

2004 SESSION

INTRODUCED

045907292

HOUSE BILL NO. 1020

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend and reenact § 55-331 of the Code of Virginia, relating to damages recoverable for encroachment in timber cutting.

Patrons—Dillard; Senator: Ticer

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 55-331 of the Code of Virginia is amended and reenacted as follows:

§ 55-331. Damages recoverable for encroachment in timber cutting.

If any person, ~~firm or corporation~~, in the course of cutting timber on any timberlands in the Commonwealth ~~to which he has timber cutting rights~~, encroaches and cuts timber on any other timberland, except when acting prudently and under a bona fide claim of right, the owner ~~thereof of the timberland encroached upon~~ shall, in addition to all other remedies afforded by law, have the benefit of a right to, and a summary remedy for recovery of, damages ~~jointly and severally against the timber cutter and the grantor of the timber cutting rights, if such person exists~~, in an amount as hereinafter specified and recovered as hereinafter provided.

~~If Trespass shall be rebuttably presumed when a person cuts timber from another's land unless, prior to cutting timber, (i) the timber cutter obtains a survey of the land to be cut, marks the boundary, and notifies adjacent owners in writing of his intention to cut timber within the marked boundary, the notice to be delivered no fewer than 10 days before beginning cutting and (ii) there is no objection made by adjacent landowners before the cutting begins. Whether by un rebutted presumption or otherwise, if the trespass is proven, the defendant shall have the burden of proving that he acted prudently and under pursuant to a bona fide claim of right. For purposes of this article, "timberland" means land bearing at least eighty 80 well-distributed seedlings or sprouts of woody species per acre, excluding platted, subdivided or developed lands.~~

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