

IC 32-34-9

Chapter 9. Drifting Boats and Timber

IC 32-34-9-1

"Timber" defined

Sec. 1. As used in this chapter, "timber" means trees, whether standing, down, or prepared for sale, sawlogs and all other logs, cross and railroad ties, boards, planks, staves and heading, and other trees cut or prepared for market.

As added by P.L.2-2002, SEC.19.

IC 32-34-9-2

Property found and secured; compensation; lien; sale

Sec. 2. (a) A person who finds and secures any boats, fleets of timber, rafts, platforms, sawlogs, or other logs or trees prepared for the purpose of sale, or any cross or railroad ties, boards, planks, staves, heading, or other timber prepared for market that is the property of another and that is found adrift in the waters of Indiana without a boom or other arrangement provided by the owner to preserve the logs or timber below the point at which they are found, whether the logs or timber have a brand or not, is entitled to receive from the owner the following compensation:

- (1) For each freight boat or other heavy boat, two dollars (\$2) per ton for all cargo.
- (2) For each jack-boat, skiff, or canoe, one dollar (\$1).
- (3) For each fleet of timber, fifty dollars (\$50).
- (4) For each raft of not less than forty (40) logs, fifteen dollars (\$15).
- (5) For each platform of at least ten (10) logs, four dollars (\$4).
- (6) For each sawlog or other log or tree prepared for sale, fifty cents (\$0.50).
- (7) For each cross or railroad tie, fifteen cents (\$0.15).
- (8) For boards or planks caught in rafts or a large body:
 - (A) one dollar (\$1) per one thousand (1,000) board feet for a quantity twenty thousand (20,000) board feet or less; or
 - (B) fifty cents (\$0.50) per one thousand (1,000) board feet for a quantity greater than twenty thousand (20,000) board feet.
- (9) For loose and scattered boards or planks, five dollars and fifty cents (\$5.50) per one thousand (1,000) board feet.
- (10) For staves and heading, four dollars (\$4) per one thousand (1,000) pieces that are merchantable.

(b) The compensation due under subsection (a) is payable by the owner, if required, upon the delivery to the owner of the logs or timber.

(c) The finder has a lien upon the property found for the charges provided in subsection (a).

(d) If the owner of the property fails to pay the compensation due under subsection (a) within sixty (60) days after the day the property is found, the property may be sold at the request of the person to

whom the compensation is due by a constable, sheriff, or other officer of the county in which the property was found. The sale must be at the courthouse door at public auction to the highest bidder, upon thirty (30) days written or printed notice that gives the time and place of sale and a written or printed description of the property and any marks or brands on the property. The notice of the sale must be posted at the front door of the courthouse of the county in which the sale is to be made and at two (2) other public places in the county where the property is located. It is the duty of the constable or other officer making the sale to pay to the finder the finder's legal fees and charges after deducting the constable's or other officer's commission. The commission charged may be the same as if the constable or other officer had sold the same property under execution. If any sale money remains after payment of the charges and fees described in this section, the constable or other officer shall pay the remainder to the clerk of the circuit court in the county in which the sale occurred and obtain a receipt for the amount. If the constable or other officer fails to perform the constable's or other officer's duties under this chapter, the constable or other officer is liable on the constable's or other officer's official bond to the party aggrieved.

(e) If the owner, within one (1) year after the date of the sale, appears before the county judge of the county where the money is deposited with the clerk and establishes the owner's right to the satisfaction of the court to the money, the money must, upon the order of the county judge, be paid over to the owner by the clerk; otherwise, it shall be paid into the state general fund.

(f) This chapter may not be construed to permit a person to recover under subsection (a) for any fleet of timber, raft or platform, sawlog, or other log or tree prepared for the purpose of sale, or any cross or railroad tie, board, plank, stave, heading, or other timber prepared for the market that is above any boom or other arrangement made by the owner to preserve the logs or timber.

As added by P.L.2-2002, SEC.19. Amended by P.L.246-2005, SEC.219.

IC 32-34-9-3

Finder compensation

Sec. 3. A person who finds a fleet, raft or platform, as described in this chapter, is entitled to reasonable compensation for keeping and caring for the property in addition to the fees set forth in section 1 of this chapter. The compensation may not exceed the following rates:

- (1) For each fleet, four dollars (\$4) per day.
- (2) For each raft, one dollar (\$1) per day.
- (3) For each platform, fifty cents (\$0.50) per day.

As added by P.L.2-2002, SEC.19.

IC 32-34-9-4

Additional compensation; sawlogs or other logs or trees

Sec. 4. If a person finds any sawlog or other log or trees prepared

for sale as described in this chapter and the property remains in the person's possession more than thirty (30) days after the time the person found the property to the time the owner offers to pay the charges described in section 1 of this chapter, the finder is entitled to charge, in addition to the fee set forth in section 1 of this chapter, twenty-five cents (\$0.25) for every sawlog or other log or tree prepared for sale that remains in the person's possession as described in this section.

As added by P.L.2-2002, SEC.19.

IC 32-34-9-5

Hiding property or failure to float property upon demand

Sec. 5. If the finder of any property described in this chapter:

- (1) hides the property;
- (2) allows the property to get aground so that the finder cannot immediately, upon the demand of the property's owner or the owner's agents, put the property afloat; or
- (3) fails to put the property afloat upon demand;

the finder may not collect or receive any compensation for finding or caring for the property and, in addition to any other duties imposed by this chapter, is responsible to the owner for the value of the property as if the property were afloat.

As added by P.L.2-2002, SEC.19.

IC 32-34-9-6

Brand adopted by timber dealer

Sec. 6. A person, firm, or corporation that deals in timber in any form is considered a timber dealer and may adopt a brand in the manner and with the effect described in this chapter.

As added by P.L.2-2002, SEC.19.

IC 32-34-9-7

Brand adopted by dealer; form; acknowledgment; posting

Sec. 7. (a) A timber dealer desiring to adopt a brand may do so by the execution of a writing in the following form:

Brand - Notice is hereby given that I (or we, as the case may be) have adopted the following brand in my (or our) business as a timber dealer: (Here insert the words, letters, figures, etc., constituting the brand, or if the brand is any device other than words, letters, or figures, insert a facsimile of the brand.) Dated this ____ day of _____ A.D. _____.

(b) The writing must be acknowledged or proved for the record in the same manner as deeds are acknowledged or proven and must be recorded in the office of the clerk of the county in which the timber dealer maintains a principal office or place of business.

(c) A copy of the writing must be posted at the timber dealer's principal place of business, at the courthouse door in the county where the timber dealer carries on business, and at the public places in the county.

As added by P.L.2-2002, SEC.19.

IC 32-34-9-8

Brand as exclusive trademark

Sec. 8. A brand adopted in accordance with this chapter is the exclusive trademark of the person adopting the brand, and the brand constitutes property under IC 35-41-1-23.

As added by P.L.2-2002, SEC.19.

IC 32-34-9-9

Impressing brand on timber

Sec. 9. A person who owns a brand shall cause the brand to be plainly stamped, branded, or otherwise impressed upon each piece of timber upon which the brand is placed.

As added by P.L.2-2002, SEC.19.

IC 32-34-9-10

Contract for sale of standing trees or standing timber

Sec. 10. A contract for the sale of standing trees or standing timber may not be enforced by a legal action unless the contract or some memorandum of the contract is in writing and signed by the person to be charged or the person's duly authorized agent.

As added by P.L.2-2002, SEC.19.

IC 32-34-9-11

Branded timber; title

Sec. 11. (a) If timber is branded by the seller or by another person with the seller's consent with the brand of the purchaser or another person or corporation, the title to the timber passes at once to the person or corporation whose brand is placed on the timber.

(b) Placement of a brand on timber as described in subsection (a) does not affect the rights of the contracting parties regarding the payment of the purchase money for the timber.

As added by P.L.2-2002, SEC.19.

IC 32-34-9-12

Prior brands and trademarks; validity

Sec. 12. (a) This chapter does not affect the validity and effect of a brand or trademark adopted and recorded under the law in effect before March 11, 1901.

(b) A brand or trademark described in subsection (a) is valid for all purposes, civil and criminal, as if the brand or trademark had been adopted and recorded under this chapter.

As added by P.L.2-2002, SEC.19.

IC 32-34-9-13

Finding timber; compensation; violation

Sec. 13. (a) If timber prepared for market is found on any of the streams of Indiana, the timber shall be held and disposed of as provided in this chapter. The finder of the timber shall receive as compensation for the finder's services only the fees provided for in section 2 of this chapter.

(b) A person who knowingly violates this section commits a Class D felony.

As added by P.L.2-2002, SEC.19.