

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Representative Dawson

A Bill

HOUSE BILL 1762

For An Act To Be Entitled

"AN ACT TO LIMIT THE ABILITY OF OWNERS OF UNENCLOSED
FOREST LANDS TO RECOVER DAMAGES IN ACTIONS BROUGHT UNDER
§18-60-102 WHEN THE OWNERS HAVE FAILED TO CLEARLY MARK THE
PROPERTY LINES; AND FOR OTHER PURPOSES."

Subtitle

"TO LIMIT THE ABILITY OF OWNERS OF
UNENCLOSED FOREST LANDS TO RECOVER
DAMAGES UNDER § 18-60-102 WHEN THE
OWNERS HAVE FAILED TO CLEARLY MARK
PROPERTY LINES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Annotated § 18-60-102 is hereby amended to
read as follows:

"18-60-102. Injuring, destroying, or carrying away property of another.

(a) If any person shall cut down, injure, destroy, or carry away any
tree placed or growing for use or shade or any timber, rails, or wood,
standing, being, or growing on the land of another person; shall dig up,
quarry, or carry away any stone, ground, clay, turf, mold, fruit, or plants;
or shall cut down or carry away, any grass, grain, corn, cotton, tobacco,
hemp, or flax, in which he has no interest or right, standing or being on any
land not his own, or shall wilfully break the glass, or any part of it, in
any building not his own, the person so trespassing shall pay the party
injured treble the value of the thing so damaged, broken, destroyed, or
carried away, with costs.

(b) If any person trespasses upon land in violation of the provisions

1 of this section and if the land is owned by several joint tenants, tenants in
2 common, coparceners, or other co-owners, then any co-owner who has not given
3 consent to the trespass shall be entitled to treble the value of the thing so
4 damaged, broken, destroyed, or carried away, with costs, the treble damages
5 to be computed according to the amount of the undivided interest of the
6 co-owner.

7 (c)(1) If on the trial of any action brought under the provisions of
8 this section it shall appear that the defendant had probable cause to believe
9 that the land on which the trespass is alleged to have been committed, or
10 that the thing so taken, carried away, injured, or destroyed, was his own,
11 the plaintiff in the action shall recover single damages only, with cost.

12 (2) Failure of an owner of unenclosed forest land to clearly
13 mark the property lines, including, but not limited to, slash marks on trees
14 or iron staubs in corners, shall create a presumption of law that the
15 defendant in an action to recover damages for cutting timber on adjoining
16 property had reason to believe that he was cutting timber on his own
17 property."

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19 SECTION 2. All provisions of this act of a general and permanent
20 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
21 Code Revision Commission shall incorporate the same in the Code.

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23 SECTION 3. If any provision of this act or the application thereof to
24 any person or circumstance is held invalid, such invalidity shall not affect
25 other provisions or applications of the act which can be given effect without
26 the invalid provision or application, and to this end the provisions of this
27 act are declared to be severable.

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29 SECTION 4. All laws and parts of laws in conflict with this act are
30 hereby repealed.

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