

New Virginia Timber Larceny Law
Virginia Department of Forestry (reprinted, with permission, from the VFA Voice)

A new law went into effect on July 1, 2019, related to timber theft. Under the new law, violations are considered a criminal act and come with the possibility of jail and/or monetary penalties. The new Sections of the Code of Virginia are §55-334.2. Larceny of timber; failure to remit payment to owner; penalty, and §55-334.3. Load tickets required for certain sales of timber; penalty.

- The law states:
- Payment in full as specified in the written timber sales contract or within 60 days from the date the buyer removes the timber from the property if no written contract is in place.
 - Failure to make payment in full based on the timelines in the previous bullet point shall constitute timber theft and is a class 1 misdemeanor. If this happens, the penalty will be three times the value of the timber removed, plus any penalty imposed by the court.
 - When a landowner sells timber by load (pay as cut) and the load is measured by weight, cord or board foot measure, the buyer must supply, upon request from the landowner, within 30 days of the request or 30 days from the date that the timber is removed, whichever is later, a true and accurate accounting of each load removed from the property related to the sale.
 - This can be load tickets or settlement statements provided to the timber buyer by the facility receiving, weighing, scaling, or measuring the trees, timber, or wood, and shall contain, at a minimum, (i) the name of the facility receiving, weighing, scaling, or measuring the trees, timber, or wood; (ii) the date the trees, timber, or wood was received at the facility; (iii) the name of the producer or logging company; (iv) the type of wood; (v) the type of product; (vi) the weight or scale information, including the total volume if the load is measured by scale, or the gross and tare, or net weights, if the load is measured by weight; and (vii) the weight, scale, or amount of wood deducted and the deduction classification.
 - No load ticket or settlement report shall be required to include price or market value information unless the timber sales agreement, whether written or oral, stipulates that the landowner is to be paid based on a share of the value of the timber removed.

For more details, please visit <http://lis.virginia.gov/cgi-bin/legp604.exe?191+ful+CHAP0353> or contact Matt Poirot at 434-220-9027.

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A lump-sum sale means that a price is agreed on ahead of time for all the timber in the stand or for all the marked timber in the stand. This can work well for a landowner; IF a bidding process was used to get at the sale price. That is the only way to get at the fair price for timber sold like this. Otherwise, someone can just offer what sounds like a lot of money and if they [the landowners] have no idea how much it's [their timber] worth, it can sound like a good price, while in reality they [the timber buyer] might have been willing to pay much more. For me, if I am trying to buy someone's timber as a lump sum, I will pay as much as I can while still making it profitable.

Selling on shares is sometimes looked down upon in the forestry community but it can work. The way it is supposed to work is that a logger harvests and loads a truck load of logs. He takes those to a mill to sell them. It's in his interest and yours to merchandise those logs well (different mills for different types of logs). At the end of the week or some other defined time, the load tickets are shared with the landowner as a record of what was sold and for how much. Then the logger cuts a check based on the agreed upon split. The risk is that an unethical logger can simply not share every load ticket with the landowner. But the advantage of this type of sale is that the real value of the product is being shared with the landowner rather than a speculated value like in a lump sum. And with this selling on shares method, there is nothing wrong with asking the logger what the bottom line will be at the end of the day. Ask him for an educated guess for how much money will be made at the end of it all for the landowner.

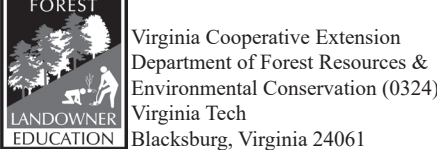
In either case, get more than one person to look at the timber. This helps reveal the true value of the timber and also helps them find someone they are comfortable with. And I always encourage landowners to work with a forester too. A professional forester, like a consulting or industrial forester, can help in lots of ways to make sure the sale is going as planned and in a way that will hopefully improve the forest.

Adam: What parting thoughts do you have that might be good for a landowner to know?

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VIRGINIA FOREST LANDOWNER UPDATE

FALL 2019



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Adam Downing, VCE, (left) and Dave Powell, VDOF, (right),
presenting the 2019 Logger Merritt Award to Cheryl and
Buck Morris (center) at the Forestry Summit in Norfolk.
Photo by Leisha Berkel, VFA.

Talking Timber with a Logger

Adam Downing recently sat down with Buck Morris of Glen Morris and Sons Logging Inc. to talk timber. Buck was the recipient of the Logger Merit Award presented at the 2019 Forestry Summit. Like many loggers, Buck grew up in the logging business and continues to operate a single crew, with his brother, in the Orange County area. Also, like many loggers, Buck closely followed the development of the new Timber Larceny Law (see page 5) that spurred this conversation.

Adam: What would you say is the most important thing a landowner can do when they sell their timber?

Buck: The first thing to ask, if someone comes offering to buy your timber, is if they have any professional affiliations and/or credentials. Belonging to the Virginia Loggers Association or the Virginia Forestry Association shows something. Ask them if they are a SHARP Logger and if they have liability insurance. If you get a "no" to all of these, kindly end the conversation.

If you get anything in the mail that came unsolicited, question it! Is this person local? Who are they working for? Can they provide references from past jobs? These are good questions to ask of anyone, but especially from an unsolicited offer. Sometimes these offers even include a dollar value and they may never have stepped foot on your land! How can that work? Of, if they did walk your property, did they have permission? If not, you may not want to give them permission.

Another early question to ask is about insurance. If they have a crew, they likely need to have workers comp insurance and every logger should have some liability insurance. If they are willing to share proof of these, that's a good start.

Adam: This is great advice. It might seem like common sense, but sometimes we need to be reminded, especially with something like a timber sale that may be a once in a lifetime event. What else would you say to a landowner who has moved into the negotiations phase of selling timber?

Buck: Have a lawyer, experienced in timber, review the contract! This is an absolute. There are so many ways that even a written contract can take advantage of a landowner. This new Timber Larceny law does a pretty good job addressing some of these but there is still a responsibility for the landowner to make sure the contract is fair to them as a landowner. An experienced lawyer will be able to see if the contract is fair. Now, when I say "experienced" I don't mean experience in family law or even real estate. It needs to be someone who understands the basics of timber as a commodity.

Adam: What are some options a landowner has if they want to sell their timber?

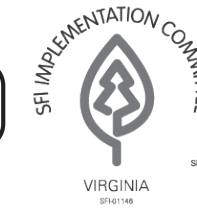
Buck: There are two common ways timber is sold. Both ways have pros and cons.

Talking Timber cont. on page 5

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EVENTS CALENDAR			For the most complete listing of natural resource education events, visit the on-line events calendar at http://forestupdate.frec.vt.edu		
Contact	Date	Location	Event	Time	Fee
DCR	Oct., Nov., & Dec.	Virginia's State Parks	A variety of events and activities For a complete list, visit: www.dcr.virginia.gov/parks	Varies	Varies
MP	Year-round	State-wide	Virginia Master Naturalist Volunteer basic training www.virginiamasternaturalist.org/chapters.html	Varies	Varies
JG	Oct. 8	Mineral	Tree Farm Dinner Join Tree Farmers, natural resource professionals, and others interested in sustainable forestry for a tour of Claybrooke Tree Farm, followed by dinner.	4 - 7:00 p.m.	\$10*/person
JM	Oct. 8-10 Oct. 22-24	Winchester Richmond	2019 Mapping with Drones Small Unmanned Aircraft Systems (sUAS) are permeating many sectors of industry and are increasingly being employed as data collection platforms to support an array of applications. This is an intensive, yet introductory level workshop. No previous knowledge or experience with drones, sUAS, or GIS is required.	3 days	\$400*
BW	Oct. 11	Floyd Co.	Floyd County Fall Forestry & Wildlife Field Tour Join woodland owners and natural resources professionals for a fall tour of active woodland and wildlife management practices in Floyd County.	8:30 - 4:00	\$45*/person; \$80*/couple
JF	Oct. 17	Charlotte Co.	Charlotte County Fall Forestry & Wildlife Field Tour Join woodland owners and natural resources professionals for a fall tour of active woodland and wildlife management practices in Charlotte County.	8:30 - 4:00	\$45*/person; \$80*/couple
AD	Oct. 25	Fredericksburg/ Stafford Co.	Fredericksburg/Stafford County Fall Forestry & Wildlife Field Tour Join woodland owners and natural resources professionals for a fall tour of urban forestry practices and issues in Fredericksburg and Stafford County.	8:30 - 4:00	\$45*/person; \$80*/couple
NC	Nov. 9	Providence Forge	Preparing for Generation NEXT Mini-Workshop Abbreviated version of the 2-day workshop described below.	7:30 - 12:00	\$25* for up to 2 family members; \$15* each additional
BW	Dec. 5-6	Roanoke	Preparing for Generation NEXT 2-Day Workshop Are you prepared to pass the environmental and heirloom values rooted in your woods to the next generation? Join CPA's, estate planning attorneys, landowners, and conservation experts to learn how to secure your woodland legacy.	R: 12:30 - 5:30 F: 9 - 4:00	\$70* for up to 2 family members; \$35* each additional
JG	March 17-19	Appomattox	Central Virginia Beginning Landowner Weekend Retreat Is woodland management a new concept for you? If so, come spend the weekend with fellow forest owners and natural resource professionals and learn how to get started. A combination of classroom talks, field tours, and hands-on experiences will provide you with the basics.	All day Saturday & Sunday	No Lodging Individual - \$40* Couple - \$70* Lodging Individual - \$90** Couple - \$170**
*meals included; **meals and lodging included					

EVENT CONTACTS			
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You Ain’t From Around Here! Exotic Invasive of the Quarter: Japanese spiraea *Spiraea japonica* By: Jennifer Gagnon, Virginia Tech

There’s really no denying it. I’m a plant person. Deep in my heart. Plants make me happy. Virginia Tech’s Annual Horticulture Club Plant Sale is one of my favorite days of the year. As such, I try to know the name and origin of plants I grow in my yard. When we moved to our property 3 years ago, I noticed a lovely flowering shrub I didn’t recognize. I asked my husband, also a plant person, what it was. He laughed because he knew all too well it was the exotic invasive, Japanese spiraea. He was familiar with it from a project he worked on with a graduate student. The student was doing a survey on the pervasiveness of this exotic invasive on Buffalo Mountain, a Natural Area Preserve in Floyd County. Needless to say, I was disappointed.



Japanese spiraea will grow in shade, but they prefer full-sun. Ours has doubled in size since we removed the 100-year-old Norway maple, another exotic invasive, that was shading it. Photo by: Jennifer Gagnon, Virginia Tech.



Current range of Japanese spiraea in North America. Map from: EDDMapS. 2019. Early Detection & Distribution Mapping System. The University of Georgia - Center for Invasive Species and Ecosystem Health. Available online at <http://www.eddmaps.org>.

How to identify Japanese spiraea
Form: Perennial, deciduous shrub with slender, erect stems. Up to 6.5 feet tall.
Stem: Brown to reddish-brown round stems range from smooth to densely hairy on the branchlets. Buds are very small, rounded to triangular, and somewhat flattened.
Leaves: Alternate, lanceolate to lanceolate-ovate, with serrated (like a saw) edges. They are 3 – 4.5 inches long, 1.2 - 1.6 inches wide, and smooth.
Flowers: Inflorescence is a compound corymb with wide spreading branches. Flowers are pale to deep pink, 0.2 inches wide, with stamens much longer than the petals. Blooms June – August.
Fruit: 0.09 – 0.1 inch-long seeds are borne in a smooth and lustrous capsule.
Native look-alike: *Spiraea virginiana*: Virginia meadowsweet. This is a federally threatened species. You can distinguish it from the Japanese spiraea by its white flowers. There are only isolated populations in southern Appalachia.

How to Control Japanese spiraea
Mechanical: Mowing or cutting can be used to control new, small populations or populations in areas where herbicides cannot be used. These mechanical treatments will not eradicate the plant, but annual mowing will keep its growth under control and prevent seed production.

Chemical: Both foliar (applying chemical to the leaves) and cut stump (applying chemical to recently cut stumps) are suitable application methods for controlling Japanese spiraea with herbicides.

Foliar herbicide application is suitable for large thickets of Japanese spiraea where there is little non-target vegetation.
Glyphosate: Apply a 2% solution of glyphosate and water plus a 0.5% non-ionic surfactant to thoroughly wet all leaves. Glyphosate is a non-selective systemic herbicide that may kill partially-sprayed non-target plants, so apply carefully.
Triclopyr: Apply a 2% solution of triclopyr and water plus a 0.5% non-ionic surfactant to thoroughly wet all leaves. Triclopyr is a selective herbicide for broadleaf species. In areas where desirable grasses are growing under or around spiraea, triclopyr can be used without killing the desired vegetation.

The cut stump method should be considered when treating individual bushes or where the presence of desirable species preclude foliar application.
Glyphosate: Horizontally cut spiraea stems at or near ground level. Immediately apply a 25% solution of glyphosate and water to the cut stump making sure to cover the entire surface.
Triclopyr: Horizontally cut spiraea stems at or near ground level. Immediately apply a 25% solution of triclopyr and water to the cut stump making sure the entire surface is covered.

Cultural: Of course, if you look on sites such as Amazon, you will find multiple sellers of this exotic invasive plant. In fact, you can purchase 520 seeds for \$23.60. There are many varieties of spiraea in the horticultural trade. Simply choosing native species instead can help control this exotic invasive species.

I know the question that has been in your mind since you started reading this article is: “What did you do with the Japanese spiraea in your yard?” I must sheepishly admit it is still alive and well. My justification? The seeds are spread by water. And it is not planted anywhere near flowing water. I have been keeping an eye out for invasions along our roads in other disturbed areas and so far, there doesn’t appear to be a problem. And it is lovely. But rest assured, if it becomes a problem, it will be removed.

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Buck: Sometimes there is confusion as to who is who and who does what. Some sales are very simple and may only involve a logger and a landowner. In other sales, there may be a forester and/or a timber buyer. In these cases, the logger is more or less a contractor doing a job. In other cases, the logger may be the buyer and contractor or they may buy the timber and hire another logger as a contractor to harvest it. It can get confusing but there are important differences. I always suggest that landowners get educated! Go talk to the local Virginia Department of Forestry forester, go to Extension programs for woodland owners, read articles from local experts in things like the Virginia Forest Landowner Update or the Virginia Forests Magazine. And ask questions! Don’t be afraid to ask lots of questions! Good loggers are happy to talk with landowners and explain everything and show examples of past jobs. Good loggers want the landowner to be happy with the job they did. It’s their best calling card.

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