

By: Ford

To: Agriculture

HOUSE BILL NO. 256
(As Passed the House)

1 AN ACT TO REENACT SECTIONS 75-79-7, 75-79-13 AND 75-79-21,
2 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE LICENSING OF
3 PULPWOOD RECEIVING FACILITIES; TO AMEND SECTION 75-79-22, TO
4 EXTEND THE REPEALER; AND FOR RELATED PURPOSES.

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

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

8 75-79-7. It shall be the function and duty of the
9 commissioner to:

10 (a) Issue licenses to operators of pulpwood receiving
11 facilities determined to qualify under the provisions of this
12 chapter, and revoke or suspend licenses previously issued by the
13 commissioner in any case where the licensee is determined to have
14 violated any of the provisions of this chapter.

15 (b) Establish standard procedures and promulgate
16 regulations for the measurement of pulpwood offered for sale, both
17 by weight and by volume, in a manner consistent with the
18 Mississippi Weights and Measures Law of 1964, as amended (Section
19 75-27-1 et seq.). Such standard provisions and regulations shall
20 require that all pulpwood receiving facilities shall give every
21 cutter-hauler a ticket which shall state at the minimum (i) the
22 name of the cutter-hauler; (ii) the name of the landowner from
23 which the wood was severed or the name of the owner of the timber;
24 (iii) the county or county code in which the timber was severed;
25 and (iv) the number of cords or, in the event of weighing, the
26 gross weight on the truck of the cutter-hauler. In the event that
27 neither the cutter-hauler nor the landowner nor the owner of the

28 timber is the person to be paid for such pulpwood, the ticket
29 shall also contain the name of the payee. The ticket shall be
30 prepared upon delivery and acceptance of a load of pulpwood and
31 shall be made available for inspection by the cutter-hauler if the
32 cutter-hauler so desires. All cutter-haulers have the right to
33 inspect the ticket before unloading of the pulpwood. However,
34 where such wood is measured on scales, the ticket shall be issued
35 at the time of the weighing and shall state the gross weight of
36 the wood and truck and the tare weight of the truck after
37 unloading to determine the net weight of the wood; the number of
38 cords is not required on tickets so weighed. The pulpwood
39 facility shall keep a copy of such ticket on file for subsequent
40 inspection by the State Tax Commission and the Department of
41 Agriculture and Commerce for a period not less than three (3)
42 years. The facility operator shall maintain on the facility
43 premises, at a minimum, the following information on the
44 cutter-hauler and the payee for the pulpwood if the payee is
45 someone other than the cutter-hauler: (i) name; (ii) Social
46 Security number or employer identification number, or both; (iii)
47 address; and (iv) the corresponding identification code used on
48 the scale ticket. The facility operator is required to obtain, in
49 good faith, such information from the cutter-hauler who is liable
50 for the accuracy of this information.

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

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

59 (e) Randomly weigh, at his discretion, any agricultural
60 product being delivered throughout the state to determine the
61 accuracy of the bill of lading. If the weight exceeds or falls
62 below the amount of weight reported on the bill of lading by five
63 percent (5%) or more, then the commissioner shall report the
64 discrepancy, in writing, to the Director of the Agriculture and

65 Livestock Theft Bureau. Such agricultural products shall be
66 weighed on certified scales approved by the Weights and Measures
67 Division of the Department of Agriculture and Commerce.

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

70 75-79-13. The license fee for each calendar year or part
71 thereof shall be Thirty Dollars (\$30.00) for each pulpwood
72 receiving facility operated within the state. A renewal of the
73 license may be accomplished by submitting the payment of the
74 annual fee and a certification, on a form provided by the
75 commissioner, that none of the information on the original license
76 application has changed.

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

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

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

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

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

88 (d) Requiring a pulpwood cutter-hauler to deliver or
89 transfer any quantity of pulpwood to the facility operator's
90 control as a condition of the purchase or receipt thereof before
91 the facility operator has notified the cutter-hauler of the total
92 number of cords or the volume for which payment will be made.
93 This does not include out-of-specification wood culled when
94 discovered during unloading.

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

97 (f) Discriminating against a pulpwood cutter-hauler

98 because the cutter-hauler has filed a complaint, given testimony
99 or otherwise sought relief under this chapter.

100 (g) Any violation of the rules and regulations of the
101 Mississippi Department of Agriculture and Commerce or violation of
102 any other of the laws governing pulpwood scaling and practices.

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

107 (3) All proceedings for the suspension, cancellation or
108 revocation of licenses shall be before the commissioner, and the
109 proceedings shall be in accordance with rules and regulations
110 which shall be adopted by the commissioner. No license shall be
111 cancelled or revoked, except after a hearing before the
112 commissioner, upon reasonable notice to the licensee and an
113 opportunity to appear and defend. Whenever the commissioner
114 suspends, cancels or revokes a license, he shall prepare an order
115 so providing which shall state the reason or reasons for such
116 suspension, cancellation or revocation. The order shall be sent
117 by certified mail by the commissioner to the licensee at the
118 address of the pulpwood receiving facility licensed. Within
119 thirty (30) days after the mailing of the order, the licensee, if
120 dissatisfied with the order of the commissioner, may appeal to the
121 chancery court of the county in which the pulpwood receiving
122 facility is located by filing a written notice of appeal alleging
123 the pertinent facts upon which such appeal is grounded. At the
124 time of the filing of the appeal, the appellant shall give a bond
125 for costs conditioned upon his prosecution of the appeal without
126 delay and payment of all costs assessed against him. Appeal may
127 be with supersedeas and shall be subject to the provisions of
128 Section 11-51-31.

129 (4) In case a license issued to a pulpwood receiving
130 facility operator expires or is suspended, cancelled or revoked by

131 the commissioner or his designated representative, such license
132 shall be immediately returned to the commissioner.

133 SECTION 4. Section 75-79-22, Mississippi Code of 1972, is
134 amended as follows:

135 75-79-22. Sections 75-79-7, 75-79-13 and 75-79-21,
136 Mississippi Code of 1972, shall be repealed on July 1, 2003.

137 SECTION 5. This act shall take effect and be in force from
138 and after July 1, 2000.