

LEGAL REMEDIES FOR TIMBER THEFT

There are two types of laws which can help you recover for damages for the wrongful cutting or taking of timber:

“Common Law”, which is based on a long history of Court decisions and
“Statutory Law”, which is based on laws passed by the Virginia General Assembly.

Both common law and statutory law require that you **PROVE** a trespass by a logger.

Trespass is defined by common law as the entry onto the land of another without lawful authority and doing some damage. Cutting and removing standing timber is damage to the land, but the land may also be damaged by the destruction of fences, roads, and destruction of the soil.

Although you can sue for almost anything under the common law remedy, it has been my experience that you will usually receive only single-stumpage and none of your expenses will be paid. The other choice then is the **STATUTORY REMEDY**.

STATUTORY REMEDY AND TIMELINE

1. LANDOWNER discovers the trespass and identity of the logger.

When the trespass is determined (possible need for a survey) and the identity of the logger, including a legal address, the landowner has **30** days in which to notify the trespasser(s) that they have trespassed and cut timber without his permission. The landowner appoints a timber estimator in the letter also. Letter sent by certified mail, return receipt requested.

2. Trespasser receives the letter. They may or may not accept delivery.

The trespasser may also appoint an estimator to work with the landowner's estimator to arrive at a fair market value of the timber cut. The trespasser has 30 days to respond and appoint an estimator, deny the trespass, or do nothing.

3. The estimator(s) determine the damages and render a statement of damages along with any expenses incurred. The estimator(s) have 30 days to complete their damage assessment. Once the damages and expenses have been rendered, the trespasser has 30 days to pay the total damages and expenses in full.

4. If the trespasser does not pay, the landowner can proceed to Circuit Court and the cost of an attorney will be added to the damages and expenses.
5. Triple the value of the timber (stumpage), cost of reforestation (not to exceed \$450/ac), all expenses, including a survey and lawyer.