

By: Representative Watson

To: Forestry

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 AMEND  
 9 SECTION 75-79-22, MISSISSIPPI CODE OF 1972, TO EXTEND 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

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

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

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

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

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

76           75-79-13. The license fee for each calendar year or part  
77 thereof shall be Thirty Dollars (\$30.00) for each pulpwood  
78 receiving facility operated within the state. A renewal of the  
79 license may be accomplished by submitting the payment of the  
80 annual fee and a certification, on a form provided by the  
81 commissioner, that none of the information on the original license  
82 application has changed.

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

85           75-79-21. (1) The commissioner may deny an application for  
86 a license, or revoke or suspend a license after it has been  
87 granted, for any of the following reasons:

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

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

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

94           (d) Requiring a pulpwood cutter-hauler to deliver or  
95 transfer any quantity of pulpwood to the facility operator's  
96 control as a condition of the purchase or receipt thereof before  
97 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, is  
140 amended as follows:

141 75-79-22. Sections 75-79-7, 75-79-13 and 75-79-21,  
142 Mississippi Code of 1972, shall be repealed on July 1, 2006.

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