

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2094

To amend section 1864 of title 18, United States Code, relating to tree spiking, to add avoidance costs as a punishable result.

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IN THE HOUSE OF REPRESENTATIVES

JULY 21, 1995

Mrs. CHENOWETH introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend section 1864 of title 18, United States Code, relating to tree spiking, to add avoidance costs as a punishable result.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. FEDERAL TREE SPIKING AND AVOIDANCE**  
4               **COSTS.**

5       Section 1864 of title 18, United States Code, is  
6 amended—

7               (1) in subsection (b)—

8                       (A) in paragraph (2), by striking “twenty”  
9                       and inserting “40”;

1 (B) in paragraph (3), by striking “ten”  
2 and inserting “20”;

3 (C) in paragraph (4), by striking “if dam-  
4 age exceeding \$10,000 to the property of any  
5 individual results,” and inserting “if damage to  
6 the property of any individual results or if  
7 avoidance costs have been incurred exceeding  
8 \$10,000, in the aggregate,”; and

9 (D) in paragraph (4), by striking “ten”  
10 and inserting “20”;

11 (2) in subsection (c) by striking “ten” and in-  
12 serting “20”;

13 (3) in subsection (d), by—

14 (A) striking “and” at the end of paragraph  
15 (2);

16 (B) striking the period at the end of para-  
17 graph (3) and inserting “; and”; and

18 (C) adding at the end the following:

19 “(4) the term ‘avoidance costs’ means costs in-  
20 curred by any individual for the purpose of—

21 “(A) detecting a hazardous or injurious de-  
22 vice; or

23 “(B) preventing death, serious bodily in-  
24 jury, bodily injury, or property damage likely to

1 result from the use of a hazardous or injurious  
2 device in violation of subsection (a).”; and

3 (4) by adding at the end thereof the following:

4 “(e) Any person injured as the result of a violation  
5 of subsection (a) may commence a civil action on his own  
6 behalf against any person who is alleged to be in violation  
7 of subsection (a). The district courts shall have jurisdic-  
8 tion, without regard to the amount in controversy or the  
9 citizenship of the parties, in such civil actions. The court  
10 may award, in addition to monetary damages for any in-  
11 jury resulting from an alleged violation of subsection (a),  
12 costs of litigation, including reasonable attorney and ex-  
13 pert witness fees, to any prevailing or substantially pre-  
14 vailing party, whenever the court determines such award  
15 is appropriate.”.

16 **SEC. 2. REIMBURSEMENT OF LOCAL AUTHORITIES.**

17 Not later than thirty days after a local authority in-  
18 curs any costs as a result of that authority’s participation  
19 or cooperation in the investigation or prosecution of any  
20 offense under section 1864 of title 18, United States Code  
21 the Attorney General shall reimburse such authority in  
22 full.

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