

**Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.**

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

*As Engrossed: S1/30/01*

# A Bill

SENATE BILL 275

5 By: Senators Hill, *J. Jeffress*  
6 By: Representatives Teague, *Boyd, Bennett, G. Jeffress, Oglesby, Scroggin*  
7

## For An Act To Be Entitled

10 AN ACT TO REPEAL ARKANSAS CODE 15-32-101 AND AMEND  
11 ARKANSAS CODE 5-38-203 TO ASSURE PERSONS ASCERTAIN  
12 BOUNDARY LINES BEFORE CUTTING TIMBER; AND FOR OTHER  
13 PURPOSES.  
14

### Subtitle

15 AN ACT TO ASSURE PERSONS ASCERTAIN  
16 BOUNDARY LINES BEFORE CUTTING TIMBER.  
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19  
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code 15-32-101 is repealed.

23 ~~15-32-101. Land to be surveyed before timber is cut.~~

24 ~~(a) Before any person who shall desire to cut and remove for the~~  
25 ~~purpose of rafting, making railroad ties, piling, telegraph poles, staves, or~~  
26 ~~sawing into lumber, any timber from any land in this state, unless the land~~  
27 ~~has been surveyed and the boundaries thereof ascertained and known, before~~  
28 ~~cutting and removing the timber, they shall procure the county surveyor of the~~  
29 ~~county in which the land may be situated and cause the land to be surveyed by~~  
30 ~~the surveyor and the metes and bounds of the land shall be marked and plainly~~  
31 ~~established.~~

32 ~~(b) This section shall apply to persons purchasing timber rights from~~  
33 ~~lands of this state as well as to landowners.~~

34 ~~(c) The provisions of this section are not intended to repeal or in any~~  
35 ~~manner interfere with the provisions of Acts 1883, No. 83.~~

36 ~~(d) Any person who shall be found guilty of a violation of the~~

1 ~~provisions of this section shall be deemed to have committed a misdemeanor and~~  
2 ~~shall be fined, for each offense, in any sum not less than twenty five dollars~~  
3 ~~(\$25.00) nor more than three hundred dollars (\$300) and may be imprisoned in~~  
4 ~~the county jail not more than six (6) months.~~

5  
6 SECTION 2. Arkansas Code 5-38-203, concerning criminal mischief, is  
7 amended to read as follows:

8 5-38-203. Criminal mischief in the first degree.

9 (a) A person commits the offense of criminal mischief in the first  
10 degree if he purposely and without legal justification destroys or causes  
11 damage to:

12 (1) Any property of another; or

13 (2) Any property, whether his own or that of another, for the  
14 purpose of collecting any insurance therefor.

15 (b) ~~In actions under this section involving cutting and removing timber~~  
16 ~~from the property of another, the failure to obtain the survey as required by~~  
17 ~~§ 15-32-101 or the purposeful misrepresentation of the ownership or origin of~~  
18 ~~the timber shall create a presumption of willful intent to commit the offense~~  
19 ~~of criminal mischief in the first degree. the following shall create a~~  
20 ~~presumption of willful intent to commit the offense of criminal mischief in~~  
21 ~~the first degree:~~

22 (1) The failure to ascertain the boundary between the land where  
23 timber is about to be cut and the adjacent land; or

24 (2) The purposeful misrepresentation of the ownership of the  
25 timber.

26 (c) For prosecution under this section based on a failure to ascertain  
27 the boundary, it is an affirmative defense that:

28 (1) The land had been surveyed and boundary plainly established;  
29 or

30 (2) The person removing timber relied in good faith on an  
31 existing marked line or established corners; or

32 (3) The person removing the timber acquires a document signed by  
33 the landowner selling timber and the adjoining landowner or landowners  
34 indicating that the landowners agree on the location of the boundary.

35 ~~(e)(d)~~ Criminal mischief in the first degree is a Class C felony if the  
36 amount of actual damage is five hundred dollars (\$500) or more. Otherwise, it

1 is a Class A misdemeanor.

2 ~~(d)~~(e) In actions under this section involving cutting and removing  
3 timber from the property of another, there shall be imposed in addition to the  
4 penalty in subsection (c) of this section, a fine of not more than two (2)  
5 times the value of the timber destroyed or damaged; provided, however, that in  
6 addition to the above, the court can require the defendant to make restitution  
7 to the owner of the timber.

8 /s/ Hill  
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