

By: Representative Watson

To: Forestry

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 294

1 AN ACT TO REENACT SECTION 75-79-7, MISSISSIPPI CODE OF 1972,  
2 WHICH PROVIDES FOR THE GENERAL POWERS AND DUTIES OF THE  
3 COMMISSIONER OF AGRICULTURE AND COMMERCE; TO REENACT SECTION  
4 75-79-13, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A FEE FOR  
5 EACH PULPWOOD RECEIVING FACILITY OPERATED WITHIN THE STATE; TO  
6 REENACT SECTION 75-79-21, MISSISSIPPI CODE OF 1972, WHICH PROVIDES  
7 THE GROUNDS FOR DENIAL, SUSPENSION, CANCELLATION OR REVOCATION OF  
8 A LICENSE TO OPERATE A PULPWOOD RECEIVING FACILITY; TO REPEAL  
9 SECTION 75-79-22, MISSISSIPPI CODE OF 1972, TO REPEAL THE REPEALER  
10 ON THE PREVIOUS SECTIONS; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 75-79-7, Mississippi Code of 1972, is  
13 reenacted as follows:

14 75-79-7. It shall be the function and duty of the  
15 commissioner to:

16 (a) Issue licenses to operators of pulpwood receiving  
17 facilities determined to qualify under the provisions of this  
18 chapter, and revoke or suspend licenses previously issued by the  
19 commissioner in any case where the licensee is determined to have  
20 violated any of the provisions of this chapter.

21 (b) Establish standard procedures and promulgate  
22 regulations for the measurement of pulpwood offered for sale, both  
23 by weight and by volume, in a manner consistent with the  
24 Mississippi Weights and Measures Law of 1964, as amended (Section  
25 75-27-1 et seq.). Such standard provisions and regulations shall  
26 require that all pulpwood receiving facilities shall give every  
27 cutter-hauler a ticket which shall state at the minimum (i) the  
28 name of the cutter-hauler; (ii) the name of the landowner from  
29 which the wood was severed or the name of the owner of the timber;  
30 (iii) the county or county code in which the timber was severed;  
31 and (iv) the number of cords or, in the event of weighing, the

gross weight on the truck of the cutter-hauler. In the event that neither the cutter-hauler nor the landowner nor the owner of the timber is the person to be paid for such pulpwood, the ticket shall also contain the name of the payee. The ticket shall be prepared upon delivery and acceptance of a load of pulpwood and shall be made available for inspection by the cutter-hauler if the cutter-hauler so desires. All cutter-haulers have the right to inspect the ticket before unloading of the pulpwood. However, where such wood is measured on scales, the ticket shall be issued at the time of the weighing and shall state the gross weight of the wood and truck and the tare weight of the truck after unloading to determine the net weight of the wood; the number of cords is not required on tickets so weighed. The pulpwood facility shall keep a copy of such ticket on file for subsequent inspection by the State Tax Commission and the Department of Agriculture and Commerce for a period not less than three (3) years. The facility operator shall maintain on the facility premises, at a minimum, the following information on the cutter-hauler and the payee for the pulpwood if the payee is someone other than the cutter-hauler: (i) name; (ii) social security number or employer identification number, or both; (iii) address; and (iv) the corresponding identification code used on the scale ticket. The facility operator is required to obtain, in good faith, such information from the cutter-hauler who is liable for the accuracy of this information.

(c) Conduct periodic inspections no less than once every six (6) months, and establish and carry out other procedures designed to insure that licensees will comply with the provisions of this chapter.

(d) Receive, investigate and take appropriate action with respect to any charge or complaint filed with the commissioner to the effect that any pulpwood receiving facility operator has violated any provision of this chapter.

(e) Randomly weigh, at his discretion, any agricultural product being delivered throughout the state to determine the accuracy of the bill of lading. If the weight exceeds or falls below the amount of weight reported on the bill of lading by five percent (5%) or more, then the commissioner shall report the discrepancy, in writing, to the Director of the Agriculture and Livestock Theft Bureau. Such agricultural products shall be weighed on certified scales approved by the Weights and Measures Division of the Department of Agriculture and Commerce.

**SECTION 2.** Section 75-79-13, Mississippi Code of 1972, is reenacted as follows:

75-79-13. The license fee for each calendar year or part thereof shall be Thirty Dollars (\$30.00) for each pulpwood receiving facility operated within the state. A renewal of the license may be accomplished by submitting the payment of the annual fee and a certification, on a form provided by the commissioner, that none of the information on the original license application has changed.

**SECTION 3.** Section 75-79-21, Mississippi Code of 1972, is reenacted as follows:

75-79-21. (1) The commissioner may deny an application for a license, or revoke or suspend a license after it has been granted, for any of the following reasons:

(a) Any material misstatement in the application for a license.

(b) Defrauding any pulpwood cutter-hauler in the measurement of pulpwood to the cutter-hauler's damage.

(c) Failure to maintain accurate weighing and measuring devices used in the measurement of pulpwood.

(d) Requiring a pulpwood cutter-hauler to deliver or transfer any quantity of pulpwood to the facility operator's control as a condition of the purchase or receipt thereof before the facility operator has notified the cutter-hauler of the total

98 number of cords or the volume for which payment will be made.

99 This does not include out-of-specification wood culled when  
100 discovered during unloading.

101 (e) Willful failure to apply standards established by  
102 law or by the commissioner in the measurement of pulpwood.

103 (f) Discriminating against a pulpwood cutter-hauler  
104 because the cutter-hauler has filed a complaint, given testimony  
105 or otherwise sought relief under this chapter.

106 (g) Any violation of the rules and regulations of the  
107 Mississippi Department of Agriculture and Commerce or violation of  
108 any other of the laws governing pulpwood scaling and practices.

109 (2) If a pulpwood receiving facility operator is convicted  
110 of any crime involving fraud under the provisions of this chapter,  
111 the commissioner, may, in his discretion, suspend, cancel or  
112 revoke the license of such operator.

113 (3) All proceedings for the suspension, cancellation or  
114 revocation of licenses shall be before the commissioner, and the  
115 proceedings shall be in accordance with rules and regulations  
116 which shall be adopted by the commissioner. No license shall be  
117 cancelled or revoked, except after a hearing before the  
118 commissioner, upon reasonable notice to the licensee and an  
119 opportunity to appear and defend. Whenever the commissioner  
120 suspends, cancels or revokes a license, he shall prepare an order  
121 so providing which shall state the reason or reasons for such  
122 suspension, cancellation or revocation. The order shall be sent  
123 by certified mail by the commissioner to the licensee at the  
124 address of the pulpwood receiving facility licensed. Within  
125 thirty (30) days after the mailing of the order, the licensee, if  
126 dissatisfied with the order of the commissioner, may appeal to the  
127 chancery court of the county in which the pulpwood receiving  
128 facility is located by filing a written notice of appeal alleging  
129 the pertinent facts upon which such appeal is grounded. At the  
130 time of the filing of the appeal, the appellant shall give a bond

131 for costs conditioned upon his prosecution of the appeal without  
132 delay and payment of all costs assessed against him. Appeal may  
133 be with supersedeas and shall be subject to the provisions of  
134 Section 11-51-31.

135 (4) In case a license issued to a pulpwood receiving  
136 facility operator expires or is suspended, cancelled or revoked by  
137 the commissioner or his designated representative, such license  
138 shall be immediately returned to the commissioner.

139 **SECTION 4.** Section 75-79-22, Mississippi Code of 1972, which  
140 provides for a repealer on the sections of law allowing the  
141 Commissioner of Agriculture to license and regulate the pulpwood  
142 industry, is repealed.

143 **SECTION 5.** This act shall take effect and be in force from  
144 and after July 1, 2004.