

By: Senator(s) Thames, Harvey

To: Agriculture

## SENATE BILL NO. 2413

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 VEHICLE FOR THE PURPOSE OF IDENTIFICATION; TO  
6 AMEND SECTION 97-17-59, MISSISSIPPI CODE OF 1972, TO INCREASE THE  
7 CRIMINAL PENALTIES FOR THE CRIME OF TIMBER THEFT; AND FOR RELATED  
8 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

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

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

47 (b) The Deputy Director of Weights and Measures, or his  
48 designee, shall within thirty (30) days of the issuance of the  
49 citation, dismiss the citation, issue a written warning or levy a  
50 fine of not more than Two Hundred Dollars (\$200.00) for the first  
51 offense; not more than Five Hundred Dollars (\$500.00) for the  
52 second offense if the second offense occurs within six (6) months  
53 of the first offense; or not more than Two Thousand Dollars  
54 (\$2,000.00) for the third and subsequent offenses, if the third or  
55 subsequent offenses occur within six (6) months of the first  
56 offense. If the Deputy Director of Weights and Measures, or his  
57 designee, determines the violation was unintentional and due to an  
58 act of God or was beyond the reasonable control of the person,  
59 firm or corporation committing the violation, no fine shall be  
60 levied. A person, firm or corporation operating any scales or  
61 measuring devices in the purchase of timber at more than one (1)  
62 location in the state shall not be subject to fines for second or  
63 subsequent offenses unless the offenses occur at the same location  
64 on separate days. A citation shall record each and every  
65 violation of this section but for the purposes of determining  
66 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 the name of the  
106 owner shall be the city and state of the owner, as well as the  
107 Department of Transportation number, if applicable, in letters and  
108 numbers of at 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. Any  
134 individual who is convicted under this section may be required by  
135 the court to make restitution to the victim in an amount not to  
136 exceed double the fair market value of the timber cut and to pay  
137 the cost of reforestation in an amount not to exceed Two Hundred  
138 Fifty Dollars (\$250.00) per acre.

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