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SP595 Timber Theft! How to avoid it and what to do if it happens

The University of Tennessee Agricultural Extension Service

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Renewable Resource Notes

Timber Theft!

(How to avoid it and what to do if it happens)

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Timber theft, or timber trespass, is common throughout the Southeast. Each year numerous private forest landowners discover their timber has been stolen or inadvertently harvested.

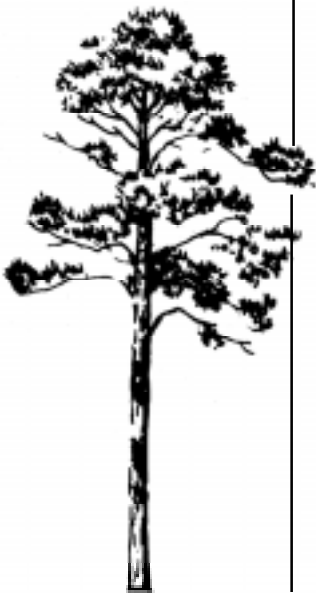
Timber theft carries a civil penalty in Tennessee and often results in a complete financial loss to the owner. The value of stolen timber can be written off against income tax as an involuntary conversion. The deductible loss, however, is limited to the tax basis of the timber. If caught, the trespasser can be required to pay damages double or triple the current market value of the timber, according to whether the timber was negligently (accidentally) cut or knowingly (intentionally) cut from the property of another (refer to TCA 43-28-312 for the specific law - found at conclusion of this publication).

Why Does Timber Theft Occur?

- (1) **It's profitable.** Timber has undergone significant price escalation over the past several decades, a result of increased demand for forest products. Prices are expected to continue increasing, especially for finer quality hardwood timber. Trespassers can realize considerable profit by harvesting and selling timber not owned by them.
- (2) **It's often hard to detect,** particularly when timber is located in remote areas. Absentee landowners (those living away from their property) and those who travel regularly are especially at risk.
- (3) **Property lines are often not marked clearly.** Property lines not marked clearly can confuse loggers or indicate landowner complacency, which invites timber theft. Landowners are responsible for clearly marked property lines.
- (4) **Often the highest-value, best-quality timber is located near property lines.** Timber near property lines is usually not harvested. This is either because of the uncertainty of property line location or due to the fear that falling timber could accidentally damage neighbors' trees. High-value timber tempts timber trespassers.

How You Avoid Timber Theft

To minimize the likelihood of timber theft, **property lines should be marked** with bright paint and/or steel posts. **Communicate with your neighbors** about property lines, when forestry activities are occurring near a property boundary. To prevent misunderstandings, walk your property lines with loggers prior to a logging operation (whether it is your trees being cut



or your neighbor's). It is wise to keep an **updated timber inventory and value estimate**, which allows for an accurate timber appraisal if theft occurs. To have a legal case, you must have verification trees existed and their value. Finally, absentee landowners should have a friend or consulting forester make **periodic inspections of their property** lines to check for timber trespass. Using a lease program allows hunters to do this for you.

Timber theft does not always occur by trespassing. It also can occur within your boundary lines in an ongoing timber sale. Sometimes loggers harvest trees *other than those* you marked and sold. This is theft. Therefore, prior to a timber sale, specify in a contract the number of trees to harvest and mark them with paint confirming those to be harvested. Use a thorough contract to communicate the conditions of the sale and minimize the likelihood of theft (for specifications on timber sale contracts, see Clatterbuck and Tankersley, 1999, *Landowner's Guide to Timber Sale Contracts*, UT Extension publication PB1607).

What to Do if Theft Occurs

In the unfortunate event that your timber is stolen, specific steps should be followed. First, attempt to resolve the situation with the adjacent landowner(s) and the loggers. Communication is vital. If that fails, then:

- (1) Record the date, time and location of the activity and take pictures or video of the evidences of theft. Include a notebook, maps, plastic bags (for evidence collection) and measuring tape to aid in gathering information. **The best evidence to convict a timber theft is eyewitness testimony.**
- (2) Once evidence has been obtained, report the incident to the sheriff.
- (3) Consider the assistance of a private consulting forester to represent you in detailing the event and in estimating fair market value. Consultants can "re-create" stolen trees through measurements and estimate fair market value prior to theft. Contact either The University of Tennessee Agricultural Extension Service or the Tennessee Division of Forestry for a list of consulting foresters.

Timber can represent a considerable part of a landowners' assets. Having those assets stolen can be financially painful. Timber theft can discourage landowners from growing timber and realizing its ultimate value if harvested too early.

For further assistance, contact:

Extension Forester
The University of Tennessee
Agricultural Extension Service
Department of Forestry, Wildlife and Fisheries
Knoxville TN 37996-4563
865-974-7126

State Forester
The Tennessee Department of Agriculture
Forestry Division
P.O. Box 40627, Melrose Station
Nashville TN 37204
615-837-5411

TCA 43-28-312 Cutting timber from property of another – Civil liability.

(a) (1) Civil liability for the negligent cutting of timber from the property of another shall be in an amount double that of the current market value of the timber.

(2) If the timber is negligently cut from the property of another because the landowner for whom the timber is being cut has marked or designated the boundary of such landowner's property incorrectly, then such landowner shall be jointly liable for such double damages.

(b) Civil liability for knowingly and intentionally cutting timber from the property of another shall be in the amount treble that of the current market value of the timber.

(c) Nothing in this section shall preclude an owner of property on which timber has been cut by another from recovering damages for loss of value other than commercial timber value, if any, of the timber negligently or intentionally cut.

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