without lawful authority cuts down, girdles, or otherwise injures or removes a tree, timber, or a shrub on (1) the land of another person or on the street or highway in front of a person's house, or (2) a village or municipal lot, or cultivated grounds, or the commons or public land of a village or municipality, or (3) the street or highway in front of land described in (2) of this section, is liable to the owner of that land, or to the village or municipality for treble the amount of damages which may be assessed in a civil action. However, if the trespass was unintentional or involuntary, or the defendant had probable cause to believe that the land on which the trespass was committed was the defendant's own or that of the person in whose service or by whose direction the act was done, or where the timber was taken from unenclosed woodland for the purpose of repairing a public highway or bridge on or adjoining the land, only actual damages may be recovered. (§ 27.01 ch 101 SLA 1962; am § 16 ch 85 SLA 1988)

Effect of amendments. — The 1988 amendment, effective June 2, 1988, rewrote the first sentence, and substituted "unintentional" for "casual" and "on or adjoining the land" for "upon the land or adjoining it" in the second sentence.

Legislative history reports. — For an analysis of the amendment of this section by sec. 16, ch. 85, SLA 1988 (HCS CSSB 413 (Jud)), see 1988 House & Senate Joint Journal Supplement No. 18, May 10, 1988 p. 4.

NOTES TO DECISIONS

Instructions. — In action arising out of automobile accident, the trial court's refusal to take judicial notice of or instruct the jury on this section was not error since it was not applicable to the controversy and any instruction would tend to mislead, confuse, or divert the jury. *Shane v. Rhines*, Sup. Ct. Op. No. 2750 (File No. 5653), 672 P.2d 895 (1983).

"Casual" negligence means negligent conduct not involving an intent or design to enter or harm trees. "Casual" refers to whether the trespasser intended to cut,

not the reason for an intended cutting. *Matanuska Elec. Ass'n v. Weissler*, Sup. Ct. Op. No. 3089 (File No. S-738), P.2d (1986) (decided prior to 1988 amendment).

"Probable cause" protection. — The probable cause language in this section protects defendants who honestly and reasonably stray into another owner's property. *Matanuska Elec. Ass'n v. Weissler*, Sup. Ct. Op. No. 3089 (File No. S-738), P.2d (1986).

Sec. 09.45.735. Trespass related to geotechnical surveys and mining. (a) A person who cuts down, girdles, or otherwise injures or carries off a tree, timber, or shrub on the land of another person or on the street or highway in front of a person's house, or of a village, town, or city lot, or cultivated grounds, or on the commons or public grounds of a village, town, or city, or on the street or highway in front of them, without lawful authority, is liable to the owner of that land, or to the village, town, or city for treble the amount of damages which may be assessed in a civil action. However, if the trespass was casual or involuntary, or the defendant had probable cause to believe that the land on which the trespass was committed was the defendant's own or that of the person in whose service or by whose direction the act was done, or where the timber was taken from unenclosed woodland for the purpose of repairing a public highway or bridge upon the land or adjoining it, only actual damages may be recovered.

(b) A person who trespasses upon the land of another to gather geotechnical data or take mineral resources is liable to the owner of the land for treble the amount of damages that may be assessed in a civil action. If the trespass is unintentional or involuntary or the defendant had probable cause to believe that the land on which the trespass was committed was the defendant's own or that of the person in whose service or by whose direction the act was done, only actual damages may be recovered. (§ 1 ch 168 SLA 1988)

Revisor's notes. — Enacted as AS 09.45.730(b). Renumbered in 1988.

Sec. 41.15.900. Observance of Arbor Day. To increase public awareness of the vital importance of the conservation and propagation of trees and forests to the everyday life of the citizens of Alaska, the third Monday in May of each year is designated "Arbor Day." It shall be observed by appropriate school assemblies and programs and shall be the occasion for other suitable observances and exercises by civic groups and the public in general. (§ 1 ch 11 SLA 1966; am § 1 ch 15 SLA 1973)

Revisor's notes. — Formerly AS 41.15.400. Renumbered in 1983.

Article 6. General Provisions.

Section

950. Enforcement authority

Sec. 41.15.950. Enforcement authority. (a) The following persons are peace officers of the state and they shall enforce the provisions of this chapter and the regulations adopted under this chapter:

(1) solely for the purpose of enforcing this chapter, an employee of the Department of Natural Resources, or other person, authorized by the commissioner;

(2) a police officer in the state.

(b) A person designated in (a) of this section may, when enforcing the provisions of this chapter or a regulation adopted under this chapter,

(1) execute a warrant or other process issued by an officer or court of competent jurisdiction;

(2) administer or take an oath, affirmation or affidavit; and

(3) arrest a person who violates a provision of this chapter or a regulation adopted under this chapter. (§ 4 ch 179 SLA 1970)

Revisor's notes. — Formerly AS 41.15.700. Renumbered in 1983.

Chapter 17. Forest Resources and Practices.

Article

1. Administration and Management (§§ 41.17.010 — 41.17.110)
2. Enforcement (§§ 41.17.120 — 41.17.143)
3. State Forest System (§§ 41.17.200 — 41.17.230)
4. State Land Reforestation (§§ 41.17.300 — 41.17.320)
5. Tanana Valley State Forest (§ 41.17.400)
6. General Provisions (§§ 41.17.900 — 41.17.950)

Unless the time for recovery is extended under AS 45.50.237, the rightful transporter or owner of timber property has 90 days from the date the loss is reported to recover the timber property. After 90 days from the date of reporting or upon the expiration of any extension granted under AS 45.50.237, the timber property is considered to be abandoned, no notice is required to be published under AS 45.50.234, and the timber property is presumed to be the property of the state. (§ 2 ch 232 SLA 1976)

Sec. 45.50.234. Publication of notice of intent to claim abandoned property. Except as provided in AS 45.50.232, the department shall publish notice of its intent to claim abandoned timber property under AS 45.50.210 — 45.50.325 for not less than 30 days from the date that first notice is published under this section. Notice shall be published once a week for at least three consecutive weeks in a newspaper of general circulation nearest the area where the timber property is located and, if feasible, posted in a centrally located public place within or in close proximity to the area where the timber property is located. (§ 2 ch 232 SLA 1976)

Sec. 45.50.235. Ownership of unbranded and abandoned timber property. (a) Timber property which is unbranded or on which a brand is not distinguishable and which is located in a coastal water, lake, river, creek or other waterway of the state or on state owned coastline is presumed to be the property of the state. Timber property which is abandoned property as defined in AS 45.50.230(a)(2) is presumed to be the property of the state 90 days after the period of reporting as required in AS 45.50.232 unless an extension has been granted, or 30 days after the period of notice has expired as provided under AS 45.50.234.

(b) Timber property which becomes state property under the provisions of this section may be sold under terms and conditions established by the director of the division of lands. (§ 4 ch 168 SLA 1970; am § 3 ch 68 SLA 1975; am § 3 ch 232 SLA 1976; am § 5 ch 73 SLA 1978)

Sec. 45.50.237. Extension of period for recovery of timber property. The department shall extend the 90-day period for recovery of timber property after reporting specified in AS 45.50.232 if a good faith effort to salvage the timber property is being made by the person requesting the extension. Extensions shall be granted for limited periods only but may be continued until salvage is completed, and guidelines shall be established specifying what constitutes a good faith effort for purposes of extension under regulations adopted by the de-

registered in the name of another person that one brand is not clearly distinguishable from the other. (§ 1 ch 51 SLA 1953; am § 1 ch 191 SLA 1955; am § 1 ch 168 SLA 1970; am § 1 ch 68 SLA 1975)

Collateral references. — 52 Am. Jur. 2d, Logs and Timber, §§ 9, 12, 22, 102, 104.

Sec. 45.50.220. Termination and renewal. The right to the exclusive use of a registered brand ceases at the end of five years from the date of registration. The brand may be renewed by application before expiration, together with the payment of the prescribed fee. Renewals may be made successively for five-year terms. (§ 2 ch 51 SLA 1953; am § 2 ch 168 SLA 1970; am § 2 ch 68 SLA 1975)

Sec. 45.50.230. Presumption from display. (a) Each piece of timber property put or intended to be put in a coastal water, lake, river, creek or other waterway of the state for the purpose of rafting or transporting by floating or towing shall display upon at least one end the registered brand and is presumed

(1) while in the possession and control of the person in whose name the brand is registered, to be the sole property of that person; and

(2) to be "abandoned property" if, 30 days after the time public notice has expired as provided under AS 45.50.234 or 90 days from the date of reporting required under AS 45.50.232 or from the date of expiration of any extended recovery period under AS 45.50.237, it is not in the possession and control of the owner or rightful transporter and is

(A) adrift in the water of the state,

(B) stranded on the beaches, marshes, tide or shoreland of the water of the state, or

(C) partially or wholly submerged in the water of the state.

(b) [*Repealed, § 7 ch 232 SLA 1976.*] (§ 3 ch 51 SLA 1953; am § 2 ch 191 SLA 1955; am § 3 ch 168 SLA 1970; am §§ 1, 7 ch 232 SLA 1976)

Sec. 45.50.232. Reporting of lost logs to the department. The owner or rightful transporter of timber property not in the possession or control of the owner or transporter, which has become adrift in the water of the state, stranded on the beaches, marshes, tide or shoreland of the water of the state, or partially or wholly submerged in the water of the state, shall report the loss of the timber property within 15 days from the time the loss is discovered to the department, indicating the probable date lost, the place lost, if known, the probable area of recovery and any other information which the department may require.

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 68 ()

Page 3, lines 21 - 23:

Delete all material and insert:

"(e) The provisions of this section do not apply to

(1) annual harvests of 20 or fewer cords of firewood by a person who harvests the firewood from 10 or fewer acres of timber the person owns; or

(2) the removal of timber from state land by individuals under a personal use timber permit issued by the commissioner."

6-0355E ✓
Bradley
1/24/89

Original sponsors: Coghill and Kerttula

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 68 ()
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 NINETEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to timber, establishing civil reme-
7 dies for trespass by cutting or injuring timber,
8 regulating commercial harvest of firewood, and per-
9 mitting personal, noncommercial use of state-owned
10 unbranded and abandoned timber."

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 timber for destruction or removal
18 of the timber;

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

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

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 timber specified in (a)
26 of this section if

27 (1) the trespass was unintentional or involuntary;

28 (2) the defendant had probable cause to believe that the
29 timber that is the subject of the trespass 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 HARVEST PERMITS. (a) A
13 person may not harvest firewood without first obtaining a commercial
14 firewood harvest permit from the commissioner. The commissioner shall
15 make permits available by mail.

16 (b) The commissioner shall issue a permit to a person who pro-
17 vides the commissioner with adequate proof of the right to harvest the
18 particular timber. The commissicner may accept as proof of the right
19 to harvest

20 (1) a harvest permit, contract, or other legal instrument
21 issued by the owner of the timber from which the firewood will be
22 harvested or, if the firewood will be harvested from public land,
23 issued by a municipality or a state or federal agency that specifies
24 the

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

27 (B) name and address of the permittee or contractor
28 who will harvest the firewood;

29 (C) location, by legal description or legal address,

1 where the firewood will be harvested; and

2 (D) estimated amount, volume, and species of the
3 firewood to be harvested from each location;

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

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

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

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

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

12 (E) location, by legal description or legal address,
13 from which the firewood will be harvested; or

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

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

19 (d) A permit is valid for one year and permits the harvest of
20 timber only from the areas described in the permit.

21 (e) The provisions of this section do not apply to annual
22 harvests of 20 or fewer cords of firewood by a person who harvests the
23 firewood from 10 or fewer acres of timber the person owns.

24 (f) The commissioner may adopt regulations to implement and
25 enforce this section.

26 Sec. 41.15.915. CIVIL PENALTY FOR SALES WITHOUT PERMIT. In
27 addition to damages under AS 09.45.730, a person who harvests firewood
28 in violation of AS 41.15.910, who violates a term or condition of the
29 permit issued under AS 41.15.910, or who violates a regulation adopted

1 under AS 41.15.910 is liable to the owner of the timber in a civil
2 action for the reasonable costs incurred by the owner in the detec-
3 tion, investigation, and attempted correction of the violation, inclu-
4 ding reasonable court costs and attorney's fees.

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

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

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

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

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

21 (2) "firewood" means natural logs or portions of natural
22 logs suitable for use as a solid fuel that have not been processed
23 beyond cutting to length and splitting;

24 (3) "permit" means a commercial firewood harvest permit
25 authorized by AS 41.15.910.

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

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

29 (1) sold under terms and conditions established by the

1 director of the division of lands; or

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