

By: Representative Holland

To: Agriculture

HOUSE BILL NO. 474

1 AN ACT TO AMEND SECTION 75-27-113, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THAT CERTAIN INFORMATION CONCERNING TIMBER SHALL BE
3 AVAILABLE FOR INSPECTION BY THE DEPUTY DIRECTOR OF WEIGHTS AND
4 MEASURES AND TO REQUIRE TRUCKS CARRYING TIMBER TO DISPLAY CERTAIN
5 INFORMATION ON THE SIDES OF THE VEHICLE FOR THE PURPOSE OF
6 IDENTIFICATION; TO AMEND SECTION 97-17-59, MISSISSIPPI CODE OF
7 1972, TO INCREASE THE PENALTIES FOR CONVICTION OF TIMBER THEFT;
8 AND FOR RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 SECTION 1. Section 75-27-113, Mississippi Code of 1972, is
11 amended as follows:

12 75-27-113. (1) Timber purchased by weight or measured
13 volume shall be purchased by weight on the basis of tonnage or
14 pounds with one (1) ton equaling two thousand (2,000) pounds
15 avoirdupois weight, or by measured volume so long as the measured
16 volume is not calculated by weight but is derived from any of the
17 standards provided in subsection (2).

18 (2) When timber is purchased by measured volume, the timber
19 shall be measured by either cubic feet, Doyle Log Rule,
20 International 1/4 Inch Rule or Scribner Decimal C Rule.

21 (3) No person, firm or corporation, shall use any scales or
22 measuring device in the purchase of timber unless the same is true
23 and accurate. All devices used for buying or selling timber shall
24 comply with specifications and tolerances and other requirements
25 of Chapter 27 of Title 75, Mississippi Code of 1972, and
26 regulations adopted pursuant thereto.

27 (4) Purchaser specifications shall be made available to the
28 haulers and timber owners and shall be posted in a place easily
29 accessible to the haulers or timber owners at the location where

the timber is weighed or measured. Scale tickets shall be made available to the haulers and timber owners for each load before the close of the following business day and shall include the measured volume or weight, the standard of weight or measurement used, and the basis and amount of any deductions.

(5) (a) The State Director of Weights and Measures, the Deputy Director of Weights and Measures and any state inspector of weights and measures are hereby vested with police powers, such as given to sheriff and constables, for the sole purpose of issuing citations, without warrant, to any person who the Director, Deputy Director or inspector has probable cause to believe is violating this section, or who shall impede, hinder or otherwise prevent or attempt to prevent the testing of scales or measuring devices or enforcement of this chapter. The citation shall be returnable to the Deputy Director of Weights and Measures. No citation for a violation of this section shall be issued after one (1) year from the date of the violation.

(b) The Deputy Director of Weights and Measures, or his designee, shall within thirty (30) days of the issuance of the citation, dismiss the citation, issue a written warning or levy a fine of not more than Two Hundred Dollars (\$200.00) for the first offense; not more than Five Hundred Dollars (\$500.00) for the second offense if the second offense occurs within six (6) months of the first offense; or not more than Two Thousand Dollars (\$2,000.00) for the third and subsequent offenses, if the third or subsequent offenses occur within six (6) months of the first offense. If the Deputy Director of Weights and Measures, or his designee, determines the violation was unintentional and due to an act of God or was beyond the reasonable control of the person, firm or corporation committing the violation, no fine shall be levied. A person, firm or corporation operating any scales or measuring devices in the purchase of timber at more than one (1) location in the state shall not be subject to fines for second or subsequent offenses unless the offenses occur at the same location on separate days. A citation shall record each and every violation of this section but for the purposes of determining second and subsequent offenses under this section, all violations

67 of this section committed by one (1) person, firm or corporation
68 at one (1) location during one (1) day shall constitute one (1)
69 offense.

70 (c) Any person, firm or corporation may appeal a fine
71 to the State Director of Weights and Measures or his designee.
72 The appeal must be filed within thirty (30) days after the levy of
73 the fine. Any party aggrieved by the final order of the State
74 Director of Weights and Measures, or his designee, may appeal to
75 the Chancery Court of the First Judicial District of Hinds County,
76 Mississippi, by filing an appeal within thirty (30) days of a
77 final order of the Director of Weights and Measures. If no appeal
78 is taken and the fine is not paid within sixty (60) days of the
79 order or if the fine is upheld on appeal and no further appeal is
80 taken and the fine is not paid within sixty (60) days of the
81 ruling on the appeal, the Director of Weights and Measures may
82 forward an abstract of the order or judgment to the circuit clerk
83 of any county in the State of Mississippi for enrolling as any
84 other judgment. After enrolling the judgment, the Director of
85 Weights and Measures may institute an action to recover the fines
86 assessed under this section in the name of the State of
87 Mississippi in any court of competent jurisdiction or otherwise
88 proceed as a judgment creditor pursuant to the laws of the State
89 of Mississippi.

90 (6) Mills or individuals purchasing timber that has been cut
91 eight (8) feet in length or longer shall retain the information
92 described herein for subsequent inspection by the Deputy Director
93 of Weights and Measures, or his designee, for a period of three
94 (3) years. This information shall include either the contract or
95 the name, address and county of origin of both cutter-hauler and
96 the payee for the timber. The information may be maintained in
97 paper or electronic format.

98 (7) All trucks carrying loads of timber within the state,
99 for the purposes of identification shall be painted on both sides

100 with letters and numbers containing information as described
101 herein that contrast sharply in color with the background on which
102 the letters and numbers are placed and that are readily legible
103 during daylight hours while the motor vehicle is stationary. The
104 information shall include the name of the owner written in letters
105 of at least two (2) inches in height. Beneath this shall be
106 written the city and state of owner, as well as the Department of
107 Transportation number, if applicable, in letters and numbers of at
108 least one and three-quarters (1¾) inches in height.

109 (8) This section does not apply to pulpwood as defined in
110 Section 75-79-5 of the Mississippi Uniform Pulpwood Scaling and
111 Practices Act.

112 SECTION 2. Section 97-17-59, Mississippi Code of 1972, is
113 amended as follows:

114 97-17-59. (1) Any person who shall knowingly, willfully and
115 feloniously take, steal and carry away from the lands of another
116 any merchantable timber on the property of another, of the value
117 of less than Five Hundred Dollars (\$500.00) whether such timber be
118 growing, standing or lying on the lands, shall be guilty of a
119 misdemeanor; and upon conviction thereof shall be punished by a
120 fine of not less than two hundred dollars (\$200.00) nor more than
121 five hundred dollars (\$500.00), or by imprisonment in the county
122 jail for a term of not less than thirty (30) days nor more than
123 one hundred (100) days, or both, in the discretion of the court.

124 (2) Any person who shall knowingly, willfully and feloniously
125 take, steal and carry away from the lands of another any
126 merchantable timber on the property of another, of the value of
127 Five Hundred Dollars (\$500.00) or more, whether such timber be
128 growing, standing, or lying on the lands, shall be guilty of a
129 felony; and upon conviction thereof, shall be punished by a fine
130 of not less than One Thousand Dollars (\$1,000.00) nor more than
131 Five Thousand Dollars (\$5,000.00), or by imprisonment in the
132 Penitentiary for a term of not less than one (1) year nor more

133 than five (5) years, or both, in the discretion of the court. An
134 individual who is convicted under this section may be required by
135 the court to make restitution to the victim in an amount of up to
136 double the fair market value of the timber cut and to pay the cost
137 of reforestation up to Two Hundred Fifty Dollars (\$250.00) per
138 acre.

139 SECTION 3. This act shall take effect and be in force from
140 and after July 1, 1999.