

By: Holland

To: Agriculture

HOUSE BILL NO. 593

1 AN ACT TO AMEND SECTION 75-27-113, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THAT PERSONS PURCHASING TIMBER SHALL RETAIN CERTAIN
3 INFORMATION FOR THE INSPECTION OF THE DEPUTY DIRECTOR OF WEIGHTS
4 AND MEASURES; TO PROVIDE THAT TRUCKS CARRYING LOADS OF PULPWOOD OR
5 TIMBER SHALL BE PAINTED ON BOTH SIDES WITH CERTAIN IDENTIFICATION
6 INFORMATION; TO AMEND SECTION 77-7-16, MISSISSIPPI CODE OF 1972,
7 TO REMOVE THE EXEMPTION TO THE INSPECTION AUTHORITY OF THE PUBLIC
8 SERVICE COMMISSION FOR MOTOR VEHICLES ENGAGED IN THE
9 TRANSPORTATION OF LOGS AND PULPWOOD; AND FOR RELATED PURPOSES.

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

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

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

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

22 (3) No person, firm or corporation, shall use any scales or
23 measuring device in the purchase of timber unless the same is true
24 and accurate. All devices used for buying or selling timber shall

25 comply with specifications and tolerances and other requirements
26 of Chapter 27 of Title 75, Mississippi Code of 1972, and
27 regulations adopted pursuant thereto.

28 (4) Purchaser specifications shall be made available to the
29 haulers and timber owners and shall be posted in a place easily
30 accessible to the haulers or timber owners at the location where
31 the timber is weighed or measured. Scale tickets shall be made
32 available to the haulers and timber owners for each load before
33 the close of the following business day and shall include the
34 measured volume or weight, the standard of weight or measurement
35 used, and the basis and amount of any deductions.

36 (5) Any person, firm or corporation purchasing timber that
37 has been cut eight (8) feet in length or longer shall retain
38 information described herein for subsequent inspection by the
39 Deputy Director of Weights and Measures, or his designee, for a
40 period of three (3) years. This information shall include either
41 the contract or the name, address and county origin of both
42 cutter-hauler and the payee for the timber. The information may
43 be maintained in paper or electronic format.

44 (6) All trucks carrying loads of pulpwood or timber within
45 the state, for the purposes of identification, shall be painted on
46 both sides with letters and numbers containing information as
47 described herein that contrast sharply in color with the
48 background on which the letters and numbers are placed and that
49 are readily legible during daylight hours while the motor vehicle
50 is stationary. The information shall include the name of the
51 owner. Beneath this shall be written the city and state of the
52 owner, as well as the Department of Transportation number, if
53 applicable. All markings shall conform to United States
54 Department of Transportation regulations.

55 (7) (a) The State Director of Weights and Measures, the

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

67 (b) The Deputy Director of Weights and Measures, or his
68 designee, shall within thirty (30) days of the issuance of the
69 citation, dismiss the citation, issue a written warning or levy a
70 fine of not more than Two Hundred Dollars (\$200.00) for the first
71 offense; not more than Five Hundred Dollars (\$500.00) for the
72 second offense if the second offense occurs within six (6) months
73 of the first offense; or not more than Two Thousand Dollars
74 (\$2,000.00) for the third and subsequent offenses, if the third or
75 subsequent offenses occur within six (6) months of the first
76 offense. If the Deputy Director of Weights and Measures, or his
77 designee, determines the violation was unintentional and due to an
78 act of God or was beyond the reasonable control of the person,
79 firm or corporation committing the violation, no fine shall be
80 levied. A person, firm or corporation operating any scales or
81 measuring devices in the purchase of timber at more than one (1)
82 location in the state shall not be subject to fines for second or
83 subsequent offenses unless the offenses occur at the same location

84 on separate days. A citation shall record each and every
85 violation of this section but for the purposes of determining
86 second and subsequent offenses under this section, all violations
87 of this section committed by one (1) person, firm or corporation
88 at one (1) location during one (1) day shall constitute one (1)
89 offense.

90 (c) Any person, firm or corporation may appeal a fine
91 to the State Director of Weights and Measures or his designee.
92 The appeal must be filed within thirty (30) days after the levy of
93 the fine. Any party aggrieved by the final order of the State
94 Director of Weights and Measures, or his designee, may appeal to
95 the Chancery Court of the First Judicial District of Hinds County,
96 Mississippi, by filing an appeal within thirty (30) days of a
97 final order of the Director of Weights and Measures. If no appeal
98 is taken and the fine is not paid within sixty (60) days of the
99 order or if the fine is upheld on appeal and no further appeal is
100 taken and the fine is not paid within sixty (60) days of the
101 ruling on the appeal, the Director of Weights and Measures may
102 forward an abstract of the order or judgment to the circuit clerk
103 of any county in the State of Mississippi for enrolling as any
104 other judgment. After enrolling the judgment, the Director of
105 Weights and Measures may institute an action to recover the fines
106 assessed under this section in the name of the State of
107 Mississippi in any court of competent jurisdiction or otherwise
108 proceed as a judgment creditor pursuant to the laws of the State
109 of Mississippi.

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

112 Practices Act.

113 SECTION 2. Section 77-7-16, Mississippi Code of 1972, is
114 amended as follows:

115 77-7-16. (1) Supervision and inspection of the safe
116 operation and the safe use of equipment of motor vehicles
117 operating in the state shall be a specified duty of the
118 commission. In accordance therewith, the commission shall
119 promulgate as its own and enforce the rules, regulations,
120 requirements and classifications of the United States Department
121 of Transportation or any successor federal agency thereof charged
122 with the regulation of motor vehicle safety. The commission shall
123 establish a system of reciprocity with other states to facilitate
124 the inspection of motor vehicles provided for in this subsection.

125 (2) The commission shall have the authority to inspect for
126 safe operation and safe use of equipment the following motor
127 vehicles:

128 (a) Each holder of a certificate of convenience and
129 necessity, a permit to operate as a contract carrier or interstate
130 permit;

131 (b) Any individual, corporation or partnership engaged
132 in a commercial enterprise operating a single motor vehicle or
133 those in combination with a manufacturer's gross vehicle rating of
134 more than ten thousand (10,000) pounds; and

135 (c) Any individual, corporation or partnership
136 operating a motor vehicle of any gross weight transporting
137 hazardous material that requires placarding under the Federal
138 Hazardous Material Regulations.

139 (3) This section shall not apply to the following:

- 140 (a) Motor vehicles employed to transport school
141 children and teachers;
- 142 (b) Motor vehicles owned and operated by the United
143 States, District of Columbia or any state or any municipality or
144 any other political subdivision of this state;
- 145 (c) Motor vehicles engaged in the occasional
146 transportation of personal property without compensation by
147 individuals which is not in the furtherance of a commercial
148 enterprise;
- 149 (d) Motor vehicles engaged in the transportation of
150 human corpses or sick or injured persons;
- 151 (e) Motor vehicles engaged in emergency or related
152 operations;
- 153 (f) Motor vehicles engaged in the private
154 transportation of passengers;
- 155 (g) Motor vehicles owned and operated by any farmer
156 who:
- 157 (i) Is using the vehicle to transport agricultural
158 products from a farm owned by the farmer, or to transport farm
159 machinery or farm supplies to or from a farm owned by the farmer;
- 160 (ii) Is not using the vehicle to transport
161 hazardous materials of a type or quantity that requires the
162 vehicle to be placarded in accordance with the Federal Hazardous
163 Material Regulations in CFR 49 part 177.823; and
- 164 (iii) Is using the vehicle within one hundred
165 fifty (150) air miles of the farmer's farm, and the vehicle is a
166 private motor carrier of property.

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168 (h) Motor vehicles engaged exclusively in hauling
169 gravel or other unmanufactured road building materials.

170 (4) Anyone who violates or fails to comply with this section
171 shall be subject to the penalties as provided for in Section
172 77-7-311, Mississippi Code of 1972.

173 SECTION 3. This act shall take effect and be in force from
174 and after July 1, 2000.