

1 HB538  
2 139367-6  
3 By Representatives Tuggle, Davis, McMillan, Moore (B),  
4 Wallace, Fincher, Laird, Williams (J), Wood, Weaver and Carns  
5 RFD: Commerce and Small Business  
6 First Read: 14-MAR-12



1           For purposes of this act, the term "timber owner"  
2           means any person or firm that has entered into a contract with  
3           a landowner for the purposes of severing that timber and  
4           delivering pulpwood, logs, poles, posts, or wood chips to any  
5           wood yard or processing plant. In the case where the landowner  
6           harvests his or her own timber and delivers pulpwood, logs,  
7           poles, posts, or wood chips to any wood yard or processing  
8           plant, the landowner is the timber owner. The term timber  
9           owner is intended to mean the person or firm who has legal  
10           title to the timber when it enters the county road.

11           (b) Any ordinance or resolution adopted pursuant to  
12           this act shall require prior written notice by any person or  
13           firm owning timber for each separate tract prior to utilizing  
14           the county roads as follows:

15                 (1) If a new access point is required for the tract,  
16           the timber owner is required to provide the county four  
17           business days' notice.

18                 (2) If an existing access point is to be utilized  
19           for the tract, the timber owner is required to provide the  
20           county two business days' notice.

21           (c) For purposes of this act, an existing access  
22           point shall be defined as either a location which has  
23           previously been approved, permitted, or grandfathered through  
24           the county's driveway or access management policy and has been  
25           previously used to access the tract; or, in the event the  
26           county does not have a driveway or access management policy,  
27           if the location has been previously used to access the tract.

1 In the event the county has a driveway or access management  
2 policy and an access point has not been previously approved or  
3 permitted, and the access point has been previously used to  
4 access the tract, there is a presumption that the access point  
5 shall be considered an existing access point for the purposes  
6 of this subsection. Nothing in this act shall require a county  
7 to adopt a driveway or access management policy if it does not  
8 already have one.

9 (d) The notice shall be in the form as prescribed by  
10 the county commission and shall consist of only the following:

11 (1) A map or legal description of the area which  
12 identifies the location of the tract and the access point or  
13 points to the tract from a county road.

14 (2) With respect to the access point or points to  
15 the tract, whether the access point or points are a new or  
16 existing point or points, including details outlining how this  
17 access will be accomplished while maintaining the normal  
18 drainage features on the public road.

19 (3) The expected routes upon county roads related to  
20 the operations.

21 (4) The estimated acreage of the tract.

22 (5) The estimated date that access to the county  
23 roads will commence.

24 (6) The name, address, and daytime telephone number  
25 of the person or firm that owns the timber and the contractor  
26 responsible for harvesting the timber, if not the same. If the  
27 contractor responsible for harvesting the timber is not known

1 at the time of notice submission, the person giving notice  
2 shall provide this information prior to accessing the county  
3 roads.

4 (7) The name and address for the liability insurance  
5 carrier of the person providing the notice and the contractor  
6 responsible for harvesting the timber, if not the same. If the  
7 contractor responsible for harvesting the timber is not known  
8 at the time of notice submission, the person giving notice  
9 shall provide the information prior to accessing the county  
10 roads.

11 (e) The notice shall be submitted to the regular  
12 office of the county commission and may be submitted in  
13 person, by transmission of an electronic record via  
14 telefacsimile or electronic mail, by regular mail, or by other  
15 means as approved by the county commission.

16 (f) The notice shall be effective for a period of 12  
17 months. Upon request from the timber owner, the county may  
18 extend the notice for an additional six-month period.

19 (g) The county's receipt of the notice to access the  
20 county roads shall not constitute an act on behalf of the  
21 county which shall result in the county commission, the county  
22 engineer, or any employees of the county commission being held  
23 liable in any matter arising from the actions or inactions of  
24 the timber owner, of his or her representatives, employees, or  
25 contractors.

26 (h) The notice requirements in this act shall be  
27 applicable to any use of county roads by a timber owner and

1 his or her representatives or employees or a contractor  
2 responsible for harvesting the timber in furtherance of its  
3 operations on or after the effective date of the ordinance or  
4 resolution adopted pursuant to this section.

5 (i) Any person owning timber that utilizes the  
6 county roads and fails to provide notice or fails to comply  
7 with the terms of the notice shall be provided a warning and  
8 an opportunity to comply with this act. Upon receipt of the  
9 warning and the failure to comply with this act, the person  
10 owning the timber may be fined five hundred dollars (\$500) for  
11 each day a violation continues to take place. All fines  
12 collected shall be payable to the county and deposited into  
13 the county's road and bridge fund. Additionally, the county  
14 shall have the right to enjoin the timber owner or his or her  
15 representatives or employees or a contractor responsible for  
16 harvesting the timber from utilizing county roads by a civil  
17 action for the injunction brought in a court of competent  
18 jurisdiction in the county.

19 (j) This act may be enforced by the county license  
20 inspector under Section 40-12-10, Code of Alabama 1975,  
21 including issuing citations as provided in subsection (j) of  
22 Section 40-12-10 for failure to comply with the notice  
23 requirements or with the terms of the notice.

24 (k) In the event that a citation has been issued for  
25 noncompliance with the provisions of this act or with the  
26 terms and conditions of the notice, no subsequent notice  
27 application shall be effective until the time all fines and

1 penalties have been collected. Additionally, if any timber  
2 owner or his or her representatives or employees or a  
3 contractor responsible for harvesting the timber has been  
4 cited on three separate occasions within a 24-month period,  
5 the county may require the timber owner or his or her  
6 representatives or employees or a contractor responsible for  
7 harvesting the timber to post security as a condition of using  
8 the county roads.

9 (l) Compliance with notice provisions by persons or  
10 firms affected shall not operate to relieve such persons or  
11 firms from liability for damages which may arise from their  
12 use of public roads, bridges, or rights-of-way in the county.

13 (m) In the event the Governor declares a state of  
14 emergency as a result of an event that causes damage to timber  
15 within a county, the notification requirements set forth  
16 herein are suspended for that county for the period of time  
17 consistent with the Governor's proclamation.

18 (n) This section shall not apply to any utility that  
19 is maintaining or establishing clearances from timber or  
20 vegetation for its facilities and equipment nor shall it apply  
21 to the employees, contractors, agents, or representatives of  
22 such a utility where the employees, contractors, agents, or  
23 representatives are acting within the course and scope of  
24 their employment, contract, or agency.

25 Section 2. Except as otherwise provided by this act,  
26 a county may not require any timber owner that plans to  
27 utilize county roads for delivery of pulpwood, logs, poles,

1 posts, or wood chips to any wood yard or processing plant to  
2 provide any other notice of the activity, acquire any other  
3 specific permit or license for such purpose, or post any  
4 security as a condition of using the county roads. Any  
5 existing county rules, ordinances, or resolutions in conflict  
6 with this act are hereby repealed to the extent of such  
7 conflict. Nothing in this act shall repeal or amend any laws  
8 related to the county's general superintendence of the roads  
9 and bridges within its jurisdiction, including its driveway or  
10 access management policy, or its authority to regulate and  
11 supervise the use of its rights-of-way or roads and bridges.  
12 Additionally, the county's acceptance of the notice from the  
13 timber owner as provided herein and the other provisions of  
14 this act shall in no way limit or affect the county's  
15 authority to regulate and enforce any laws governing the use  
16 of or damage to a county-maintained road or bridge or a county  
17 right-of-way.

18 Section 3. This act shall become effective on the  
19 first day of the third month following its passage and  
20 approval by the Governor, or its otherwise becoming law.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
  
16  
17  
18  
19

House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Commerce and  
Small Business..... . . . . 14-MAR-12

Read for the second time and placed  
on the calendar with 1 substitute  
and..... . . . . 22-MAR-12

Read for the third time and passed  
as amended..... . . . . 17-APR-12

Yeas 93, Nays 3, Abstains 0

Greg Pappas  
Clerk