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CRIMINALIZE TREE SPIKING

House Bill 4003 with committee
amendments
First Analysis (5-4-95)

Sponsor: Rep. David Anthony
Committee: Agriculture & Forestry

THE APPARENT PROBLEM:

Many people in the forestry and paper industries are concerned about illegal, and sometimes violent, actions directed against their industries. One such practice feared by people who work in these industries is known as "tree spiking," a practice in which vandals put metal objects (or other objects that are hard enough to damage saws and wood processing equipment) in or on trees or logs in order to prevent the trees from being cut down or the logs from being sawed into timber. Such vandalism has occurred in other logging states, and sometimes has resulted in injury or even death to logging or sawmill workers. Legislation has been introduced that would make such practices illegal in Michigan.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Penal Code to provide criminal penalties for someone who inserted various hard objects into a tree or wood product, without an owner's consent, in order to intentionally damage saws or equipment used to manufacture or process wood and purposely disrupt, annoy, or alarm another person. Under the bill, someone who violated the bill would be guilty of a misdemeanor and could be imprisoned up to 90 days, fined up to \$500, or both. Someone who violated the bill and, in the process, injured or killed another person would be guilty of a felony and, in the case of an injury, could be imprisoned up to four years, fined up to \$2,500, or both; or, if someone were killed, could be imprisoned up to 15 years, fined up to \$7,500, or both. The bill would not prevent someone who had violated the bill from being charged with, convicted of, or punished for violating another law, and would not prohibit a landowner from providing for an "alarm system" (not defined by the bill) to be attached to a tree on his or her property.

MCL 750.495a

BACKGROUND INFORMATION:

The Estivant Pines Sanctuary is located at the tip of the Upper Peninsula's Keweenaw Peninsula. The 377-acre sanctuary is owned by the Michigan Nature Association, a land conservancy based in Avoca (in St. Clair County) that raised the money to save the Estivant Pines by buying most of the property from Lake Superior Land Company, a division of Koll Real Estate Group, Incorporated, of Newport Beach, California. According to a November, 1993, article in The Detroit Free Press, Koll Real Estate Group announced earlier that month that it had signed a letter of intent to sell Lake Superior Land to Libra Invest & Trace, Ltd., an investment firm based in the British Virgin Islands and owned by a Lebanese businessman.

A similar bill, House Bill 5369, passed the House in the 1993-94 legislative session, but died in the Senate Agriculture and Forestry Committee.

FISCAL IMPLICATIONS:

The House Fiscal Agency says the bill would have indeterminate fiscal implications for the state and local units of government, which would depend on the number of violators who were convicted of felony or misdemeanor charges under the bill. (5-3-95)

ARGUMENTS:

For:

Other logging states are familiar with what is known variously as "environmental monkey wrenching" or, more bluntly, "ecoterrorism," in which people opposed to logging and paper mills deliberately put dangerous metal objects in trees and logs so that when loggers try to cut the trees down, or mill workers try to saw the logs into boards, the metal destroys the saw. The flying metal from saws that encounter the metal hidden in the trees or logs is extremely dangerous, and has resulted in both injury

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and death to workers. This despicable practice should be prohibited and heavily sanctioned, both to protect the economic interests of legitimate industries, and the state as a whole, as well as individual workers' health and safety.

Although no actual cases of ecoterrorism have been proven in Michigan, some loggers-- including one who is a member of the state Natural Resources Commission--in the Upper Peninsula attribute vandalism done to their equipment to sabotage by environmental extremists. No one keeps statistics on logging vandalism in Michigan, and many victims reportedly are reluctant to report vandalism incidents for fear that the reports might inspire copycats. Loggers apparently expect to have occasional vandalism during hunting season--windshields or tires shot out or other minor damage--but in the last five or so years, loggers say, the type of vandalism being done resembles advice in a radical environmentalists' manual on how to sabotage logging equipment.

Fueling loggers' fears, in August of 1993 a letter was sent to a U.P. radio station and other news media threatening "a reign of ecoterrorism" when a land company announced that it would cut selected maple, birch, oak, and old growth pine trees in September near the southwest corner of the Estivant Pines Sanctuary near the tip of the Keweenaw Peninsula. Although the anonymous letter writer(s) promised systematic vandalism, including driving metal spikes into trees to break saw blades, no spikes were found and no equipment was damaged when the trees were cut down. But even if such activity does not currently exist in Michigan, the state should send a strong message that spiking trees will not be tolerated here and that persons caught in this activity could receive jail time, fines, or both. The bill not only would do this, but would specifically authorize landowners to protect their trees by putting alarm systems on them to help prevent the theft of valuable timber. (A three- or four-foot-diameter pine tree reportedly can be worth thousands of dollars.)

Against:

The bill would identify and prohibit activities that may not even exist in Michigan. Although some in the logging industry, including a member of the Michigan Natural Resources Commission, suspect some environmentalists in the state may be

practicing ecoterrorism, not everyone in the logging business agrees. For example, a Detroit Free Press article from November of 1993 notes that a spokesman for the Michigan Association of Timbermen said he wasn't aware of any increase in vandalism. The Marquette Mining Journal published an article around the same time titled "Logging Equipment Vandalized: Is it terrorism?", but in only one of the six incidents of vandalism were the perpetrators caught, and these were reported to be "kids out for a joy ride." Most of the other reported incidents alleged to have been caused by ecoterrorists, however, had no evidence to back up this claim. The bill is patently unfair as it could link vandalism and violence with environmentalists. State law shouldn't be based on accusations made by people who have no evidence other than their obvious dislike for environmentalists.

Response:

Some people believe that radical environmentalist activities such as spiking trees, which for the most part have occurred in old-growth forests of the northwest, may now be a problem in other parts of the country, too. Although tree-spiking and related activities were unknown in the Midwest until a few years ago, and even though mainstream environmental groups soundly condemn it, some loggers in the U.P. and northern Wisconsin say their neighbors or friends have been victimized, and they're worried the same could happen to them. Rather than wait for someone to get hurt or killed from such activities, the state should send a message that persons who do these things could face stiff penalties.

Against:

The kind of vandalism called "tree spiking" already is illegal under the Michigan Penal Code. The only difference between ordinary vandalism and tree spiking presumably is in the motivation of the vandals. But laws generally are designed to punish actions not intentions. Consequently, the bill is unnecessary since it basically would make vandalism, which already is illegal, illegal for a second time under the penal code.

Response:

Intent in such activity is important if, in the process of spiking a tree to disrupt logging activities, someone gets hurt or killed as a result of the initial action. Someone convicted of doing this could, at present, be prosecuted for intentional disregard for

life (i.e., manslaughter), which carries penalties similar to those proposed in the bill. The bill, however, is needed to send a clear statement that this particular activity will simply not be tolerated in this state.

POSITIONS:

The Department of Natural Resources supports the bill. (5-3-95)

Representatives of the following testified before the House Agriculture and Forestry Committee in support of the bill (5-3-95):

- * The Michigan Association of Timbermen
- * The Timber Producers Association
of Michigan and Wisconsin
- * Champion International Corporation
- * Mead Paper Co.