

TIMBER:
RECORDS KEPT
BY PURCHASER:

Record as to the section, township and range on
which timber grew is sufficient.



January 11, 1952

1-14-52

Honorable Homer F. Williams
Prosecuting Attorney
Bollinger County
Marble Hill, Missouri

Dear Sir:

We are in receipt of your recent letter requesting an opinion
of this department. Your letter is as follows:

"With reference to Section 560.490 of the RS
of Mo. 1949, some of the purchasers of timber
who are required to keep a record of the person
from whom they buy the timber, etc. as set out
in said section only require the party selling
them the timber to give the section, Township
and Range, but do not require the seller to give
the subdivisions of the section, from which they
claim the timber comes.

"We do have some people who are suspicioned of
stealing timber especially from non-residents,
and it would seem that a seller would be able
to give the subdivisions of the section from
which he claims the timber comes, as his deed
would show, or if he had purchased same his
timber deed or contract should show, but the
purchasers have the idea that under this section
they only have to get information as to the town-
ship, Section and Range, so far as the description
is concerned.

"Do you think that is a sufficient compliance, or
do you think they should also be furnished with
the legal subdivisions of the section from which
said timber comes?"

Paragraph 2 of Section 560.490, RSMo 1949, which paragraph
constitutes the portion of said section pertinent to your inquiry
is as follows:

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"Every person, firm, partnership, or corporation engaged in buying any railroad ties, staves, stavebolts or other manufactured timber products or any trees or parts thereof for manufacture into timber products, shall keep a record of every such purchase and said record shall be kept in a place where such property is delivered to the purchaser. Said record shall contain the name of the person or persons from whom such property was purchased, the amount thereof, the date of purchase and the legal description of the section, township and range of the county from which such timber was cut and taken, which information shall be obtained from the person or persons selling such property and be kept open for public inspection during business hours, and any person, firm, partnership or corporation, failing so to do shall be guilty of a misdemeanor."

The substance of your inquiry is whether or not the keeping of the record of the section, township and range from which the timber purchased is taken rather than the keeping of the record of the subdivisions of said section, constitute compliance with the following portion of the section above quoted: "Said record shall contain the name of the person or persons from whom such property was purchased * * * and the legal description of the section, township and range of the county from which such timber was cut and taken which information shall be obtained from the person or persons selling such property * * *."

We are of the opinion that since the statute mentions the legal description of the section, township and range specifically and does not mention the legal description of any subdivision of the section it is not possible to construe the statute as requiring the purchaser of the kinds of timber specified in the statute to obtain from the seller of the timber a description of a subdivision of a section.

We call attention to the fact that the section provides that a violation thereof is a misdemeanor and we suggest the fact that penal statutes must be strictly construed. In the case of State v. Bartley, 304 Mo. 58, l.c. 62, the opinion of the court contained the following language:

"* * * Criminal statutes are to be construed strictly; liberally in favor of the defendant and strictly against the State, both as to the charge and the proof. * * *"

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We are of the opinion that a strict construction of the above quoted provision of the statute precludes the idea that the statute requires any land description beyond the mention of the section, township, range and county from which the timber is removed.

CONCLUSION

We are accordingly of the opinion that the keeping of the record by the purchaser of the timber on information furnished by the seller as to the section, township and range and county from which the timber was taken, constitutes compliance with Section 560.490, RSMo 1949, and that reference to the subdivision of the section from which the timber was taken is unnecessary.

Respectfully submitted,

APPROVED:



J.E. TAYLOR
Attorney General
SMW:mw

SAMUEL M. WATSON
Assistant Attorney General