



**Report to
The Vermont Legislature**

Timber Trespass Enforcement

in Accordance with Section 5 of Act 153 (2024)

**Submitted to: House Committee on Agriculture, Food Resiliency,
and Forestry; House Committee on Judiciary; Senate
Committee on Natural Resources and Energy;
Senate Committee on Judiciary; Senate Committee
on Agriculture**

Submitted by: Charity R. Clark, Vermont Attorney General

**Prepared by: Megan R.H. Hereth, Assistant Attorney General
Environmental and Public Protection Division**

Report Date: January 15, 2025

Introduction

This report has been prepared in accordance with Section 5 of [Act 153 \(2024\)](#), requiring the Attorney General's Office to submit a report including:

- (1) a summary of the current issues pertaining to enforcement of timber trespass statutes;
- (2) a summary of mechanisms or alternatives utilized in other states to effectively enforce or prevent timber theft or similar crimes;
- (3) recommendations for programs, policy changes, staffing, and budget estimates to improve enforcement and prevention; ensure consumer protection; and reduce the illegal harvesting, theft, and transporting of timber in the State, including proposed statutory changes to implement the recommendations; and
- (4) a recommendation of whether and how property used in the commission of land improvement fraud or timber trespass should be subject to seizure and forfeiture by law enforcement.

The Attorney General's Office (AGO) consulted with the Department of Forests, Parks and Recreation (FPR); the Department of Public Safety (DPS); the Office of the State Treasurer (Treasurer); the Department of State's Attorneys and Sheriffs (DSAS); the Professional Logging Contractors of the Northeast (PLC); and the Vermont Forest Products Association (VFPA). The AGO also consulted with the Department of Environmental Conservation (DEC); the Department of Fish and Wildlife (DFW); and the Vermont Judiciary.

(1) Timber Trespass and Enforcement in Vermont

The risk of timber trespass is an unfortunate reality for Vermont landowners. Incidents of timber trespass may involve unapproved cutting of trees, failure to pay for trees, damage to the land, and other harm. Vermont law offers multiple avenues of legal recourse for incidents involving timber trespass with authority to investigate and enforce held by various entities. This divided authority can cause confusion for landowners and may hinder criminal and civil enforcement. These matters involve a wide variety of facts, legal options, government authority, and an evolving statutory landscape. Thus, case outcomes and whether enforcement is proportionate with the scale of the problem is currently difficult to determine with complete clarity.

Timber trespass in Vermont.

Research for this report showed a total of 73 incidents within State purview over the past 10 years that involve potential timber trespass on public and private land in Vermont. The AGO since 2019 has received information regarding 44 of those incidents, ranging from direct reports to anecdotal information. As further described below, the State has taken some form of enforcement action in 20 of the incidents.

Stakeholders anecdotally report a small number of repeat offenders and a large number of offenses. For reasons identified below, some incidents of timber trespass may not be

reported by landowners and others may not be tracked by state offices. Therefore, the full scope of incidents may not be captured by this report. All stakeholders should improve tracking of incidents, response, and outcomes to bring clarity, and to support next steps that are fully informed.

The common thread of reported incidents and the focus of legislative testimony leading to this report follows. Landowners may receive a knock at their door with an offer to log their property at no cost. They reach verbal and sometimes written agreements, including that the landowners would be paid a portion for their trees every couple of weeks. The common hook is that the landowners don't have to do anything, that the loggers will take care of everything. The landowners are not typically informed or able to do logging work on their own. The selling point is an offer for free money. What the landowners are offered is not what they receive.

Landowners may come to realize they're not being paid, their trees are gone, and their land is a mess. If they respond at all, the logger they are working with may not present solutions and may leave. Some landowners may be afraid. The investment those trees and that land provides is damaged or gone, for decades. This is true whether an offending logger does it to one landowner or more than one landowner. The landowner vulnerability and the harm is similar in nearly all occurrences.

Some incidents of timber trespass, including only a handful of the total mentioned above, are centered around a boundary dispute rather than logging services. Timber trespass centered around boundary disputes rarely triggers government authorities and frequently results in private litigation or resolution. For purposes of this report, timber trespass is about damaging the trees of another, so may include either scenario. However, legislative testimony leading to this report focused on enforcement of incidents involving timber trespass, so the focus of this report follows that lead. To be clear, the factual scenarios across all incidents vary widely. The resulting legal action, if any, also varies.

Legal responses to incidents involving potential timber trespass.

Here is an overview of the law potentially applicable to incidents of timber trespass and that highlights the limits of existing enforcement authority. These limits have caused confusion for loggers, landowners, law enforcement, and legislators alike.

Vermont law provides two specific causes of action for timber trespass, meaning causing damage to the trees of another person or entity. The first is a private civil action for timber trespass with the remedy of triple damages. [13 V.S.A. § 3606](#). The second is the crime of knowingly and recklessly committing timber trespass. [13 V.S.A. § 3606a](#). Specialized expertise may be required for landowners to establish the elements of these claims.

More generally, incidents involving timber trespass may also – or in the alternative – give rise to other causes of action or regulatory violations.

For criminal causes of action that are prosecuted by State's Attorneys or the Attorney General's Office, it is the crime of larceny to take with specific intent a parcel of realty, including trees. [13 V.S.A. § 2504](#). It is also a crime to transport stolen trees. [13 V.S.A. § 3609](#). Absent eyewitness testimony, establishing the elements of these crimes beyond a

reasonable doubt may be challenging.

Relevant to the common thread of reported incidents involving timber trespass, the Legislature recently established the crime of land improvement fraud. See [Act 153 \(2024\)](#). Land improvement fraud constitutes a criminal fraud when entering into an agreement for land improvement and knowingly 1) failing to perform, 2) failing to perform or refund once asked, 3) misrepresenting a material fact, 4) using an unfair or deceptive act to induce the agreement, or 5) price gouging. See [13 V.S.A. § 2029 \(b\)\(1\)](#).

In terms of regulatory authority related to timber trespass, FPR regulates heavy cutting of 40 acres or more, but not heavy cuts of less acreage. [10 V.S.A. § 2625](#). FPR and the Tax Department regulate eligibility for use value appraisal on 25 or more acres of managed forestland. [32 V.S.A. § 3755](#). Less than 25 acres does not qualify for the program. The Land Use Review Board administers permitting for improvements above 2,500 feet in elevation. [10 V.S.A. Ch. 151](#). Land improvements such as logging below that elevation escape this review.

FPR also regulates acceptable management practices for maintaining water quality on logging jobs in Vermont. [10 V.S.A. § 2622](#). Further, the Agency of Natural Resources pursues administrative enforcement and the AGO pursues civil enforcement of the discharge of waste to waters of the State. [10 V.S.A. § 1259](#). Logging jobs without reported water quality concerns don't trigger this oversight.

Criminal and civil enforcement of timber trespass is occurring, with outcomes unclear.

The Legislature established the crime of timber trespass in 2015. The chart below presents state enforcement cases by cause of action since that time.¹

| State enforcement of incidents involving timber trespass | | | | | | | | |
|--|------------------------------------|--------------------------|----------------------------|---------------------------------------|-----------------------|-------------------------|----------------------|------------------------|
| By filed cause of action | | | | | | | | |
| | Criminal taking a parcel of realty | Criminal timber trespass | Criminal unlawful mischief | Criminal transporting of stolen trees | Civil timber trespass | Civil unlawful mischief | Civil consumer fraud | Total causes of action |
| 2025 | | | | | | | 1 | 1 |
| 2024 | | | | | | | 1 | 1 |
| 2023 | 1 | 1 | | | | | | 2 |
| 2022 | 1 | | | | | | | 1 |
| 2021 | | | | | 1 | 1 | | 2 |
| 2020 | | 2 | | | | | | 2 |
| 2019 | | | | | | | | 0 |
| 2018 | | 3 | | | | | | 3 |
| 2017 | | 2 | | | | | | 2 |
| 2016 | | | 1 | 1 | | | | 2 |

¹ Cases are identified in the chart by cause of action. The 2021 civil case involved two separate causes of action relevant to the issues covered in this report, meaning the 16 total causes of action represent 15 separately filed cases.

On criminal enforcement since 2014, the State² has filed a total of 14 cases related to timber trespass on both private and public land. There were also three arrests made, but no case resulted from these arrests.³ For case filings, the State filed two cases for taking a parcel of realty and eight cases for criminal timber trespass. Two of these cases are marked confidential with the Vermont Judiciary, so do not appear in the above chart.⁴ Three of the remaining six cases resulted in findings of guilt and three resulted in dismissal. The State in 2016 filed one case for unlawful mischief and one case for transporting stolen trees, both of which involved logging on public land. These two cases, together, resulted in one guilty plea for unlawful mischief, including a restitution payment.

For arrests⁵, the State's case management software changed in 2021. The prior software shows the State made four arrests for criminal timber trespass in the timeframe 2014-2021 (two in 2018, one in 2019, and one in 2020). One of these arrests resulted in a case filing. Notably, these arrests were made in four different towns and counties. The current case management software did not contain the crime of timber trespass, revealing three years of potential data not readily available.⁶

Given the large number of incidents potentially involving timber trespass (among other causes), this information reveals that criminal prosecution may be limited in number, but at the same time widespread in location. Proportionality is unclear. Because enforcement is occurring and there are likely unreported incidents of timber trespass, perceived lack of enforcement may oversimplify and inaccurately describe the problem considered by the Legislature last session.

On civil enforcement since 2014, private individuals have filed at least 12 cases for civil timber trespass⁷. Civil remedies for timber trespass are available to owners of Vermont land and owners of Vermont timber or forests products. See [13 V.S.A. § 3606\(a\)](#) (applying to the "party injured"). The State only has authority to enforce Vermont's civil timber trespass law when the alleged trespass occurs on state-owned land. The State has filed a total of three cases involving logging, facts relevant to timber trespass, or for civil timber trespass on public land. These 15 civil cases are further described below.⁸

The 12 private lawsuits collectively included causes of action for civil timber trespass, trespass, conversion, unlawful mischief, negligence, consumer fraud, fraud, unjust enrichment, and nuisance, among others. Three of the civil actions reached the Vermont Supreme Court. Nine appeared before Vermont's Superior Courts. Case outcomes varied.

Of the three civil cases the State has filed, one involved timber trespass on public land. In that matter, the State in 2023 settled the lawsuit brought for civil timber trespass and civil

² The State of Vermont with representation either by the AGO or a State's Attorney.

³ These three arrests are included in the 20 State enforcement matters referenced on page 2.

⁴ These two confidential case filings are included in the 20 State enforcement matters referenced on page 2.

⁵ This data does not include arrests by local law enforcement.

⁶ DPS plans to add the cause of action to the software.

⁷ The Vermont Judiciary does not have readily available data specifically identifying civil cases involving timber trespass. Cases that the parties may have settled or voluntarily dismissed are also not included in this summary.

⁸ This data does not include civil or administrative enforcement of other laws in cases that may involve logging, but without allegations of timber trespass.

unlawful mischief for \$75,000 and other injunctive relief. In 2024 and 2025, the State filed two separate consumer fraud lawsuits against logging businesses for unfair and deceptive business practices involving ten incidents related to timber trespass. Both of these cases are ongoing.

This research and stakeholder input generally reveals 1) that private landowners with some frequency pursue civil timber trespass violations in court, and 2) the State pursues civil enforcement of Vermont laws and when public land is involved. Again, perceived lack of enforcement here identified by the total number of cases filed may not paint an accurate picture of the problem considered by the Legislature last session.

Authority to investigate and enforce varies across the array of incidents potentially involving timber trespass, and can cause confusion for landowners and authorities.

Landowners reporting incidents involving timber trespass commonly raise their report with multiple state entities because each of those entities holds a measure of authority over incidents that may constitute timber trespass. Given the responding entity's measure of authority, the full story relevant to the many potential causes of action is rarely reported by landowners with their initial outreach. As a result, thorough investigation may not occur. The factual scenarios across all incidents are complex and vary widely. Stakeholders agree this is a low volume, highly complex problem. Increased capacity, expertise, and coordination for and among state actors may help to develop a shared understanding of the specific facts involved in a potential claim of timber trespass. This may lead to improved outcomes for landowners.

(2) Effective Timber Trespass Enforcement in Other States

Stakeholders uniformly reported that Maine's approach to timber trespass is effective. With full consensus on this item of the report, Maine's enforcement approach became the focus.⁹

The Maine Forest Service administers Maine's laws and rules related to forestry. Their legal framework includes civil and criminal violations for timber trespass. See [17 M.R.S.A. §§ 2510-12](#) and [17-A M.R.S.A. § 353](#). Notably, Maine's forest rangers serve as forestry law enforcement officers. See [12 M.R.S.A. § 8901](#). Vermont's investigation and enforcement structure is somewhat different. Vermont's municipal forest fire wardens serve only for the purpose of monitoring forest fires and FPR's Commissioner serves as the State fire warden to the same extent. See [10 V.S.A. §§ 2603\(d\), 2641](#). Vermont's game wardens enforce Vermont's fish and wildlife laws, and also hold police powers, while foresters licensed in Vermont are not law enforcement officers. See [10 V.S.A. §§ 4191, 4198](#), and [26 V.S.A. § 5202](#). Likewise, the Secretary of ANR's administrative environmental enforcement authority does not extend to timber trespass. See [10 V.S.A. § 8003\(b\)](#).

Maine's law providing increasing consequences for repeat violations, [17 M.R.S.A. § 2512 \(2\)](#), is comparable to Vermont's criminal framework for land improvement fraud, established July 1, 2024. The effect of this new legal tool remains to be seen in Vermont. Maine's approach works for Maine.

Two aspects of Maine's approach that the PLC describes could make a notable difference in Vermont include advance harvest notification and mandatory trip tickets for each removed load of wood. See [10 M.R.S.A. § 2364-B](#) and [01-669 C.M.R. ch. 26 \(2014\)](#). The PLC supports both aspects

⁹ The VFPA recommends exploring the approach of at least 30 other forested states.

as a means of increasing accountability across the full scope of the involved issues. FPR in 2016 looked into harvest notification and prepared “A [Report](#) on Implementation of Harvest Notification in Vermont,” recommending against mandatory harvest notification at the time. In preparing this report, stakeholders anecdotally reported that trip tickets are already a fundamental component of most logging businesses and requiring them by law would not pose an unreasonable burden.¹⁰ Any state authority administering these requirements would require additional resources.

(3) Recommendations to Improve Timber Trespass Enforcement in Vermont

Legislative testimony leading to this report centered on lack of enforcement as the cause of problematic timber trespass. That may not be the complete story. The perceived lack of enforcement appears to be primarily due to resource constraints, lack of coordination, and limited expertise. Vermont law provides many causes of action to address incidents of timber trespass. Any further legislative changes should be carefully tailored to the apparent issue. Making statutory changes at this time may be premature and based on incomplete information. Stakeholder efforts to improve their communication and to educate landowners may also bring notable change in the meantime.

Given the Legislature’s creation of the crime of land improvement fraud and the State’s ongoing legal action against alleged timber trespassers, the AGO recommends reviewing incidents of timber trespass and the scale of enforcement in two years. The AGO does not make statutory recommendations or provide budget estimates at this time. Time for improved tracking by all stakeholders of incidents, responses, and outcomes will lead to more fully informed next steps.

The AGO provides the following three recommendations within the scope of and to the extent existing stakeholder resources allow.

1. Improved enforcement.

Many stakeholders suggested that some form of central resource on timber trespass would fill the collective gaps or grey areas in enforcement authority outlined in Section 1 above. For example, one idea includes a dedicated prosecutor with a statewide purview assigned to pursue timber trespass cases. However, law enforcement carrying out any investigation already faces serious resource constraints. Whether it is a person or a program within any of the state offices, any form of bringing this concept to fruition would require investment.

Some stakeholders suggested that expanding existing authority along with adequate resources for the relevant office may help to improve enforcement efforts. For example, the VFPA proposed the idea of expanding authority for DFW game wardens and ANR environmental enforcement officers to investigate timber trespass, and then referring cases as appropriate to existing law enforcement authorities. This is similar to Maine’s approach. These options would likely require targeted investment within existing programs.

¹⁰ The VFPA strongly opposes these ideas becoming mandates.

2. Within the current legal framework that now includes the crime of land improvement fraud, improving current stakeholder knowledge, communication, and tracking may improve intake as well as outcomes.

The common reported incidents of potential timber trespass can trigger the authority of many offices across the state. Harmed landowners would benefit from needing to cross only one threshold to reach a helpful path, even if multiple offices may become engaged along the way. Group trainings, shared resources, and known avenues of collaboration may bring meaningful progress. For all stakeholders, improved tracking of incidents, action, and outcomes is important.

The proportionality of incidents involving timber trespass to related enforcement may become clear with the results of these recommended efforts. Any statutory changes and supporting budget estimates would likely be more informed than with current information.

3. With deception as a common factor in the majority of incidents of potential timber trespass, an industry-wide campaign to improve landowner knowledge and awareness should be part of the solution.

Complex problems may require both a direct route and a holistic approach to solve. With improved knowledge and communication across offices, the current legal framework may provide a direct route to accountability. The VFPA supports education and outreach as the most effective tools for improvement. Assessment of the industry for professional regulation may be a needed next step.

(4) Seizure and Forfeiture of Logging Equipment

Law enforcement consistently reports they are not equipped to seize or possess logging equipment. DPS primarily identified practical and financial barriers to the process. The location and size of the equipment involved in a logging operation would raise significant challenges. For example, law enforcement would need specialized and expensive equipment to seize and haul a 22,000-pound skidder from a logging site, potentially miles into the woods. Then the challenge would become how to properly transport and store the equipment, plus the associated costs.

Stakeholders also raised concerns regarding joint title to equipment, such as one co-owner accused or convicted of timber trespass, but not the other. Concerns also included the equipment value versus amounts owed in financing, and seizure on an allegation of a civil violation versus after a judgment is obtained and then unpaid.

Vermont statutes and the Rules of Civil Procedure outline the process to enforce a judgment for the payment of money. This procedure includes the attachment of wages or assets to satisfy civil judgments. See 12 V.S.A Chapters [111](#), [113](#), [121](#), and [123](#); see also V.R.C.P. 4.1, 4.2. This process becomes available within a certain time that a civil judgment remains unpaid. Holders of unpaid judgments, including judgment in an action for timber trespass, could use this process.

Some stakeholders supported seizure and forfeiture of logging equipment for its potential deterrent effect on repeat offenders, even if seizure were to occur based on only one incident of timber trespass.

The AGO at this time does not recommend that the Legislature add seizure and forfeiture as a tool for improving timber trespass enforcement in Vermont.