

## **BILL ANALYSIS**

Senate Research Center  
82R3681 TRH-F

S.B. 584  
By: Nichols  
Agriculture & Rural Affairs  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The current wording of the Natural Resources Code includes a section on damages for unauthorized harvest of timber, but does not include a section on criminal penalties for unauthorized harvests.

Prosecutors have looked to the generally applicable theft provisions found in the Penal Code, but S.B. 584 clarifies that unauthorized harvests of timber are a distinct offense.

Current law also restricts the courts by limiting damages to three times the market price for timber.

Limiting damages to three times the market price ignores the possibility that the actual damages incurred may exceed three times the market price. Actual damages incurred often includes destruction of real property, such as fences and roadways, the mill price of the timber stolen, and a costly timber survey which must be conducted prior to seeking criminal charges.

This bill allows a court to award the sum of the mill price of the timber and all reasonable expenses incurred as a direct result of the unauthorized harvest.

As proposed, S.B. 584 amends current law relating to the unauthorized harvesting of standing timber and provides for the imposition of a criminal penalty.

### **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 Sections 151.051(a) and (b), Natural Resources Code, as follows:

(a) Provides that a person who harvests standing timber with knowledge that the harvesting is without the permission of the owner of the standing timber and a person who causes another person to harvest standing timber without the permission of the owner of the standing timber are jointly and severally liable to the owner for damages in an amount equal to the sum of the mill price of the timber harvested and all reasonable expenses incurred by the owner as a direct result of the unauthorized harvesting, rather than in an amount equal to three times the market price of the timber harvested without permission.

(b) Provides that payment of damages by a person under this section does not preclude a prosecution of the person under Section 151.005 (Penalty) or 151.052.

SECTION 2. Amends Subchapter B, Chapter 151, Natural Resources Code, by adding Section 151.052, as follows:

Sec. 151.052. CRIMINAL OFFENSE. (a) Provides that a person commits an offense if the person:

(1) harvests standing timber with knowledge that the harvesting is without the permission of the owner of the standing timber; or

(2) causes another person to harvest standing timber without the permission of the owner of the standing timber.

(b) Provides that an offense under this section is:

(1) a state jail felony if it is shown on the trial of the offense that the value of the timber harvested is at least \$500 but less than \$20,000;

(2) a felony of the third degree if it is shown on the trial of the offense that the value of the timber harvested is at least \$20,000 but less than \$100,000;

(3) a felony of the second degree if it is shown on the trial offense that the value of the timber harvested is at least \$100,000 but less than \$200,000; or

(4) a felony of the first degree if it is shown on the trial of the offense that the value of the timber harvested is at least \$200,000.

SECTION 3. Makes application of Section 151.051, Natural Resources Code, as amended by this Act, prospective.

SECTION 4. Effective date: September 1, 2011.