

By: Holland

To: Agriculture

HOUSE BILL NO. 1048

1 AN ACT TO AMEND SECTION 75-27-113, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE CERTAIN MARKINGS ON MOTOR VEHICLES CARRYING LOADS OF
3 PULPWOOD OR TIMBER; TO REQUIRE THAT PERSONS PURCHASING TIMBER
4 SHALL RETAIN CERTAIN INFORMATION FOR THE INSPECTION OF THE DEPUTY
5 DIRECTOR OF WEIGHTS AND MEASURES; AND FOR RELATED PURPOSES.

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

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

9 75-27-113. (1) Timber purchased by weight or measured
10 volume shall be purchased by weight on the basis of tonnage or
11 pounds with one (1) ton equaling two thousand (2,000) pounds
12 avoirdupois weight, or by measured volume so long as the measured
13 volume is not calculated by weight but is derived from any of the
14 standards provided in subsection (2).

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

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

24 (4) Purchaser specifications shall be made available to the
25 haulers and timber owners and shall be posted in a place easily
26 accessible to the haulers or timber owners at the location where
27 the timber is weighed or measured. Scale tickets shall be made

28 available to the haulers and timber owners for each load before
29 the close of the following business day and shall include the
30 measured volume or weight, the standard of weight or measurement
31 used, and the basis and amount of any deductions.

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

40 (6) (a) All motor vehicles carrying loads of pulpwood or
41 timber within the state shall have markings displaying the
42 following information:

43 (i) The name or trade name of the motor carrier
44 operating the self-propelled motor vehicle;

45 (ii) The city or community and state in which the
46 carrier maintains its principal place of business or in which the
47 motor vehicle is customarily based;

48 (iii) The Department of Transportation number, if
49 applicable;

50 (iv) If the name of any person other than the
51 operating carrier appears on the motor vehicle operated under its
52 own power, either alone or in combination, the name of the
53 operating carrier shall be followed by the information required by
54 this subsection and shall be preceded by the words "operated by";

55 and

56 (v) Other identifying information may be displayed
57 on the motor vehicle if it is not inconsistent with the
58 information required by this subsection.

59 (b) The marking shall:

60 (i) Appear on both sides of the self-propelled
61 motor vehicle;

62 (ii) Be in letters that contrast sharply in color
63 with the background on which the letters are placed;

64 (iii) Be readily legible, during daylight hours,

65 from a distance of fifty (50) feet while the motor vehicle is
66 stationary; and

67 (iv) Be kept and maintained in a manner that
68 retains the legibility required by this subsection.

69 (c) The marking may be painted on the motor vehicle or
70 may consist of a removable device, if that device meets the
71 identification and legibility requirements of this subsection, and
72 such marking shall be maintained in such a manner as to remain
73 legible as required by this subsection.

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

86 (b) The Deputy Director of Weights and Measures, or his
87 designee, shall within thirty (30) days of the issuance of the
88 citation, dismiss the citation, issue a written warning or levy a
89 fine of not more than Two Hundred Dollars (\$200.00) for the first
90 offense; not more than Five Hundred Dollars (\$500.00) for the
91 second offense if the second offense occurs within six (6) months
92 of the first offense; or not more than Two Thousand Dollars
93 (\$2,000.00) for the third and subsequent offenses, if the third or
94 subsequent offenses occur within six (6) months of the first
95 offense. If the Deputy Director of Weights and Measures, or his
96 designee, determines the violation was unintentional and due to an
97 act of God or was beyond the reasonable control of the person,

98 firm or corporation committing the violation, no fine shall be
99 levied. A person, firm or corporation operating any scales or
100 measuring devices in the purchase of timber at more than one (1)
101 location in the state shall not be subject to fines for second or
102 subsequent offenses unless the offenses occur at the same location
103 on separate days. A citation shall record each and every
104 violation of this section but for the purposes of determining
105 second and subsequent offenses under this section, all violations
106 of this section committed by one (1) person, firm or corporation
107 at one (1) location during one (1) day shall constitute one (1)
108 offense.

109 (c) Any person, firm or corporation may appeal a fine
110 to the State Director of Weights and Measures or his designee.
111 The appeal must be filed within thirty (30) days after the levy of
112 the fine. Any party aggrieved by the final order of the State
113 Director of Weights and Measures, or his designee, may appeal to
114 the Chancery Court of the First Judicial District of Hinds County,
115 Mississippi, by filing an appeal within thirty (30) days of a
116 final order of the Director of Weights and Measures. If no appeal
117 is taken and the fine is not paid within sixty (60) days of the
118 order or if the fine is upheld on appeal and no further appeal is
119 taken and the fine is not paid within sixty (60) days of the
120 ruling on the appeal, the Director of Weights and Measures may
121 forward an abstract of the order or judgment to the circuit clerk
122 of any county in the State of Mississippi for enrolling as any
123 other judgment. After enrolling the judgment, the Director of
124 Weights and Measures may institute an action to recover the fines
125 assessed under this section in the name of the State of
126 Mississippi in any court of competent jurisdiction or otherwise
127 proceed as a judgment creditor pursuant to the laws of the State
128 of Mississippi.

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

131 Practices Act.

132 SECTION 2. This act shall take effect and be in force from
133 and after July 1, 2000.