

❑ **New Timber Theft Legislation Will Protect Timberland Owners (2004)**
by Bruce Alt, MFA Executive Vice President

When Mississippi's Commissioner of Agriculture and Commerce Lester Spell approached MFA before the Session began, and asked for our cooperation in solving a problem that directly affected forest landowners, MFA's Executive Committee readily embraced the opportunity. Under the direction of MFA's Government Affairs Committee, we formed a working coalition of forestry partners that included Commissioner Spell; Mr. Joey Gonce, Director of the Mississippi Agricultural & Livestock Theft Bureau and his staff; Executive Committee member Ken Martin, a professional timber harvesting contractor and Rankin County Supervisor; and Gee Ogletree, MFA Counsel and Team Leader of Adams and Reese LLP's Forestry Practice Team.

This coalition, along with other members of our valued forestry government affairs team, including the MS Farm Bureau Federation, worked cooperatively to draft a timber theft protection statute and lobby the Legislature and the Governor for successful passage into law. As of July 1, 2004, this new law strengthened legal protection for Mississippi's timberland owners and enhanced the credibility and reputation of professional, reputable timber harvesting contractors and wood fiber suppliers. "Provisions of this timber theft law will immediately begin to deter timber theft crimes in Mississippi," said Commissioner Spell. MFA wishes to sincerely thank Commissioner Spell and Director Gonce for their leadership and vision in this successful effort to enable the staff of the state's Agricultural & Livestock Theft Bureau to more effectively protect our forestry community and landowners. Following are some brief highlights of this new law:

Timely Payment

- ◆ Requires buyers of timber products to pay owners in 30 days.
- ◆ Addresses a trend in timber thefts whereby buyers obtain permission from timber owners to harvest, whether by verbal or written contract, and then refuse payment. Under the old law, this situation was only a civil breach of contract, and the Agricultural Theft Bureau had no jurisdiction. Now, the Bureau can conduct an investigation when prompt payment is not made.

Penalties

- ◆ Does not change existing law for timber trespass.
- ◆ Makes the payment of restitution to victims of timber theft (landowners) mandatory. The restitution amount will be the fair market value of the timber at the time of the loss, and also includes costs incurred by the victim as a result of the commission of the crime, such as court costs, expert and appraisal fees, and attorney's fees.

Records

- ❑ Specific authority is given to the Director and Investigators of the Agricultural Theft Bureau to access and examine timber records for the purpose of conducting criminal investigations.
- ◆ Obtained timber records are considered criminal investigative records and do not fall under the Public Records Act. Records will be safeguarded and will not be utilized or disclosed for any purpose other than a criminal investigation.
- ◆ This additional authority will improve the efficiency and timeliness of timber theft

investigations. It will also relieve civil liability of individuals and businesses in the dissemination of timber records for the purpose of criminal investigations.

To read the new law, visit <http://billstatus.ls.state.ms.us/documents/2004/html/HB/1100-1199/HB1148SG.htm>