

# ARKANSAS FORESTRY COMMISSION



**LAW ENFORCEMENT**

**QUICK REFERENCE GUIDE**

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# **Authority and Guidelines**

## 20-22-301. Enforcement – Nonliability

(a) The Arkansas Forestry Commission shall designate those employees who shall have the powers of peace officers in the enforcement of the fire laws, the laws pertaining to the unlawful disposal of solid waste when the unlawful disposal occurs on forest land, and any criminal laws pertaining to the unlawful damage, vandalism, or theft of trees, timber, logs, or personal property when the personal property is used in forestry or logging operations.

(b) Commission employees and fire crews under their direction or control shall be allowed to enter any lands, construct fire lines, set backfires, and obtain water, if necessary, to stop a fire then actually burning or to do other work necessary in the performance of their duties without liability for trespass or reasonable damage therefrom.

(c) Upon request of the landowner or the landowner's agent and after the wildfire danger has subsided, the commission or fire crews under its direction or control shall replace the water obtained under the authority of this section.

**History.** Acts 1935, No. 85, § 7; Pope's Dig., § 3055; Acts 1981, No. 845, § 5; A.S.A. 1947, § 41-1957; Acts 1993, No. 521, § 1; 1995, No. 135, § 1; 1995, No. 137, § 1; 1999, No. 28, § 1; 2001, No. 362, § 1; 2005, No. 79, § 1.

### *A.C.A. § 25-17-304*

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### A.C.A. § 25-17-304 (2011)

#### **25-17-304. Appointment and removal of institutional law enforcement officers.**

(a) The executive heads of each of the educational, charitable, correctional, penal, and other institutions owned and operated by the State of Arkansas, including the executive head of the Department of Parks and Tourism and the executive head of the Arkansas Forestry Commission, are authorized to designate and appoint one (1) or more of the employees of the institutions and department, respectively, as an institutional law enforcement officer or officers for the institution or at a state park, or any separate portion of the institution or park, who shall exercise law enforcement officer authority under the laws of this state.

(b) These institutional law enforcement officers shall:

(1) Have all the powers provided by law for city police and county sheriffs to be exercised as required for the protection of the respective state institutions and state parks, together with any other duties which may be assigned by the employing institution or department; and

(2) Meet the requirements for certification set out by the Executive Commission on Law Enforcement Standards and Training in addition to any institution or department requirements.

**(c) (1)** The present jurisdictional powers or responsibility of the county sheriffs or city police over the land or property of institutions or persons on the land shall not be ceded to the law enforcement officers of state institutions.

**(2)** The appointment or designation of institutional law enforcement officers does not supersede in any way the authority of the Department of Arkansas State Police or the county sheriffs or that of the law enforcement officers of the jurisdiction within which the institution or portions of it are located.

**(d) (1)** Institutional law enforcement officers shall be identified by a shield or badge bearing the name of the state institution.

**(2)** The institution shall issue an identification card bearing the photograph of the institutional law enforcement officer who shall carry it on his or her person at all times when on duty and display it upon request.

**(e) (1)** An institutional law enforcement officer's authorization to have and to exercise the powers provided by law for law enforcement officers shall be further evidenced by a letter of appointment issued under the seal of the institution.

**(2)** The executive head of the institution and the executive head of the department or their designees shall maintain a file containing each institutional law enforcement officer's authorization certificate, the certificate of appointment, and all other certificates and information consistent with the regulations of the Executive Commission on Law Enforcement Standards and Training.

**(3) (A)** The executive head of the state institution or the department shall have the authority to remove an employee from the execution of those designated duties, including the authority to revoke in writing the authorization to serve as an institutional law enforcement officer for the institution or department.

**(B)** Upon termination of that authority, the person shall no longer possess or exercise the authority of an institutional law enforcement officer.

**(C)** A copy of all revocations shall be placed in the file described in subdivision (e)(2) of this section.

**(D)** The Executive Commission on Law Enforcement Standards and Training shall be notified of any change in an institutional law enforcement officer's status.

**HISTORY:** Acts 1967, No. 328, §§ 1, 8; 1971, No. 325, § 1; 1981, No. 805, § 1; A.S.A. 1947, §§ 7-112, 7-119; Acts 2007, No. 498, § 2; 2009, No. 549, § 4; 2009, No. 1198, § 1.

# Fire Laws and Related Statutes

### **5-38-310. Unlawful burning.**

**(a)** A person commits the offense of unlawful burning if the person:

**(1)** Sets on fire or causes or procures to be set on fire any forest, brush, or other inflammable vegetation on another person's land;

**(2)** Allows a fire that he or she built or has charge of to escape from his or her control or to spread to a person's land other than that of the builder of the fire;

**(3) (A)** Burns any brush, stumps, logs, rubbish, fallen timber, grass, stubble, or debris of any sort, whether on the person's own land or another person's land, without taking necessary precaution both before lighting the fire and at any time after lighting the fire to prevent the escape of the fire.

**(B)** The escape of fire to adjoining timber, brush, or grassland is prima facie evidence that a necessary precaution was not taken;

**(4)** Builds a camp fire on another person's land without clearing the ground immediately around it of material that will carry fire;

**(5)** Leaves on another person's land a camp fire to spread on that person's land;

**(6)** Starts a fire in forest material not the person's own by throwing away a lighted cigar, match, or cigarette or by the use of a firearm or in any other manner and leaves the fire unextinguished;

**(7)** Defaces or destroys a fire warning notice;

**(8)** Is an employee of the Arkansas Forestry Commission or an officer charged with a duty of enforcing a criminal law and fails to attempt to secure the arrest and conviction of a person against whom he or she has evidence or can secure evidence of violating a fire law; or

**(9)** Sets on fire or causes or procures to be set on fire any forest, brush, or other flammable material in violation of a burn ban on outdoor burning declared under § 12-75-108.

**(b)** Unlawful burning is a Class A misdemeanor.

**(c)** A bond for costs shall not be required in a court of this state for prosecution for violation of this section.

**(d)** It is not a violation of:

**(1)** Subdivision (a)(8) of this section for an employee of the commission to fail to enforce subdivision (a)(9) of this section; or

**(2)** Subdivision (a)(9) of this section if the person was:

**(A)** Acting under a permit issued by the chief executive of the political subdivision issuing the burn ban; or

**(B) (i)** Setting on fire or causing or procuring to be set on fire any crop remainder or remaining vegetation after harvest of the crop on the person's land.

**(ii) (a)** In order to provide a safety barrier between the crop remainder or remaining vegetation and adjacent land, the person shall perform adequate disking of field perimeters or perform other safety measures as required by the county burn ban officer.

(b) If the person does not comply with subdivision (d)(2)(B)(ii)(a) of this section, the defense under subdivision (d)(2)(B)(i) is not available, and the person is liable for actual damages to adjacent land caused by the fire.

#### **5-38-311. Unlawful burning Miscellaneous felonies.**

(a) The following acts are Class C felonies:

(1) Purposely setting on fire the land of another person;

(2) Starting a fire on the person's own land that he or she has leased or are under his or her control with the intent of letting the fire escape to the land of another person; and

(3) The destruction or injuring of, or theft of, any telephone line, tower, building, tool, or equipment used in the detection, reporting, or suppression of fires.

(b) No bond for costs shall be required in any court of this state for prosecution for violation of a provision of this section.

#### **5-38-301. Arson.**

(a) A person commits arson if he or she:

(1) Starts a fire or causes an explosion with the purpose of destroying or otherwise damaging:

(A) An occupiable structure or motor vehicle that is the property of another person;

(B) Any property, whether his or her own or property of another person, for the purpose of collecting any insurance for the property;

(C) Any property, whether his or her own or property of another person, if the act thereby negligently creates a risk of death or serious physical injury to any person;

(D) A vital public facility;

(E) Any dedicated church property used as a place of worship exempt from taxes pursuant to 26-3-301; or

(F) Any public building or occupiable structure that is either owned or leased by the state or any political subdivision of the state; or

(2) Recklessly causes a fire or an explosion in the course of and in furtherance of a felony or in immediate flight after committing a felony that results in destroying or otherwise damaging:

(A) Any occupiable structure or motor vehicle;

(B) Any property, if the fire or explosion creates a risk of death or serious physical injury to any person;

(C) A vital public facility;

- (D)** Any dedicated church property used as a place of worship exempt from taxes pursuant to 26-3-301; or
- (E)** Any public building or occupiable structure that is either owned or leased by the state or any political subdivision of the state.

**(b)** Arson is a:

- (1)** Class A misdemeanor if the property sustains less than five hundred dollars (\$500) worth of damage;
- (2)** Class D felony if the property sustains at least five hundred dollars (\$500) but less than two thousand five hundred dollars (\$2,500) worth of damage;
- (3)** Class C felony if the property sustains at least two thousand five hundred dollars (\$2,500) but less than five thousand dollars (\$5,000) worth of damage;
- (4)** Class B felony if the property sustains at least five thousand dollars (\$5,000) but less than fifteen thousand dollars (\$15,000) worth of damage;
- (5)** Class A felony if the property sustains at least fifteen thousand dollars (\$15,000) but less than one hundred thousand dollars (\$100,000) worth of damage; or
- (6)** Class Y felony if the property sustains damage in an amount of at least one hundred thousand dollars (\$100,000).

**(c)** As used in this section, motor vehicle means every self-propelled device in, upon, or by which any person or property is, or may be, transported or drawn upon a street or highway.

**(d) (1) (A)** If the Governor deems it necessary, he or she may offer a reward not to exceed fifty thousand dollars (\$50,000) for information leading to the apprehension, arrest, and conviction of a person who has committed, attempted to commit, or conspired to commit a criminal offense under this section.

**(B)** The fifty-thousand-dollar reward maximum imposed by this section only applies to state-appropriated funds.

**(C)** The Governor may increase the amount of any reward offered by use of funds from the Reward Pool Fund created in this section.

**(2)** When the Governor offers a reward pursuant to this section, he or she may place any reasonable condition upon collection of the reward as he or she deems necessary.

**(3) (A)** The Governor may establish and administer a fund to be known as the Reward Pool Fund.

**(B)** Any monetary donation or gift made by a private citizen or corporation for the purpose of offering a reward or enhancing a state-funded reward offered for information leading to the apprehension, arrest, and conviction of a person who has committed, attempted to commit, or conspired to commit a criminal offense under this section shall be deposited in the fund.

**(C) (i)** The Governor shall have the sole discretion to determine if and how much of the fund is offered in a particular criminal case.

**(ii)** However, if the donor places any lawful restriction or instruction on use of the donation at the time it is given, the restriction or instruction shall be honored.

(4) Any person completing the requirements to be eligible for the reward is entitled to the reward offered by the Governor, and the Governor shall certify the amount of the reward to the Auditor of State, who shall issue his or her warrant on the State Treasury for the reward, to be paid out of any money appropriated or deposited into the fund.

**5-38-302. Reckless burning.**

(a) A person commits the offense of reckless burning if the person purposely starts a fire or causes an explosion, whether on his or her own property or property of another person, and thereby recklessly:

- (1) Creates a substantial risk of death or serious physical injury to any person;
  - (2) Destroys or causes substantial damage to an occupiable structure of another person; or
  - (3) Destroys or causes substantial damage to a vital public facility.
- (b) Reckless burning is a Class D felony.

**5-38-303. Failure to control or report a dangerous fire.**

(a) A person commits the offense of failure to control or report a dangerous fire if the person knows that a fire is unattended and is endangering the life, physical safety, or a substantial amount of property of another person, and the person:

- (1) Fails to act in a reasonable manner to put out or control the fire when he or she can do so without substantial risk to himself or herself; or
  - (2) Fails to act in a reasonable manner to report the fire.
- (b) Failure to control or report a dangerous fire is a Class B misdemeanor.

**5-38-202. Causing a catastrophe Threatening to cause a catastrophe.**

(a) (1) A person commits the offense of causing a catastrophe if he or she knowingly causes a catastrophe by:

- (A) Explosion;
- (B) Fire;
- (C) Flood;
- (D) Avalanche;

- (E) Collapse of building;
  - (F) Distribution of a poison, radioactive material, bacteria, or virus; or
  - (G) Another dangerous and difficult to confine force or substance.
- (2) Causing a catastrophe is a Class Y felony.
- (b) (1) A person commits the offense of threatening to cause a catastrophe if he or she:
- (A) Contacts any person, company, corporation, or governmental entity; and
  - (B) Threatens to cause a catastrophe by explosion, fire, flood, avalanche, collapse of building, release of a poison, radioactive material, bacteria, or virus, or another dangerous and difficult to confine force or substance, unless:
    - (i) Paid a sum of money or any type of property; or
    - (ii) The person, company, corporation, or governmental entity performs a requested act.
- (2) Threatening to cause a catastrophe is a Class D felony.
- (c) In addition to any other restitution ordered under [5-4-205](#), a court may order that a person who violates this section make restitution to the state or any political subdivision of the state for any cleanup costs associated with the commission of the offense.

**20-22-302. Notice to Arkansas Forestry Commission of intent to burn forest vegetation.**

- (a) (1) Any person in this state who desires to burn forest vegetation, including debris from land clearing, shall notify the Arkansas Forestry Commission of the person's intention to burn. Notification of the proposed burning shall include the time and location of the intended burning and other facts which the person or the commission may deem relevant.
- (2) This notification requirement shall not apply to the "open burning" of "yard wastes" as those terms are defined in § 8-6-1701.
- (b) The landowner or other person having charge of the land or his or her agent shall be present and in attendance at the time of the burning.
- (c) There shall be no liability on the part of the State of Arkansas, the commission, or any personnel of the commission for damages caused by the burning of forest vegetation under the provisions of this section.
- (d) It is the intention of this section that the commission may assist or advise local landowners or their agents in the burning of forest vegetation.
- (e) This section shall not apply unless the forest vegetation or debris from land clearing to be burned weighs at least one (1) ton.

**HISTORY:** Acts 1961, No. 246, § 1; A.S.A. 1947, § 82-824; Acts 1999, No. 107, § 1.

**20-22-303. Public nuisance -- Duty to extinguish.**

(a) Any fire on any forested, cut-over, brushlands, or grasslands burning uncontrolled is declared a public nuisance by reason of its menace to life or property.

(b) (1) Any person, firm, or corporation responsible for either the starting or the existing of such a fire is required to control or extinguish it immediately, and, if the person, firm, or corporation shall refuse, neglect, or fail to do so, the Arkansas Forestry Commission and any other organized fire suppression force may summarily abate the nuisance thus constituted by controlling or extinguishing the fire. The person, firm, or corporation responsible for the fire shall be liable for payment of all reasonable costs and expenses incurred in suppressing the fire.

(2) Should the costs and expenses of suppression not be paid within ninety (90) days of invoice date, then the costs shall be recoverable by civil action.

**20-22-304. Civil action for damages.**

(a) Persons, firms, or corporations starting or being responsible for fires that cause damage to any other person shall make satisfaction in double damage to the party injured.

(b) Damages are to be recovered by civil action.

**20-22-306. Conviction as prima facie evidence in civil action.**

Conviction for violation of § 5-38-310 or any part of § 5-38-311 shall be prima facie evidence of responsibility in civil action to recover damages or suppression costs under § 20-22-304.

**12-13-111. Investigation of fires.**

(a) (1) The deputies to the Director of the Department of Arkansas State Police shall investigate each fire causing loss of life or damage to property within their jurisdiction to determine if the fire was caused by negligence or design.

(2) If it appears that a fire is of suspicious origin or that a crime has been committed in connection therewith, the deputy shall immediately notify the director, who shall promptly initiate an inquiry to ascertain the cause of the fire and the person, if any, responsible therefor.

(b) On his or her own motion and at any time, the director may investigate the origin and circumstances of any fire in this state without restraint or liability for trespass.

(c) Any building or premises may be inspected along with the contents and occupancy thereof.

(d) On request, every fire insurance company licensed in this state shall furnish to the director any information it may have concerning any fire in this state.

**12-13-108. Ex officio deputies.**

All mayors, members of fire departments, and peace officers shall be ex officio deputies to the Director of the Department of Arkansas State Police. They shall be subject to the duties and obligations imposed by this subchapter in fire prevention and in the investigation of the cause, origin, and circumstances of fires within their jurisdiction.

# Litter Laws

### **8-6-403. Definitions.**

As used in this subchapter, unless the context otherwise requires:

- (1)** "Abandoned" means property to which no person claims or exercises right of ownership;
- (2)** "Automobile repair shop" means any business which engages in the repair or servicing of vehicles;
- (3)** "Commercial littering" includes, but is not limited to, littering done by commercial businesses and manufacturing companies of every kind and description, including those businesses and persons who illegally dispose of litter or solid waste for other persons in return for money, fees, or other compensation;
- (4)** "Demolisher" means any person whose business, to any extent or degree, is to convert a motor vehicle or household appliance into processed scrap or scrap metal, into saleable parts, or otherwise to wreck or dismantle vehicles or appliances;
- (5)** "Disposable package or container" means all items or materials designed or intended to contain another item or product, but not designed or intended for permanent or continued use;
- (6)** "Enclosed building" means a structure surrounded by walls or one (1) continuous wall and having a roof enclosing the entire structure and includes a permanent appendage to the structure;
- (7)** "Household appliance" includes, but is not limited to, refrigerators, freezers, ranges, stoves, automatic dishwashers, clothes washers, clothes dryers, trash compactors, television sets, radios, hot water heaters, air conditioning units, commodes and other plumbing fixtures, and bed springs or other furniture;
- (8)** "Inoperative household appliance" means a discarded household appliance which by reason of mechanical or physical defects can no longer be used for its intended purpose and which is not serving a functional purpose;
- (9)** "Junk motor vehicle" means any vehicle which is inoperable, dismantled, or damaged and that is unable to start and move under its own power. Vehicles are excluded as long as they are registered and bear a current license permit;
- (10) (A)** "Litter" means all waste material which has been discarded or otherwise disposed of as prohibited in this subchapter, including, but not limited to, convenience food and beverage packages or containers, trash, garbage, all other product packages or containers, and other postconsumer solid wastes.  
**(B)** Litter does not include wastes from the primary processing of mining, logging, sawmilling, or farming, the raising of poultry, manufacturing, or wastes deposited in proper receptacles;
- (11)** "Old vehicle tire" means a pneumatic tire in which compressed air is designed to support a load, but which because of wear, damage, or defect can no longer safely be used on a motor vehicle and which is either not serving a functional purpose or use or is not in an enclosed building, a salvage yard, or the actual possession of a demolisher;

**(12)** "Public place" means any area that is used or held out for use by the public, whether owned or operated by public or private interests;

**(13)** "Salvage yard" means any business that, in the course of its operation, maintains ten (10) or more vehicles to be used, wholly or in parts, to generate revenue for the operation of the business; and

**(14)** "Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

**HISTORY:** Acts 1977, No. 883, § 2; A.S.A. 1947, § 82-3902

### **8-6-205. Illegal actions -- Rebuttable presumption -- Acts or omissions by third party.**

**(a)** It shall be illegal for any person:

**(1)** To violate any provision of this subchapter or any rule, regulation, or order of the Arkansas Pollution Control and Ecology Commission issued pursuant to this subchapter or of a permit issued under this subchapter by the Arkansas Department of Environmental Quality;

**(2)** To construct, install, alter, modify, use, or operate any solid waste processing or disposal facility or disposal site without a permit from the department;

**(3)** To dispose of solid wastes at any disposal site or facility other than a disposal site or facility for which a permit has been issued by the department. However, no provision of this subchapter shall be construed so as to prevent an individual from disposing of solid wastes resulting from his or her own household activities on his or her own land if the disposal does not create a public or private nuisance or a hazard to health and does not violate a city ordinance or other law and does not involve the open dumping of garbage;

**(4)** To dump, deposit, throw, or in any manner leave or abandon any solid wastes, including, but not limited to, garbage, tin cans, bottles, rubbish, refuse, or trash upon property owned by another person without the written permission of the owner or occupant of the property or upon any public highway, street, road, public park or recreation area, or any other public property except as designated for disposal of waste; or

**(5)** To sort, collect, transport, process, or dispose of solid waste contrary to the rules, regulations, or orders of the department or in such a manner or place as to create or be likely to create a public nuisance or a public health hazard or to cause or be likely to cause water or air pollution within the meaning of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.

**(b)** There is created a rebuttable presumption that shall arise in any administrative, civil, or criminal action under this subchapter to the effect that, if it can be proved that one (1) or more items of solid waste bear the name or names of one (1) or more persons in such a form as to indicate that the person or persons were the owners of those items and those items were unlawfully disposed of, then the person or persons are presumed to have committed the unlawful act of disposal.

(c) No person shall be liable for any violation of this subchapter or of any rule, regulation, or order of the commission issued pursuant to this subchapter if the violation results solely from the act or omission of a third party, unless the person has knowingly allowed the violation to occur through acquiescence, acts, or omissions.

#### **8-6-404. Penalties.**

**(a) (1) (A) (i)** A person convicted of a violation of § 8-6-406 or § 8-6-407 for a first offense shall be guilty of an unclassified misdemeanor and shall be fined in an amount of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000).

**(ii)** An additional sentence of not more than eight (8) hours of community service shall be imposed under this subdivision (a)(1)(A).

**(B) (i)** A person convicted of a violation of § 8-6-406 or § 8-6-407 for a second or subsequent offense within three (3) years of the first offense shall be guilty of an unclassified misdemeanor and shall be fined in an amount of not less than two hundred dollars (\$200) and not more than two thousand dollars (\$2,000).

**(ii)** An additional sentence of not more than twenty-four (24) hours of community service may be imposed under this subdivision (a)(1)(B).

**(2)** In addition to those penalties, any violator may also be required to remove litter from alongside highways and at other appropriate locations for any prescribed period.

**(b)** Any person who violates § 8-6-406 or § 8-6-407 and who is found to have committed the prohibited acts in furtherance of or as a part of a commercial enterprise, whether or not that enterprise is the disposal of wastes, shall be guilty of commercial littering and shall be guilty of a Class A misdemeanor. Additionally, those convicted may be required to remove any litter disposed of in violation of this subchapter.

**(c)** Any person who violates any provision of § 8-6-408 shall be guilty of:

**(1)** An unclassified misdemeanor for a first offense and shall be fined one thousand dollars (\$1,000) and sentenced to one hundred (100) hours of community service; and

**(2)** A Class A misdemeanor for a second or subsequent offense.

**(d) (1)** All or any portion of the fines, community service, and imprisonment penalties provided by this section may be suspended by the judge if the violator agrees to remove litter from alongside highways and at other appropriate locations for a prescribed period.

**(2)** All fines collected under this section shall be deposited as follows:

**(A)** If a municipality or county where the offense occurs is a certified affiliate of Keep Arkansas Beautiful or Keep America Beautiful, Inc., and participates in litter control programs conducted by these organizations, then the moneys from fines collected for offenses in that jurisdiction shall be deposited, according to accounting procedures prescribed by law, into the city general fund or the county general fund to be used for the purpose of community improvement as determined by the municipal or county governing body; or

**(B)** If the municipality or county where the offense occurs is not a certified affiliate of Keep Arkansas Beautiful or Keep America Beautiful, Inc., or does not participate in litter-control programs conducted by these organizations, then the moneys from fines collected for offenses in those jurisdictions shall be remitted by the tenth day of each month to the Administration of Justice Fund Section of the Office of Administrative Services

of the Department of Finance and Administration, on a form provided by that office, for deposit in the Keep Arkansas Beautiful Fund Account to be used by the Keep Arkansas Beautiful Commission, as appropriated by the General Assembly, for the purposes of encouraging litter prevention and antilitter education and increasing awareness of litter law enforcement statewide.

(e) In addition to all other penalties, any person convicted of a violation of § 8-6-406 or § 8-6-407 who fails to pay any fines assessed in accordance with the findings and orders of the court shall have his or her driver's license suspended for six (6) months by the Department of Finance and Administration, upon receipt of an order of denial of driving privileges from the court pursuant to this section.

**HISTORY:** Acts 1977, No. 883, §§ 7, 11; 1981, No. 841, §§ 1, 2; A.S.A. 1947, §§ 82-3907, 82-3911; Acts 1993, No. 727, § 1; 1995, No. 979, § 1; 2001, No. 145, § 1; 2003, No. 1765, § 3; 2005, No. 646, § 1.

#### **8-6-406. Unlawful to litter -- Exceptions.**

It shall be unlawful to drop, deposit, discard, or otherwise dispose of litter upon any public or private property in this state or upon or into any river, lake, pond, or other stream or body of water within this state, unless:

(1) The property has been designated by the Arkansas Department of Environmental Quality as a permitted disposal site;

(2) The litter is placed into a receptacle intended by the owner or tenant in lawful possession of that property for the deposit of litter, if it is deposited in such a manner as to prevent the litter from being carried away or deposited by the elements upon any part of the private or public property or waters; or

(3) (A) The person is the owner or tenant in lawful possession of the property and the litter remains upon the property and the act does not create a public health or safety hazard, a public nuisance, or a fire hazard.

(B) However, a property owner shall not be held responsible for actions of his or her tenant.

#### **8-6-408. Discarding certain items prohibited.**

It shall be unlawful for any person to place or cause to be placed any junk motor vehicle, old vehicle tire, or inoperative or abandoned household appliance, or part thereof, upon the right-of-way of any public highway, upon any other public property, or upon any private property which he or she does not own, lease, rent, or otherwise control, unless it is at a salvage yard, a permitted disposal site, or at the business establishment of a demolisher.

**8-6-412. Enforcement generally.**

**(a)** All Arkansas-certified law enforcement officers:

**(1)** Shall enforce this subchapter;

**(2)** May issue citations to or arrest persons violating any provision of this subchapter; and

**(3) (A)** May serve and execute all warrants, citations, and other process issued by the courts in enforcing this subchapter.

**(B)** In addition, mailing by registered mail of the process to the person's last known place of residence shall be deemed as personal service upon the person charged.

**(b) (1)** Illegal dumps control officers licensed and certified in accordance with § 8-6-905 and code enforcement officers as defined by municipal ordinance may:

**(A)** Enforce this subchapter; and

**(B)** Issue citations to persons violating this subchapter.

**(2)** However, illegal dumps control officers licensed and certified in accordance with § 8-6-905 and code enforcement officers as defined by municipal ordinance shall not:

**(A)** Have the powers of arrest;

**(B)** Carry firearms; or

**(C)** Take any other official law enforcement actions.

**(c) (1)** All certified law enforcement officers may serve and execute all warrants, citations, and other process issued by the courts in enforcing this subchapter.

**(2)** In addition, mailing by registered mail of the process to the person's last known place of residence shall be deemed as personal service upon the person charged.

# Timber Laws

### **5-36-103. Theft of property.**

**(a)** A person commits theft of property if he or she knowingly:

**(1)** Takes or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another person, with the purpose of depriving the owner of the property; or

**(2)** Obtains the property of another person, by deception or by threat, with the purpose of depriving the owner of the property.

**(b)** Theft of property is a:

**(1)** Class B felony if:

**(A)** The value of the property is two thousand five hundred dollars (\$2,500) or more;

**(B)** The property is obtained by the threat of serious physical injury to any person or destruction of the occupiable structure of another person;

**(C)** The property is obtained by threat, and the actor stands in a confidential or fiduciary relationship to the person threatened;

**(D)** The property is:

**(i)** Anhydrous ammonia in any form; or

**(ii)** A product containing any percentage of anhydrous ammonia in any form;

**(E) (i)** The property is building material obtained from a permitted construction site and the value of the building material is five hundred dollars (\$500) or more.

**(ii)** As used in subdivision (b)(1)(E)(i) of this section:

**(a)** Building material means lumber, a construction tool, a window, a door, copper tubing or wire, or any other material or good used in the construction or rebuilding of a building or a structure; and

**(b)** Permitted construction site means the site of construction, alteration, painting, or repair of a building or a structure for which a building permit has been issued by a city of the first class, a city of the second class, an incorporated town, or a county; or

**(F)** The value of the property is five hundred dollars (\$500) or more and the theft occurred in an area declared to be under a state of emergency pursuant to proclamation by the President of the United States, the Governor, or the executive officer of a city or county;

**(2)** Class C felony if:

**(A)** The value of the property is less than two thousand five hundred dollars (\$2,500) but more than five hundred dollars (\$500);

**(B)** The property is obtained by threat;

**(C)** The property is a firearm valued at less than two thousand five hundred dollars (\$2,500);

- (D)** The property is a:
  - (i)** Credit card or credit card account number; or
  - (ii)** Debit card or debit card account number;
- (E)** The property is livestock and the value of the livestock is in excess of two hundred dollars (\$200); or
- (F)** The value of the property is at least one hundred dollars (\$100) but less than five hundred dollars (\$500) and the theft occurred in an area declared to be under a state of emergency pursuant to proclamation by the President of the United States, the Governor, or the executive officer of a city or county;
- (3) (A)** Class D felony if:
  - (i)** The value of the property is five hundred dollars (\$500) or less; and
  - (ii)** The property was unlawfully obtained during a criminal episode.
- (B)** As used in subdivision (b)(3)(A)(ii) of this section, criminal episode means a series of thefts committed by the same person on three (3) or more occasions within three (3) days; or
- (4)** Class A misdemeanor if:
  - (A)** The value of the property is five hundred dollars (\$500) or less; or
  - (B)** The property has inherent, subjective, or idiosyncratic value to its owner or possessor even if the property has no market value or replacement cost.
- (c) (1)** Upon the proclamation of a state of emergency by the President of the United States or the Governor or upon the declaration of a local emergency by the executive officer of any city or county and for a period of thirty (30) days following that declaration, the penalty for theft of property is enhanced if the property is:
  - (A)** A generator intended for use by:
    - (i)** A public facility;
    - (ii)** A nursing home or hospital;
    - (iii)** An airport;
    - (iv)** A public safety device;
    - (v)** A communication tower or facility;
    - (vi)** A public utility;
    - (vii)** A water system or sewer system;
    - (viii)** A public safety agency; or
    - (ix)** Any other facility or use providing a vital service; or
  - (B)** Any other equipment used in the transmission of electric power or telephone service.

**(2)** As used in this subsection:

**(A)** Public safety agency means an agency of the State of Arkansas or a functional division of a political subdivision that provides:

**(i)** Firefighting and rescue;

**(ii)** Natural or man-caused disaster or major emergency response;

**(iii)** Law enforcement; or

**(iv)** Ambulance or emergency medical services; and

**(B)** Public safety device includes, but is not limited to, a traffic signaling device or a railroad crossing device.

**(3)** The penalty is enhanced as follows:

**(A) (i)** The fine for the offense shall be at least five thousand dollars (\$5,000) and not more than fifty thousand dollars (\$50,000).

**(ii)** The fine is mandatory; and

**(B)** The offense is a Class D felony if it would have been a Class A misdemeanor.

**5-36-105. Theft of property lost, mislaid, or delivered by mistake.**

**(a)** A person commits theft of property lost, mislaid, or delivered by mistake if the person:

**(1)** Comes into control of property of another person;

**(2)** Retains or disposes of the property when the person knows the property to have been lost, mislaid, or delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property; and

**(3)** With the purpose of depriving any person having an interest in the property, the person fails to take a reasonable measure to restore the property to a person entitled to it.

**(b)** Theft of property lost, mislaid, or delivered by mistake is a:

**(1)** Class D felony if the value of the property is one thousand dollars (\$1,000) or more;

**(2)** Class B misdemeanor if:

**(A)** The value of the property is less than one thousand dollars (\$1,000) but more than five hundred dollars (\$500); or

**(B)** The property is a:

**(i)** Credit card or credit card account number; or

- (ii) Debit card or debit card account number; or
- (3) Class C misdemeanor if otherwise committed.

**5-36-106. Theft by receiving.**

(a) A person commits the offense of theft by receiving if he or she receives, retains, or disposes of stolen property of another person:

- (1) Knowing that the property was stolen; or
- (2) Having good reason to believe the property was stolen.

(b) As used in this section, receiving means acquiring possession, control, or title or lending on the security of the property.

(c) The following give rise to a presumption that a person knows or believes that property was stolen:

- (1) The unexplained possession or control by the person of recently stolen property; or
- (2) The acquisition by the person of property for a consideration known to be far below the property's reasonable value.

(d) It is a defense to a prosecution for the offense of theft by receiving that the property is received, retained, or disposed of with the purpose of restoring the property to the owner or another person entitled to the property.

(e) Theft by receiving is a:

(1) Class B felony if the value of the property is two thousand five hundred dollars (\$2,500) or more;

(2) Class C felony if:

(A) The value of the property is less than two thousand five hundred dollars (\$2,500) but more than five hundred dollars (\$500);

(B) The property is a:

(i) Credit card or credit card account number; or

(ii) Debit card or debit card account number; or

(C) The property is a firearm valued at less than two thousand five hundred dollars (\$2,500); or

(3) Class A misdemeanor if otherwise committed.

**5-38-203. Criminal mischief in the first degree.**

(a) A person commits the offense of criminal mischief in the first degree if he or she purposely and without legal justification destroys or causes damage to any:

(1) Property of another; or

(2) Property, whether his or her own or property of another, for the purpose of collecting any insurance for the property.

(b) Criminal mischief in the first degree is a:

(1) Class C felony if the amount of actual damage is five hundred dollars (\$500) or more; or

(2) Class A misdemeanor if otherwise committed.

(c) In an action under this section involving cutting and removing timber from the property of another person:

(1) The following create a presumption of a purpose to commit the offense of criminal mischief in the first degree:

(A) The failure to obtain the survey as required by 15-32-101; or

(B) The purposeful misrepresentation of the ownership or origin of the timber; and

(2) (A) There is imposed in addition to a penalty in subsection (b) of this section a fine of not more than two (2) times the value of the timber destroyed or damaged.

(B) However, in addition to subdivision (c)(2)(A) of this section, the court may require the defendant to make restitution to the owner of the timber.

**5-38-204. Criminal mischief in the second degree.**

(a) A person commits criminal mischief in the second degree if the person:

(1) Recklessly destroys or damages any property of another person; or

(2) Purposely tampers with any property of another person and by the tampering causes substantial inconvenience to the owner or another person.

(b) Criminal mischief in the second degree is a:

(1) Class D felony if the amount of actual damage is two thousand five hundred dollars (\$2,500) or more;

(2) Class A misdemeanor if the amount of actual damage is one thousand dollars (\$1,000) or more but less than two thousand five hundred dollars (\$2,500); or

(3) Class B misdemeanor if otherwise committed.

**5-38-212. Destruction of native growth.**

(a) The wanton and willful destruction of holly or a dogwood, pine, cedar, or other native southern growth is prohibited.

(b) The cutting or destruction of holly or a dogwood, pine, cedar, or other native southern growth within a distance of fifty yards (50 yds.) of either side of a highway of this state is prohibited except by the owner of the land upon which the growth is found or upon the consent of the owner.

(c) This section shall not be construed to prevent an owner of real property from clearing his or her land of growth described in subsections (a) and (b) of this section or from cutting and marketing a pine, cedar, or other timber on his or her land.

(d) Any person violating a provision of this section is guilty of a violation and shall be fined in any sum not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100).

**5-38-214. Willful removal or destruction of landmarks established by legal survey.**

(a) Any person who willfully cuts down, destroys, defaces, removes, or carries off any witness tree, monument, or other landmark established by legal survey and used to delineate a boundary line is guilty of a Class A misdemeanor.

(b) Furthermore, in any civil suit involving damages to property arising from the removal or destruction of a marker established by a legal survey, the complaining party is entitled to recover three (3) times the damages.

**15-32-101. Boundaries to be ascertained before timber is cut.**

(a) Any person who desires to cut and remove any timber from any land in this state, unless the land has been surveyed and the boundaries thereof ascertained and known, before cutting and removing the timber, the person shall:

(1) Cause the land to be surveyed and the metes and bounds of the land marked and plainly established;

(2) Rely in good faith on an existing marked line or established corners; or

(3) Acquire a document signed by the landowner selling the timber and signed by the adjoining landowners, indicating that the landowners agree on the location of the boundary.

(b) This section shall apply to any person purchasing timber rights from lands of this state as well as to landowners.

(c) The provisions of this section are not intended to repeal or in any manner interfere with the provisions of Acts 1883, No. 83.

(d) Any person who shall be found guilty of a violation of the provisions of this section shall be deemed to have committed a misdemeanor and shall be fined, for each offense, in any sum not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300) and may be imprisoned in the county jail not more than six (6) months.

(e) This section shall not apply to the cutting and removing of timber by a public utility or its contractors for the purpose of constructing or maintaining a right-of-way.

### **15-32-501. Co-owners and Co-heirs**

(a) A co-owner or coheir of land may execute an act of timber sale whereby he or she sells his or her undivided interest in the timber, and any condition imposing a time period within which to remove the timber shall commence from the date of its execution.

(b)(1) A buyer may purchase the timber from unknown or unlocatable co-owners or coheirs of land and may remove the timber without the consent of the unknown or unlocatable co-owners or coheirs when:

(A) At least eighty percent (80%) of the ownership interest in the land has consented; and

(B) He or she has made a diligent search and inquiry for any unknown or unlocatable co-owners or coheirs, including publishing a notice in a newspaper of general circulation in the county in which the property is located in accordance with subdivision (b)(2) of this section, and after diligent search and inquiry, he or she is unable to ascertain and locate any other co-owners or coheirs; and

(C)(i) He or she has filed with the circuit clerk of the county in which the property is located a record of his or her diligent search and inquiry, together with a certificate of affirmation under the penalties of perjury that the facts stated therein are within his or her personal knowledge and are true, for which the clerk may charge the same fees as are allowed by law for similar services.

(ii) The circuit clerk shall maintain these records for a period of five (5) years.

(2)(A) The notice required by this section shall be published weekly for two (2) consecutive weeks in a newspaper having general circulation in the county in which the land is located, the last date of publication being not more than forty (40) nor less than twenty (20) days from the date on which timber may be removed from the property pursuant to a proposed contract.

(B) The notice shall contain:

(i) A description of the real property on which the timber is located;

(ii) The names and addresses of the known owners;

(iii) The names and addresses of the potential buyers;

(iv) A statement that the potential buyers and the known owners of the property intend to enter into a contract for the removal of timber from the land described;

(v) The date on which timber, pursuant to the intended contract, may be removed from the land;

(vi) The name and address of the person to whom an unknown owner may make his or her interest known; and

(vii) A statement that any unknown owner must make his or her interest known before the date that timber may be removed from the land pursuant to the intended contract.

(3) A buyer who does not conduct a diligent search and inquiry shall be liable in treble damages to any alleged unknown or unlocatable owners or heirs.

(4) A buyer who knows and locates but does not contract with a co-owner or coheir shall be liable in treble damages to the alleged unknown and unlocatable co-owner or coheir.

(c)(1) A co-owner or coheir of the land who does not consent to the exercise of such rights has no liability for the cost of timber operations resulting from the sale of the timber and shall receive from the buyer the same price which the buyer paid to the other co-owners or coheirs.

(2) The consenting co-owners or coheirs shall agree to indemnify and hold harmless the nonconsenting co-owners or coheirs for any damage or injury claims which may result from such operations.

(d)(1) If the nonconsenting co-owner or coheir fails or refuses to claim his or her portion of the sale price of the timber, the buyer shall transmit to the clerk of the circuit court for deposit into the registry of the court that portion of the sales price, there to be held in escrow for and on behalf of the nonconsenting co-owner or coheir, and any interest or other income earned by the funds shall inure to the benefit of the co-owner or coheir.

(2) Any of the funds not claimed within seven (7) years after deposit into the registry of the court shall escheat to the county from which the timber was severed.

(e) Failure to comply with the provisions of this section shall constitute prima facie evidence of the intent to commit theft of the timber by the buyer.

**History.** Acts 1995, No. 775, § 1.

**15-32-601. Definitions.**

For purposes of this subchapter:

(1) "Owner" means any person, partnership, corporation, unincorporated association, or other legal entity having any interest in any:

(A) Timber;

(B) Land upon which timber grows; or

(C) Land from which timber has been removed;

(1) "Secondary purchaser" means any person, partnership, corporation, unincorporated association, or other legal entity buying timber from a timber purchaser; and

(2) "Timber purchaser" means a person who purchases standing timber for harvest.

**History.** Acts 2001, No. 1247, § 1.

**15-32-602. Timber Trust Funds- Trustees- Beneficiaries.**

(a) Money a timber purchaser collects for harvested timber is trust money.

(b) A timber purchaser and each officer, director, partner, or agent of a timber purchaser are trustees of trust money.

(c) Each seller of standing timber is a beneficiary of trust money to the extent of the beneficiary's share of the purchase price for the timber.

**History.** Acts 2001, No. 1247, § 2.

### **15-32-603. Offenses.**

(a) A trustee commits the offense of timber theft if the trustee, knowingly or with intent to defraud, directly or indirectly retains, uses, disperses, or otherwise diverts trust money without first fully paying all of the beneficiaries the purchase price for the timber.

(b) A trustee acts with intent to defraud if the trustee retains, uses, disperses, or diverts trust money with the intent to deprive a beneficiary of trust money.

(c) A trustee is presumed to have acted with intent to defraud if the trustee does not pay all of the beneficiaries the purchase price for the timber not later than the forty-fifth calendar day after the date the trustee collects money for the timber.

(d) The offense of timber theft is a Class D felony if the amount of trust money retained, used, dispersed, or diverted before paying the beneficiaries is five hundred dollars (\$500) or more and a Class A misdemeanor if under five hundred dollars (\$500).

**History.** Acts 2001, No. 1247, § 3.

### **15-32-604. Defenses.**

It is an affirmative defense to prosecution under this subchapter that:

(1) The trustee paid the beneficiaries all trust money to which the beneficiaries were entitled not later than the fifteenth calendar day after the date written notice was given to the trustee, at the trustee's most recent address known, that a criminal complaint has been filed against the trustee or that a criminal investigation of the trustee is pending;

(2) Two or more persons claim to be beneficiaries of the same trust money and the trustee has deposited the amount of the disputed trust money into the registry of the circuit court of the county in which the standing timber was located by action in interpleader or other appropriate legal proceeding for the benefit of persons the circuit court determines to be entitled to the trust money; or

(3) The trustee paid to the beneficiaries all trust money to which the beneficiaries were entitled not later than thirty (30) days after the date contractually agreed upon in writing.

**History.** Acts 2001, No. 1247, § 4.

**15-32-605. Secondary purchasers exempt from liability.**

Secondary purchasers shall not be civilly or criminally liable for any act or omission of a timber purchaser which becomes timber theft by operation of this subchapter.

**History.** Acts 2001, No. 1247, § 5.

**15-32-301. Liability for unlawfully cutting, etc.**

(a) Any person who shall knowingly cut down, destroy, or carry away any tree, timber, lumber, staves, or shingles made therefrom, contrary to this subchapter, any person who shall aid and abet or assist any other person in so doing, and any person who shall purchase or receive any trees, timber, lumber, staves, or shingles knowing them to have been cut contrary to the provisions of this subchapter shall be jointly and severally liable to the owner in double the value thereof, to be recovered by action at law in the name of the state in case those items should be cut from the lands of the state or in the name of the corporation or person owning the land in case those items shall be so cut from other lands.

(b) A violation of any of the provisions of this subchapter shall be grounds for an attachment against the property of the persons who shall be guilty of the violation, to be issued in the same manner as attachments in other civil actions.

**15-32-303. Seizure of logs unlawfully cut from state lands -- Filing of notice and complaint.**

In case a county timber inspector finds anywhere in his or her county any logs, timber, lumber, staves, shingles, shingle bolts, stocks, headings, wood, bark, stone, mineral, or other material unlawfully cut, dug, removed, or taken from any state lands, he or she shall:

(1) Seize the materials or cause them to be seized;

(2) Give written notice of the seizure to any person or persons who may be found in possession or control of the materials; and

(3) (A) Cause a complaint to be filed in some court of competent jurisdiction charging the logs, timber, lumber, staves, shingles, shingle bolts, stocks, headings, wood, bark, stone, mineral, or other material to have been unlawfully cut, dug, removed, or taken from state lands and charging the materials to be the property of the state.

(B) If no persons shall be found in possession or control of the materials, then the complaint shall state that fact.

### **15-32-307. Prosecuting attorney.**

(a) It shall be the duty of the prosecuting attorney of the circuit in which any suit on behalf of the state instituted by the county timber inspector or by his or her authority under the provisions of this subchapter may be pending to prosecute the suit on the part of the state.

(b) (1) Immediately upon receiving information of any trespass upon lands in his or her circuit, every prosecuting attorney shall prosecute the proper criminal action against the offender and advise the county timber inspector thereof of the county in which the trespass occurred.

(2) When required by the county timber inspector, the prosecuting attorney shall prosecute a civil action for damages for any trespass or to recover possession of any material taken from any land.

### **5-37-201. Forgery.**

(a) A person forges a written instrument if, with purpose to defraud, the person makes, completes, alters, counterfeits, possesses, or utters any written instrument that purports to be or is calculated to become or to represent if completed the act of a person who did not authorize that act.

(b) A person commits forgery in the first degree if he or she forges a written instrument that is:

(1) Money, a security, a postage or revenue stamp, or other instrument issued by a government; or

(2) A stock, bond, or similar instrument representing an interest in property or a claim against a corporation or its property.

(c) A person commits forgery in the second degree if he or she forges a written instrument that is:

(1) A deed, will, codicil, contract, assignment, check, commercial instrument, credit card, or other written instrument that does or may evidence, create, transfer, terminate, or otherwise affect a legal right, interest, obligation, or status;

(2) A public record, or an instrument filed or required by law to be filed, or an instrument legally entitled to be filed in a public office or with a public servant; or

(3) A written instrument officially issued or created by a public office, public servant, or government agent.

(d) Forgery in the first degree is a Class B felony.

(e) Forgery in the second degree is a Class C felony.

### **5-37-203. Defrauding a secured creditor.**

(a) (1) A person commits the offense of defrauding a secured creditor in the first degree if he or she destroys, removes, cancels, encumbers, transfers, or otherwise disposes of property subject to a security interest with the purpose to hinder enforcement of the security interest.

(2) Defrauding a secured creditor in the first degree is a Class D felony.

(b) (1) A person commits the offense of defrauding a secured creditor in the second degree if he or she uses motor vehicle insurance policy proceeds in excess of one thousand dollars (\$1,000) obtained from a settlement of a property damage claim on a motor vehicle subject to a security interest in contravention of the security agreement that creates or provides for the security interest in the motor vehicle.

(2) Defrauding a secured creditor in the second degree is a Class A misdemeanor.

#### **5-37-207. Fraudulent use of a credit card or debit card.**

(a) A person commits the offense of fraudulent use of a credit card or debit card, if with purpose to defraud, he or she uses a credit card, credit card account number, debit card, or debit card account number to obtain property or a service with knowledge that:

(1) The credit card, credit card account number, debit card, or debit card account number is stolen;

(2) The credit card, credit card account number, debit card, or debit card account number has been revoked or cancelled;

(3) The credit card, credit card account number, debit card, or debit card account number is forged; or

(4) For any other reason his or her use of the credit card, credit card account number, debit card, or debit card account number is unauthorized by either the issuer or the person to whom the credit card or debit card is issued.

(b) Fraudulent use of a credit card or debit card is a:

(1) Class C felony if the value of all moneys, goods, or services obtained during any six-month period exceeds one hundred dollars (\$100); or

(2) Class A misdemeanor if otherwise committed.

#### **5-37-208. Criminal impersonation.**

(A) (1) A person commits criminal impersonation in the first degree if, with the intent to induce a person to submit to pretended official authority for the purpose to injure or defraud the person, the person:

(a) Pretends to be a law enforcement officer by wearing or displaying, without authority, any uniform or badge by which a law enforcement officer is lawfully distinguished; or

(b) Uses a motor vehicle or motorcycle designed, equipped or marked so as to resemble a motor vehicle or motorcycle belonging to a federal, state, or local law enforcement agency.

(2) Criminal impersonation in the first degree is a Class D felony.

**(B) (1)** A person commits criminal impersonation in the second degree if the person does an act in his or her pretended or assumed capacity or character with the purpose to injure or defraud another person and the actor:

**(a)** Assumes a false identity;

**(b)** Pretends to be a representative of a person or organization;

**(c)** Pretends to be an officer or employee of the government other than a law enforcement officer described in subsection (a) of this section; or

**(d)** Pretends to have a handicap or disability.

**(2)** Criminal impersonation in the second degree is a Class A misdemeanor.

#### **5-37-210. Obtaining a signature by deception.**

**(a)** A person commits the offense of obtaining a signature by deception if, with purpose to defraud, he or she obtains by deception the signing or execution of a written instrument affecting the pecuniary interest of any person.

**(b)** Obtaining a signature by deception is a Class D felony.

#### **5-37-213. Criminal simulation.**

**(a)** A person commits criminal simulation if, with purpose to defraud or injure, the person:

**(1)** Makes, alters, or represents any object in such fashion that it appears to have an antiquity, rarity, source or authorship, ingredient, or composition that it does not in fact have; or

**(2)** Possesses or transfers an object simulated as described in subdivision (a)(1) of this section with knowledge of its true character.

**(b)** Criminal simulation is a:

**(1)** Class D felony if the value of the object simulated exceeds one hundred dollars (\$100); or

**(2)** Class A misdemeanor if otherwise committed.

**5-37-226. Filing instruments affecting title or interest in real property.**

**(a)** It is unlawful for any person with the knowledge of the instrument's lack of authenticity or genuineness to have placed of record in the office of the recorder of any county any instrument:

**(1)** Clouding or adversely affecting:

**(A)** The title or interest of the true owner, lessee, or assignee in real property; or

**(B)** Any bona fide interest in real property; and

**(2)** With the intent of:

**(A)** Clouding, adversely affecting, impairing, or discrediting the title or other interest in the real property which may prevent the true owner, lessee, or assignee from disposing of the real property or transferring or granting any interest in the real property; or

**(B)** Procuring money or value from the true owner, lessee, or assignee to clear the instrument from the records of the office of the recorder.

**(b)** Any person violating a provision of subsection (a) of this section is guilty of a Class A misdemeanor.

**(c)** Any owner, lessee, or assignee of real property located in the State of Arkansas who suffers loss or damages as a result of conduct that is prohibited under subsection (a) of this section, and who must bring civil action to remove any cloud from his or her title or interest in the real property, or to clear his or her title or interest in the real property is entitled to three (3) times actual damages, punitive damages, and costs, including any reasonable attorney's fees or other costs of litigation reasonably incurred.

**(d)** The provisions of this section do not apply to a bona fide filing of lis pendens, materialmen's lien, laborer's lien, or other legitimate notice or protective filing as provided by law.

# AFC Thefts, Break Ins & State Forest

**5-39-201. Residential burglary Commercial burglary.**

**(a) (1)** A person commits residential burglary if he or she enters or remains unlawfully in a residential occupiable structure of another person with the purpose of committing in the residential occupiable structure any offense punishable by imprisonment.

**(2)** Residential burglary is a Class B felony.

**(b) (1)** A person commits commercial burglary if he or she enters or remains unlawfully in a commercial occupiable structure of another person with the purpose of committing in the commercial occupiable structure any offense punishable by imprisonment.

**(2)** Commercial burglary is a Class C felony

**5-39-202. Breaking or entering.**

**(a)** A person commits the offense of breaking or entering if for the purpose of committing a theft or felony he or she breaks or enters into any:

**(1)** Building, structure, or vehicle;

**(2)** Vault, safe, cash register, safety deposit box, or money depository;

**(3)** Money vending machine, coin-operated amusement machine, vending machine, or product dispenser;

**(4)** Coin telephone or coin box;

**(5)** Fare box on a bus; or

**(6)** Other similar container, apparatus, or equipment.

**(b)** It constitutes a separate offense under this section for the breaking or entering into of each separate:

**(1)** Building, structure, or vehicle;

**(2)** Vault, safe, cash register, safety deposit box, or money depository;

**(3)** Money vending machine, coin-operated amusement machine, vending machine, or product dispenser;

**(4)** Coin telephone or coin box;

**(5)** Fare box on a bus; or

**(6)** Other similar container, apparatus, or equipment.

**(c)** Breaking or entering is a Class D felony.

**5-39-203. Criminal trespass.**

(a) A person commits criminal trespass if he or she purposely enters or remains unlawfully in or upon:

(1) A vehicle; or

(2) The premises of another person.

(b) Criminal trespass is a:

(1) Class B misdemeanor if the vehicle or premises involved is an occupiable structure; or

(2) Class C misdemeanor if otherwise committed.

**5-39-210. Forcible possession of land.**

Any person who takes or keeps possession of any real estate by actual force or violence without the authority of law, or who, being armed with a deadly or dangerous weapon, by violence to any person entitled to the possession, or by putting in fear of immediate danger to his or her person obtains or keeps possession of any real estate or property without legal authority upon conviction is adjudged guilty of a Class A misdemeanor.

**5-39-305. Criminal trespass on land located in unincorporated area.**

(a) (1) A person shall not enter without written permission of the owner or lessee upon another person's land located outside the boundary of any city or town if that land is either:

(A) Lawfully posted;

(B) Crop land; or

(C) Enclosed with a fence sufficient under 2-39-101 et seq.

(2) The posting of land is not a requirement under this section.

(b) (1) Any person who violates this section is deemed guilty of a violation and is subject to a fine not to exceed one hundred dollars (\$100).

(2) However, a violation of this section is a Class B misdemeanor if the property was posted pursuant to the laws of this state.

(c) It is an affirmative defense to a prosecution that:

(1) The person did not knowingly enter upon another person's land;

(2) The person was a guest or invitee;

- (3) The person was required to enter upon the premises of another person for a business reason or for health and safety reasons;
- (4) The person was authorized by law to enter upon the land; or
- (5) The privately owned land was made open to the public.
- (d) (1) This section does not apply to public land.
- (2) This section does not apply to a law enforcement officer in the line of duty.
- (e) Nothing in this section repeals any law concerning posting of land or trespass.

#### **15-31-112. Enforcement of Poison Spring State Forest Regulations.**

(a) (1) It shall be the duty of the Arkansas Forestry Commission's law enforcement personnel to enforce the Poison Springs State Forest regulations promulgated by the commission pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(2) The commission's law enforcement personnel shall have the right to take the offenders before any court having jurisdiction in the county where the offense is committed.

(b) Violations of Poison Springs State Forest regulations shall be considered unclassified misdemeanors, the penalty for which shall be in accordance with the regulation defining the conduct, but in no case shall the penalty for violating any Poison Springs State Forest regulation exceed the penalty established by law for a Class A misdemeanor.

#### **Camping and Use Regulations**

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- Camping is by permit only. Permits are issued on a first-come, first-served basis for a two-week period beginning at 8 a.m. July 15, or the first business day after if July 15 falls on a weekend. Visitors are encouraged to reserve in advance to ensure availability.
- Vehicular travel is restricted to existing trails and roads.
- No permanent or semi-permanent structures (e.g. deer stands, lean-tos) are authorized. Temporary facilities erected for the duration of the two-week permit are allowed.
- No tree may be severed, damaged or destroyed.
- Campfires must be kept under control.
- Campsites must be occupied within 24 hours of the permit date.
- Camping debris must be removed when leaving the campsite.
- Posting of Poison springs property is prohibited.
- Violation of the following general restrictions may result in revocation of the camping permit:
  - Excessive consumption of alcoholic beverages.
  - Use of illegal drugs.
  - Public endangerment with firearm
- The permit holder is subject to all applicable state and federal game and firearm laws and regulations.

Governmental  
And Officer Protection  
Statutes

**5-54-102. Obstructing governmental operations.**

(a) A person commits the offense of obstructing governmental operations if the person:

(1) Knowingly obstructs, impairs, or hinders the performance of any governmental function;

(2) Knowingly refuses to provide information requested by an employee of a governmental agency relating to the investigation of a case brought under Title IV-D of the Social Security Act, 42 U.S.C. 651 et seq., and is the physical custodian of the child in the case;

(3) Fails to submit to court-ordered scientific testing by a noninvasive procedure to determine the paternity of a child in a case brought under Title IV-D of the Social Security Act, 42 U.S.C. 651 et seq.; or

(4) Falsely identifies himself or herself to a law enforcement officer or a code enforcement officer.

(b) (1) Obstructing governmental operations by using or threatening to use physical force is a Class A misdemeanor.

(2) A second or subsequent offense of obstructing governmental operations under subdivision (a)(4) of this section is a Class A misdemeanor.

(3) Otherwise, obstructing governmental operations is a Class C misdemeanor.

(c) This section does not apply to:

(1) Unlawful flight by a person charged with an offense;

(2) Refusal to submit to arrest;

(3) Any means of avoiding compliance with the law not involving affirmative interference with a governmental function unless specifically set forth in this section; or

(4) Obstruction, impairment, or hindrance of what a person reasonably believes is a public servant's unlawful action.

(d) (1) As used in this section, code enforcement officer means an individual charged with the duty of enforcing a municipal code, municipal ordinance, or municipal regulation as defined by a municipal code, municipal ordinance, or municipal regulation.

(2) Code enforcement officer includes a municipal animal control officer.

**5-54-103. Resisting arrest Refusal to submit to arrest.**

**(a) (1)** A person commits the offense of resisting arrest if he or she knowingly resists a person known by him or her to be a law enforcement officer effecting an arrest.

**(2)** As used in this subsection, resists means using or threatening to use physical force or any other means that creates a substantial risk of physical injury to any person.

**(3)** It is no defense to a prosecution under this subsection that the law enforcement officer lacked legal authority to make the arrest if the law enforcement officer was acting under color of his or her official authority.

**(4)** Resisting arrest is a Class A misdemeanor.

**(b) (1)** A person commits the offense of refusal to submit to arrest if he or she knowingly refuses to submit to arrest by a person known by him or her to be a law enforcement officer effecting an arrest.

**(2)** As used in this subsection, refuses means active or passive refusal.

**(3)** It is no defense to a prosecution under this subsection that the law enforcement officer lacked legal authority to make the the arrest if the law enforcement officer was acting under color of his or her official authority.

**(4)** Refusal to submit to arrest is a Class B misdemeanor.

**5-54-104. Interference with a law enforcement or code enforcement officer.**

**(a) (1)** A person commits the offense of interference with a law enforcement officer if he or she knowingly employs or threatens to employ physical force against a law enforcement officer engaged in performing his or her official duties.

**(2)** A person commits the offense of interference with a code enforcement officer if he or she knowingly employs or threatens to employ physical force against a code enforcement officer engaged in performing his or her official duties.

**(b) (1)** Interference with a law enforcement officer or a code enforcement officer is a Class C felony if:

**(A)** The person uses or threatens to use deadly physical force; or

**(B)** The person is assisted by one (1) or more other persons and physical injury to the law enforcement officer or code enforcement officer results.

**(2)** Otherwise, interference with a law enforcement officer or a code enforcement officer is a Class A misdemeanor.

**(c) (1)** As used in this section, code enforcement officer means an individual charged with the duty of enforcing a municipal code, municipal ordinance, or municipal regulation as defined by a municipal code, municipal ordinance, or municipal regulation.

**(2)** Code enforcement officer includes an animal control officer.

### **5-54-105. Hindering apprehension or prosecution.**

**(a)** A person commits an offense under this section if, with purpose to hinder the apprehension, prosecution, conviction, or punishment of another person for an offense, he or she:

**(1)** Harbors or conceals the other person;

**(2)** Provides or aids in providing the other person with a weapon, money, transportation, disguise, or other means of avoiding apprehension, discovery, or effecting escape;

**(3)** Prevents or obstructs anyone from performing an act which might aid in the discovery, apprehension, or identification of the other person by means of force or intimidation or the threat of force or intimidation, or by means of deception;

**(4)** Conceals, alters, destroys, or otherwise suppresses the discovery of any fact, information, or other thing related to the crime which might aid in the discovery, apprehension, or identification of the other person;

**(5)** Warns the other person of impending discovery, apprehension, or identification;

**(6)** Volunteers false information to a law enforcement officer; or

**(7)** Purposely lies or attempts to purposely provide erroneous information, documents, or other instrumentalities which he or she knows to be false to a certified law enforcement officer that would distract from the true course of the investigation or inhibit the logical or orderly progress of the investigation.

**(b) (1) (A)** Hindering apprehension or prosecution is a Class B felony if the conduct of the person assisted in violation of this section constitutes a Class Y felony or a Class A felony.

**(B)** However, except as provided in subdivision (b)(2) of this section, if the defendant shows by a preponderance of the evidence that he or she stands to the person assisted in the relation of parent, child, brother, sister, husband, or wife, hindering apprehension or prosecution is a Class D felony.

**(2)** Subdivision (b)(1)(B) of this section does not apply if the offense of the person assisted is:

**(A)** Capital murder, as prohibited in [5-10-101](#);

**(B)** Murder in the first degree, as prohibited in [5-10-102](#);

**(C)** Kidnapping, as prohibited in [5-11-102](#); or

**(D)** Rape, as prohibited in [5-14-103](#).

**(c)** Hindering apprehension or prosecution is a felony classified one (1) degree below the felony constituted by the conduct of the person assisted in violation of this section if the conduct is a Class B felony or a Class C felony.

**(d) (1)** Hindering apprehension or prosecution is a Class A misdemeanor if the conduct of the person assisted in violation of this section is a Class D felony or an unclassified felony.

**(2)** Hindering apprehension or prosecution is a Class D felony if the person in violation of this section was assisting an escapee from correctional custody sentenced after being found guilty of a felony.

**(3)** Otherwise, hindering apprehension or prosecution is a misdemeanor classed one (1) degree below the misdemeanor constituted by the conduct of the person assisted in violation of this section.

**5-54-106. Aiding consummation of offense.**

**(a)** A person commits an offense under this section if he or she knowingly aids another person by:

**(1)** Safeguarding or securing the proceeds of an offense; or

**(2)** Converting the proceeds of an offense into negotiable funds.

**(b) (1)** A person violating any provision of this section is guilty of a Class D felony if the conduct of the person aided in violation of this section constitutes a felony of any class.

**(2)** Otherwise, a violation of this section is a Class A misdemeanor.

**5-54-122. Filing false report with law enforcement agency.**

**(a)** As used in this section, report means any communication, either written or oral, sworn or unsworn.

**(b)** A person commits the offense of filing a false report if he or she files a report with any law enforcement agency or prosecuting attorney's office of any alleged criminal wrongdoing on the part of another person knowing that the report is false.

**(c) (1)** Filing a false report is a Class D felony if:

**(A)** The alleged criminal wrongdoing is a capital offense, Class Y felony, Class A felony, or Class B felony;

**(B)** The law enforcement agency or prosecuting attorney's office to whom the false report is made has expended in excess of five hundred dollars (\$500) in order to investigate the false report, including the costs of labor;

**(C)** Physical injury results to any person as a result of the false report;

**(D)** The false report is made in an effort by the person filing the false report to conceal his or her own criminal activity; or

**(E)** The false report results in another person being arrested.

**(2)** Otherwise, filing a false report is a Class A misdemeanor.

### **5-54-125. Fleeing.**

(a) If a person knows that his or her immediate arrest or detention is being attempted by a duly authorized law enforcement officer, it is the lawful duty of the person to refrain from fleeing, either on foot or by means of any vehicle or conveyance.

(b) Fleeing is a separate offense and is not considered a lesser included offense or component offense with relation to other offenses which may occur simultaneously with the fleeing.

(c) Fleeing on foot is considered a Class C misdemeanor, except under the following conditions:

(1) If the defendant has been previously convicted of fleeing on foot anytime within the past one-year period, a subsequent fleeing on foot offense is a Class B misdemeanor;

(2) If property damage occurs as a direct result of the fleeing on foot, the fleeing on foot offense is a Class A misdemeanor; or

(3) If serious physical injury occurs to any person as a direct result of the fleeing on foot, the fleeing on foot offense is a Class D felony.

(d) (1) (A) Fleeing by means of any vehicle or conveyance is considered a Class A misdemeanor.

(B) A person convicted under subdivision (d)(1)(A) of this section shall serve a minimum of two (2) days in jail.

(2) Fleeing by means of any vehicle or conveyance is considered a Class D felony if, under circumstances manifesting extreme indifference to the value of human life, a person purposely operates the vehicle or conveyance in such a manner that creates a substantial danger of death or serious physical injury to another person.

(3) If serious physical injury to any person occurs as a direct result of fleeing by means of any vehicle or conveyance, the fleeing by means of any vehicle or conveyance offense is a Class C felony.

(e) Regardless of the circumstances in subdivisions (c)(1)-(3) of this section, if the defendant is under twenty-one (21) years of age and has not been previously convicted of fleeing, the offense of fleeing is a Class C misdemeanor.

(f) In addition to any other penalty, if the defendant is convicted of violating subsection (d) of this section, the court shall instruct the Office of Driver Services of the Department of Finance and Administration to suspend or revoke the defendant's driver's license for at least six (6) months but not more than one (1) year.

### **5-3-201. Conduct constituting attempt.**

(a) A person attempts to commit an offense if he or she purposely engages in conduct that:

(1) Would constitute an offense if the attendant circumstances were as the person believes them to be; or

(2) Constitutes a substantial step in a course of conduct intended to culminate in the commission of an offense whether or not the attendant circumstances are as the person believes them to be.

**(b)** When causing a particular result is an element of the offense, a person commits the offense of criminal attempt if, acting with the kind of culpable mental state otherwise required for the commission of the offense, the person purposely engages in conduct that constitutes a substantial step in a course of conduct intended or known to cause the particular result.

**(c)** Conduct is not a substantial step under this section unless the conduct is strongly corroborative of the person's criminal purpose.

### **5-3-203. Classification.**

A criminal attempt is a:

- (1)** Class Y felony if the offense attempted is capital murder;
- (2)** Class A felony if the offense attempted is treason or a Class Y felony other than capital murder;
- (3)** Class B felony if the offense attempted is a Class A felony;
- (4)** Class C felony if the offense attempted is a Class B felony;
- (5)** Class D felony if the offense attempted is a Class C felony;
- (6)** Class A misdemeanor if the offense attempted is a Class D felony or an unclassified felony;
- (7)** Class B misdemeanor if the offense attempted is a Class A misdemeanor;
- (8)** Class C misdemeanor if the offense attempted is a Class B misdemeanor; or
- (9)** Violation if the offense attempted is a Class C misdemeanor or an unclassified misdemeanor.

# Survey Statuses

**17-48-201. Registration required -- Sole or group practice -- Trainees.**

**(a) (1)** It is unlawful for a person who is not a professional surveyor licensed by the State Board of Licensure for Professional Engineers and Professional Surveyors to hold himself or herself out as a professional surveyor to practice or offer to practice land surveying in the state, as defined in this chapter, or to use in connection with his or her name or otherwise assume or advertise any title or description tending to convey the impression that he or she is a professional surveyor unless the person has been licensed under this chapter.

**(2)** The board may discipline nonlicensees that violate this chapter by the levy of a fine in an amount not to exceed five thousand dollars (\$5,000) for each offense.

**(b) (1) (A)** Admission to practice land surveying and surveying measurement certification shall be determined upon the basis of individual personal qualifications.

**(B)** The right to engage in the practice of land surveying and surveying measurement certification is a personal right, based upon the qualifications of the individual, evidenced by his or her license certificate, and is not transferable.

**(2)** "Surveying measurement certification" does not permit the preparation of engineering or architectural design documents or quantity estimate payment documents.

**(c) (1)** A professional surveyor may practice his or her profession through the medium of or as a member or employee of a firm if:

**(A)** All surveys are signed and stamped with the signature and seal of the professional surveyor in responsible charge; and

**(B)** The firm has complied with § 17-48-207.

**(2)** The professional surveyor signing and sealing the surveys shall be personally and professionally responsible therefor, and his or her participation in any firm either as a partner, principal, or employee does not limit his or her individual liability.

**(d)** A surveyor intern may engage in the practice of land surveying only as an employee of or under the supervision of a professional surveyor.

**(e)** It is unlawful for a person to prepare, distribute, or place the public records, maps, documents, digital files, or other data that bear or contain a seal or any certification consisting of a verbal, numerical, or symbolic representation of the accuracy or precision of surveying measurements as defined in § 17-48-101(4) or that bear or contain a statement of determination by an authoritative professional source unless the maps, documents, digital files, or other data bear or contain the seal of a professional surveyor or professional engineer practicing within his or her respective discipline.

**(f)** This chapter does not apply to:

**(1)** The usual symbols and statements of the cartographic representation of scale and direction, including without limitation scale ratios, scale bars, and north arrows;

**(2)** The preparation and attachment of metadata or to the scientific analysis of measurement data for research by a person who is not a professional surveyor or professional engineer; and

**(3)** A government agency or office in conducting its statutory or constitutional duties to certify representations of spatial data.

**(g)** This chapter does not impair or reduce the scope of:

**(1)** The professional practice of engineers as defined by statute and rules of the board; and

**(2)** The professional practice of professional architects as defined by statute and rules of the Arkansas State Board of Architects, Landscape Architects, and Interior Designers.

### **17-48-101. Definitions.**

As used in this chapter:

**(1) (A)** "Firm" means a form of business entity that offers professional surveying services of its licensed personnel to the public.

**(B)** "Firm" does not include an individual licensee operating under his or her name;

**(2) (A)** "Land surveying" means a service comprising the:

**(i)** Determination of the location of land boundaries and land boundary corners; and

**(ii)** Preparation of:

**(a)** Plats showing the shape and areas of tracts of land and their subdivision into smaller tracts;

**(b)** Plats showing the location of streets, roads, and rights-of-way of tracts to give access to smaller tracts; and

**(c)** Official plats or maps of land thereof in this state.

**(B)** "Land surveying" does not include the measure of acreage of timber, cotton, rice, or other agricultural crops.

**(C)** A person practices or offers to practice land surveying if the person:

**(i)** Engages in land surveying for others; or

**(ii)** By verbal claim, sign, letterhead, card, telephone listing, or in any other way represents himself or herself:

**(a)** To be a professional surveyor; or

**(b)** As able to perform land surveying in this state;

**(3)** "Metadata" means a description of the content, ancestry and source, quantity, database schema, and accuracy of digital map data;

**(4)** "Professional surveyor" means a person who by reason of special knowledge of mathematics, surveying principles and methods, and legal requirements that are acquired by educational or practical experience is qualified to engage in the practice of land surveying and surveying measurement certification;

(5) "Responsible charge" means direct control of, supervision of, and legal responsibility for the surveying work performed; and

(6) "Surveying measurement certification" means providing the professional service of certification or sealing of maps, documents, digital files, or other data to verify that the maps, documents, digital files, or other data are authoritative professional determinations based on accepted methods and principles of surveying measurement or analysis representing or listing the following types of surveying measurements:

(A) The configuration or contour of the earth's surface or the position of fixed objects on the earth's surface;

(B) The position or elevation of a survey boundary, control monument, or reference point; and

(C) The alignment or elevation of a fixed work embraced within the practice of professional engineering.

**HISTORY:** Acts 1967, No. 101, § 2; A.S.A. 1947, § 71-2302; Acts 2005, No. 1178, § 7; 2005, No. 1962, § 74; 2009, No. 444, § 5; 2011, No. 898, § 1.

#### **17-48-102. Penalties -- Enforcement.**

(a) (1) Unless a different penalty is specifically provided, a person who violates this chapter shall be guilty of a Class B misdemeanor.

(2) It is the duty of all duly constituted officers of the state and all of its political subdivisions to enforce this chapter and prosecute any persons violating it.

(b) (1) The State Board of Licensure for Professional Engineers and Professional Surveyors may levy a civil penalty against any licensed engineer, professional surveyor, or surveyor intern who:

(A) Is found guilty of:

(i) Fraud or deceit in his or her practice or in securing a certificate of licensure; or

(ii) Gross negligence, incompetence, or misconduct; or

(B) Fails or refuses to comply with any laws relating to the licensure and practice of engineers, professional surveyors, or surveyor interns or any rules or regulations adopted by the board under the authority granted in such laws.

(2) Any civil penalty levied by the board may be in lieu of or in addition to any other sanction imposed by the board.

(3) A civil penalty assessed by the board shall not be more than five thousand dollars (\$5,000).

(c) The Attorney General or his or her assistants shall act as legal advisors to the board and render such legal assistance as may be necessary.

(d) The board may employ counsel to enforce this chapter, the costs to be paid from the funds of the board.

**HISTORY:** Acts 1967, No. 101, § 12; A.S.A. 1947, § 71-2311; Acts 1987, No. 1070, § 2; 2005, No. 1178, § 8; 2005, No. 1994, § 401; 2009, No. 444, § 5.

**17-48-105. Seal and signature required.**

(a) Each licensed professional surveyor shall:

(1) Procure a personal seal, in form approved by the State Board of Licensure for Professional Engineers and Professional Surveyors; and

(2) Affix his or her signature and the seal upon all maps, plats, surveys, or other documents before the delivery thereof to any client or before offering to file a record of any such map, plat, survey, or other document in the office of the recorder of deeds of any county or with any proper public authority.

(b) It is unlawful for the recorder of deeds of any county or any proper public authority to file or record any map, plat, survey, or other document within the definition of land surveying that does not have impressed thereon and affixed thereto the personal signature and seal of a licensed professional surveyor by whom the map, plat, survey, or other document was prepared.

**17-48-106. Failure to file boundary survey.**

(a) (1) A licensed surveyor is not required to file a plat until he or she has been paid for performing the survey.

(2) A licensed surveyor shall file the plat with the State Surveyor within thirty (30) days after payment for performing the survey or the plat is completed, whichever event occurs last.

(b) The sole purpose of filing the plat shall be to identify the person or persons who made the plat and survey and placed the survey markers and shall not be used to evidence adverse possession or as evidence in boundary disputes.

(c) The provisions of this chapter shall not apply to surveys hereafter made of subdivided property located in a municipality where property has previously been surveyed and a plat filed.

(d) Any licensed surveyor who shall fail or refuse to file the survey as provided by this chapter shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100) or imprisonment for not less than thirty (30) days nor more than six (6) months, or subject to both fine and imprisonment.

**HISTORY:** Acts 1969, No. 645, §§ 1, 2; A.S.A. 1947, §§ 71-2312, 71-2313; Acts 2001, No. 591, § 3; 2007, No. 1040, § 1.

# **Laws Pertaining to Posting of Real Property**

#### **18-11-404. Methods of posting -- Forest lands.**

The owner or lessee of any forest land may post the land by any of the following methods:

- (1) (A)** By placing signs around the boundaries of the property at points no more than one hundred feet (100') apart and at each point of entry.
- (B)** The signs shall bear the words "posted" or "no trespassing", or both, in letters at least four inches (4") high and shall be so placed as to be readily visible to any person approaching the property;
- (2) (A)** By placing identifying paint marks on trees or posts around the area to be posted.
- (B)** Each paint mark shall be a vertical line of at least eight inches (8") in length and the bottom of the mark shall be no less than three feet (3') nor more than five feet (5') high.
- (C)** Such paint marks shall be placed no more than one hundred feet (100') apart and shall be readily visible to any person approaching the property.
- (D) (i)** The type and color of the paint to be used for posting shall be prescribed by regulation by the Arkansas Forestry Commission.
- (ii)** The commission shall not select a color that is presently being used by the timber industry in Arkansas to mark land lines or property lines; or
- (3)** By enclosing the property with a fence sufficient under § 2-39-101 et seq.

#### **2-39-101. Kinds required for enclosures.**

All fields and grounds kept for enclosures shall be enclosed with a fence.

#### **2-39-102. Definition of fence.**

As used in this chapter and all laws referring to this chapter, "fence" means a barrier sufficient to indicate an intent to restrict an area to human, livestock, or vehicle ingress or egress.

#### **18-11-405. Methods of posting -- Property other than forest.**

The owner or lessee of any real property other than forest land, including cultivated land, orchards, pasture land, impoundments, or other real property, may post such real property by any of the following methods:

- (1) (A)** By placing signs around the boundaries of the property at points no more than one thousand feet (1,000') apart and at each point of entry.
- (B)** The signs shall bear the words "posted" or "no trespassing", or both, in letters at least four inches (4") high and shall be so placed as to be readily visible to any person approaching the property;
- (2) (A)** By placing identifying paint marks on posts around the area to be posted.

**(B)** Each paint mark shall be a vertical line of at least eight inches (8") inches in length, and the bottom of the mark shall be no less than three feet (3') nor more than five feet (5') high.

**(C)** Such paint marks shall be placed no more than one thousand feet (1,000') apart and at each point of entry and shall be readily visible to any person approaching the property.

**(D) (i)** The type and color of the paint to be used for posting shall be prescribed by regulation by the Arkansas Forestry Commission.

**(ii)** The commission shall not select a color that is presently being used by the timber industry in Arkansas to mark land lines or property lines; or

**(3)** By enclosing the property with a fence sufficient under § 2-39-101 et seq.

**HISTORY:** Acts 1989, No. 35, § 3; 1999, No. 1029, § 10.

**18-11-406. Color of paint -- Unlawful posting -- Exception.**

**(a) (1)** The color of paint prescribed by the Arkansas Forestry Commission for posting purposes shall not be used on trees or posts for any other purpose.

**(2)** Any person who knowingly paints such color on any tree or post for any purpose other than posting real property pursuant to this subchapter shall be guilty of a Class B misdemeanor.

**(b) (1)** It shall be unlawful for any person to post any lands which the person does not own or lease except with the written permission of the owner or lessee.

**(2)** Any person violating this section shall be guilty of a Class B misdemeanor.

**HISTORY:** Acts 1989, No. 35, §§ 4, 5; 2011, No. 271, § 1.