

- SUBJECT:** Record-keeping and posted notices for all timber transactions
- COMMITTEE:** Agriculture and Livestock — committee substitute recommended
- VOTE:** 7 ayes — Swinford, McReynolds, Christian, Hardcastle, Brown, Hupp, Kolkhorst
- 0 nays
- 2 absent — Miller, Green
- WITNESSES:** For — M.K. “Buffalo” Allwright, Private Non-Industrial Forest Landowners Association; Tony Bennett, Texas Forestry Association/Temple-Inland; Jeff Chance and Ron Hufford, Texas Forestry Association; Bob Currie, Texas Logging Council/Texas Forestry Association; Gary Joiner, Texas Farm Bureau; Scott W. Rosekrans, San Jacinto County Criminal District Attorney’s Office; Leon F. Vann; (*On committee substitute*) Richard Shaw, International Paper
- Against — None
- On — Ron Davis, Texas Forest Service
- BACKGROUND:** Natural Resources Code, ch. 151 sets forth guidelines for the branding and floating of timber, the duties of the Texas Forest Service, damages for unauthorized timber harvesting, and payment for timber purchases.
- DIGEST:** CSHB 2246 would strike subchapter A on branding and floating of timber and replace it with new requirements for bills of sale for all purchases of timber and specified by-products. It also would set new penalties and require posting of notices of penalties for non-compliance.
- The bill would apply bill-of-sale requirements to sellers and purchasers on delivery of trees, timber, logs, pulpwood, or in-woods chips. Bills of sale could be included in, compiled from or added to such documents as timber deeds, scale tickets, weight tickets, cutting contracts, harvest or wood purchase agreements, or other sale and purchase records made at the time.

Bills of sale could be filed with real property records and would have to include, at a minimum:

- ! the names of the timber or by-products landowner, the seller (if not the owner), and the purchaser;
- ! descriptions of or identifying information about the survey or tract of land where the timber or by-products originated, including the county, and of the timber or by-products sold; and
- ! a seller's warranty and representations of ownership or the absence of any outstanding liens, security agreements, encumbrances, claims, demands and charges.

Purchasers would be authorized to rely on bills of sale, warranties and representations. They would have to retain bills of sale at least two years from the date of sale or the bill of sale's expiration date, whichever was later.

To knowingly fail to post required notices or to provide, obtain or retain bills of sale would be misdemeanors punishable by fines of up to \$500 for each offense, in addition to any other penalties provided by law. CSHB 2246 would strike the accompanying confinement penalty of up to 30 days in jail.

Wood yards, transfer yards, mill sites, and storage yards would have to post prescribed written notices at each designated point of delivery for trees, timber, logs, pulpwood or in-woods chips. In letters at least an inch high, the notices would have to state the penalties for violating the subchapter's bill-of-sale requirements and the prohibition in the Penal Code against tree or timber theft or fraud. Notices also would have to include the Texas Forest Service Timber Theft Hotline number.

Failure to comply with the subchapter's provisions would not create civil liability, nor would it affect liability under any other statute.

CSHB 2246 would not apply to finished wood products; logs or pulpwood from a wood yard, transfer yard, mill site or storage yard; nursery trees; or trees, logs or pulpwood valued under \$250. All provisions related to verified statements for purchases of staves or crossties would be deleted.

The bill would take effect September 1, 2001.

**SUPPORTERS
SAY:**

CSHB 2246 would address the major problem of timber theft, which costs Texas' timber industry as much as \$100 million a year in lost income. Approximately 10 percent of the loads hauled in the state may contain stolen timber. Private individuals own more than 60 percent of commercial timberland, and more than half of them are absentee landowners, making them prime targets for thieves.

The bill would update current laws, which are antiquated, ignored and difficult to enforce. Theft investigations are hampered by the lack of a paper trail making auditing ineffective if not impossible.

CSHB 2246 would represent a progressive step in timber theft enforcement acceptable to all segments of the industry. It would create a verifiable chain of title that would help investigators trace loads back to their origins or last point of delivery. Requiring bills of sale would give law enforcement a valuable tool against timber thieves who often include some factual information in otherwise false bills of sale. It also would allow for better on-site inspections of yards and mills. Auditors would be able to identify gaps in documentation because bills of sale would be required at each point in the delivery process. Requiring more paperwork also would discourage the purchasing of stolen timber. Retaining bills of sale for two years would be necessary because of the two-year deadline required to file suit for unlawful conversion of property.

Firewood and other non-commercial uses would be covered by the under-\$250-value provision.

**OPPONENTS
SAY:**

The bill would not deter thieves because they do not maintain records of what they steal. They would be able to circumvent the paper trail provisions through forgery because the bill would not prescribe set forms for the required documents. The end result would be more paperwork for reputable operators. Mills should have to verify the information contained in the bills of sale they receive.

CSHB 2246 would not address staffing issues created by increased enforcement. The Texas Forest Service currently only responds to

complaints. Enforcement manpower should be increased to allow investigators to be more proactive.

OTHER
OPPONENTS
SAY:

The bill should specifically exempt firewood and other wood obtained for non-commercial purposes, rather than using a dollar value.

NOTES:

The committee substitute would apply the bill-of-sale requirements to sellers, rather than persons, and to purchasers. It would allow filing of bills of sale with real property records. The substitute would require bills-of-sale to include seller representations and the name of the county where the timber or by-products originated, but removed the landowner's address. The substitute would allow purchasers to rely on bills-of-sale and the seller's warranty and representations. The original bill would have required posting notices stating that theft convictions would be punishable by up to life imprisonment and fines up to \$10,000, and that fraud convictions would be punishable by up to two years' imprisonment and fines up to \$10,000. The substitute added exemptions for finished wood products; nursery trees; and logs or pulpwood worth less than \$250 or from wood, transfer or storage yards or mill sites. The substitute also would apply the civil liability provisions only to new Subchapter A on tree and timber purchases.