

1 SB376
2 129009-1
3 By Senators Whatley, Marsh, Waggoner, Allen, Taylor, Ward,
4 Holley, Bedford, Reed, Brewbaker, Scofield, Brooks, Beason and
5 Dial
6 RFD: Agriculture, Conservation, and Forestry
7 First Read: 12-APR-11

SYNOPSIS: Under existing law, the county commission of a county has general superintendence of the public roads. The Attorney General has issued an opinion that this authority authorizes a county commission to regulate timber harvesters using county roads.

This bill would specify that a county commission may adopt a uniform notice requirement for timber harvesters prior to timber operations. The failure to comply with the requirement would be punishable by a civil fine for each violation. The bill would prohibit any other notice, permit, license, or security to use public roads in the county to haul forest products.

A BILL
TO BE ENTITLED
AN ACT

1 To add Section 23-1-80.1 to the Code of Alabama
2 1975, to authorize the county commission of a county to adopt
3 an ordinance requiring persons and firms using county roads
4 while conducting timber harvest operations in the county to
5 file prior notice of the operation; and to provide for civil
6 fines for violations.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Section 23-1-80.1 is added to the Code of
9 Alabama 1975, to read as follows:

10 §23-1-80.1.

11 (a) A county commission, by ordinance or resolution,
12 may require all persons or firms harvesting standing timber in
13 any unincorporated area of the county for delivery as
14 pulpwood, logs, poles, posts, or wood chips to any wood yard
15 or processing plant to provide notice of the harvesting
16 operation to the county commission prior to cutting any of the
17 timber.

18 (b) Any ordinance or resolution adopted pursuant to
19 subsection (a) shall require prior written notice by any
20 person or firm harvesting timber for each separate tract to be
21 harvested consisting of 10 acres or more. The notice shall be
22 in the form prescribed by the county commission and shall
23 consist of only the following:

24 (1) A map or legal description of the area which
25 identifies the location of the tract to be harvested and
26 identifies those trucks which will be traveling to and from

1 the tract for purposes of picking up and hauling loads of cut
2 forest products, the main point of ingress to the tract from a
3 public road, and the main point of egress from the tract to a
4 public road.

5 (2) The expected routes upon county roads related to
6 the harvest operation.

7 (3) The name, address, and daytime telephone number
8 of the person or firm contracted to purchase the standing
9 timber.

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

15 (c) If the proposed routes and points of ingress and
16 egress otherwise comply with state law concerning the use of
17 public roads, the county commission may deny permission for
18 the use of the proposed locations only pursuant to existing
19 authority based on grounds of public safety.

20 (d) The notice shall be effective for the harvesting
21 operation on the tract upon filing of the notice with the
22 county commission and until the person or firm giving the
23 notice has completed the harvesting operation for the tract.
24 Notwithstanding the foregoing, any subsequent change in
25 material facts required to be provided in the notice shall be

1 reported to the county commission or its designated agent
2 within three business days after the change.

3 (e) The notice requirements in this act shall be
4 applicable to any timber harvested on or after the effective
5 date of the ordinance or resolution adopted pursuant to this
6 section.

7 (f) The county commission may punish a violation of
8 the notice requirements of any ordinance or resolution adopted
9 pursuant to this section by a civil fine not exceeding five
10 hundred dollars (\$500) for each violation. The county
11 commission shall give notice and an opportunity for a hearing
12 prior to the levy of a fine pursuant to this subsection.

13 (g) Except as provided by this section, a county may
14 not require any person or firm harvesting standing timber in
15 the county or hauling timber for delivery as pulpwood, logs,
16 poles, posts, or wood chips to any wood yard or processing
17 plant to provide any other notice of the activity, acquire any
18 other permit or license, or post any security as a condition
19 of using the public roads in the county to haul forest
20 products.

21 (h) Compliance with the notice provisions by persons
22 or firms affected shall not operate to relieve such persons or
23 firms from liability for damages which may arise from their
24 use of public roads in the county.

25 Section 2. All laws or parts of laws which conflict
26 with this act are repealed.

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