

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1190

6
7 S.P. 390

In Senate, March 15, 1983

8 Referred to the Committee on Agriculture. Sent down for concurrence
9 and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Wood of York.

Cosponsors: Representative Locke of Sebec and Representative Connolly
11 of Portland.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Revise the Wood Measurement
18 Law.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 Sec. 1. 10 MRSA §§2361 and 2362, as repealed and
23 replaced by PL 1977, c. 537, §1, are repealed.

24 Sec. 2. 10 MRSA §2363, as amended by PL 1977, c.
25 694, §174, is repealed.

26 Sec. 3. 10 MRSA §2366, as amended by PL 1979, c.
27 127, §62, is repealed.

28 Sec. 4. 10 MRSA §§2371 to 2376 are enacted to
29 read:

30 §2371. Definitions

1 As used in this subchapter, unless the context
2 indicates otherwise, the following terms have the
3 following meanings.

4 1. Butt measure. "Butt measure" is the linear
5 measure of wood based solely on measurement of the
6 butt end of individual trees, without conversion to
7 volume by any means.

8 2. Butt scale. "Butt scale" is the volume mea-
9 sure of wood based solely on measurement of the butt
10 end of individual trees and converted to volume by
11 means of a formula.

12 3. Green wood. "Green wood" means trees or
13 parts of trees that have been freshly felled. Wood
14 which has been scaled within 5 days of felling shall
15 be presumed to be freshly felled.

16 4. Oven-dried wood. "Oven-dried wood" means
17 wood that has been oven-dried to remove its moisture
18 content.

19 5. Sale of wood. "Sale of wood" means a trans-
20 action involving payment for wood purchased, or pay-
21 ment for services performed in or incidental to the
22 harvesting, hauling or chipping of wood, when that
23 payment is based in whole or in part on the volume,
24 quantity or dimension of wood purchased, harvested,
25 hailed or chipped.

26 6. Wood. "Wood" means the severed but unproc-
27 essed fibrous derivative of trees, without regard for
28 quality or grade, and also means the chipped fibrous
29 derivative of trees.

30 §2372. Wood scale and measurement

31 1. Weight scale. In sales of wood based upon
32 the weight of wood, the weight shall not be converted
33 to volume. All such sales shall be made either on a
34 green wood basis or on a bone dry wood basis, not on
35 any intermediate basis. In the case of wood chips,
36 sales may be made on an oven-dry basis.

37 2. Butt measure. Butt measure may be used to
38 calculate payment in sales of wood.

1 3. Butt scale. Butt scale may not be used,
2 directly or indirectly, to calculate payment in sales
3 of wood, except where:

4 A. Both parties agree in writing to the use of
5 butt scale;

6 B. Neither party may require the use of butt
7 scale as a unilateral condition of employment;

8 C. Prior to commencing usage of a butt scale
9 table, the State Sealer of Weights and Measures,
10 as well as all parties to the agreement, receive
11 a copy of the signed agreement and the corre-
12 sponding butt scale table for a designated area;
13 or

14 D. The party who formulated the butt scale table
15 shall, upon request, provide the state sealer or
16 any other party to the agreement, copies of the
17 documentation supporting the formulation of that
18 butt scale table for a particular area.

19 4. International 1/4-inch log rule. The inter-
20 national 1/4-inch log rule shall be the standard
21 state rule for the measurement of logs. Nothing in
22 this section shall prevent the use of any other log
23 rule which is agreeable to all parties involved.

24 §2373. Disputed wood

25 In case a dispute arises as to whether or not
26 wood was accurately scaled or measured, the person
27 aggrieved may file a complaint with the state sealer.
28 Any such complaint must be initiated within 30 calen-
29 dar days of the alleged grievance. The state sealer
30 shall investigate the complaint. As part of the
31 investigation, the state sealer or deputy state
32 sealer may subpoena such witnesses and documents as
33 may be necessary to determine the matter, and may
34 cause the disputed wood to be check scaled or check
35 measured. In the event that an aggrieved party fails
36 to file a complaint within 30 days of the alleged
37 grievance, he is barred from seeking a remedy under
38 section 2576, subsection 1.

39 §2374. Rules

1 The state sealer may, in a manner consistent with
2 the Maine Administrative Procedure Act, Title 5,
3 chapter 375, adopt rules relating to:

4 1. Weight scale. Procedures for determining the
5 weight of wood sold according to weight scale and ad-
6 justments to be made for wood which is neither green,
7 nor oven dry in the case of wood chips;

8 2. Butt measure; other scales. Procedures for
9 the linear measurement of the diameter of tree butts
10 in butt measure and the volumetric measurement of
11 wood in log scale, cord scale and any other scale the
12 use of which is not prohibited by this subchapter;

13 3. Complaints; investigations. Procedures for
14 the filing and investigation of complaints and for
15 the sampling, check scaling and check measurement of
16 disputed wood; and

17 4. Other standards. The preparation and dissem-
18 ination of cutting and harvesting specifications in
19 the sale of wood; the preparation and dissemination
20 of scaling and measurement slips in the sale of wood;
21 the designation of appropriate terms or units of
22 weight, scale or measure to be used in the sale of
23 wood; equipment standards and tolerances; and all
24 other matters relating to the administration of this
25 subchapter which are designed to ensure accuracy,
26 verifiability, uniformity and accountability in the
27 scaling and measurement of wood and the calculation
28 of payment in the sale of wood.

29 §2375. Additional prohibitions

30 1. Accurate measurement. It is the intent of
31 this subchapter that any method of wood scaling or
32 measurement used in the sale of wood shall provide an
33 accurate and verifiable count of the volume, quantity
34 or dimension measured. No person who scales or mea-
35 sures wood, and no person who makes payment to
36 another in the sale of wood, may:

37 A. Use, furnish or represent as the basis for
38 payment a volume, quantity or dimension of wood
39 which is less than the volume, quantity or dimen-
40 sion of wood specified to be harvested, hauled or
41 chipped.

1 B. Where payment is made for services, all mea-
2 surements must be expressed in terms of the same
3 system and unit of measure as were used in making
4 the measurement.

5 In no case may any volume, quantity or dimension
6 of wood be converted into another system of
7 scaling or measurement except where expressly
8 provided for in this subchapter.

9 2. Cutting and harvesting specifications. Where
10 payment is made for services:

11 A. The volume, quantity or dimension of wood to
12 be measured, shall be the same as the volume,
13 quantity or dimension of wood that was designated
14 to be harvestd, hauled or chipped.

15 B. No deductions or discounts may be made from
16 the gross scale or gross measure of wood desig-
17 nated to be harvested, including, but not limited
18 to, grading or quality deductions.

19 C. This prohibition remains in force regardless
20 of whether the measurement deductions were fur-
21 nished or made available at or prior to perfor-
22 mance.

23 §2376. Violations; penalties

24 1. Civil violations. Violation of this subchap-
25 ter or any rule promulgated pursuant to this subchap-
26 ter shall be a civil violation punishable by a fine
27 not to exceed \$1,000 for a first offense and \$2,000
28 for each subsequent offense. These fines may be re-
29 covered by the state sealer in a civil action.

30 2. Private action. Any person who violates this
31 subchapter or any rule promulgated pursuant to this
32 subchapter shall be liable in a civil action to any
33 person aggrieved by the violation for treble damages,
34 plus reasonable attorneys' fees and costs of suit.

35 3. Discrimination. No person may discriminate
36 against any other person in any way for filing a com-
37 plaint, participating in an investigation, testifying
38 or in any way asserting a claim or aiding another in

1 his assertion of a claim under this subchapter. Any
2 person who so discriminates is liable in a civil ac-
3 tion to the person discriminated against for all dam-
4 ages caused by that discrimination, plus reasonable
5 attorneys' fees and costs of suit.

6 Sec. 5. 10 MRSA §2753, as enacted by PL 1973, c.
7 91, §12, is amended to read:

8 §2753. Injunction

9 The state sealer ~~is authorized to~~ may apply to
10 any court of competent jurisdiction for a temporary
11 or permanent injunction restraining any person from
12 violating any provision of this chapter or any rule
13 promulgated pursuant to this chapter.

14 Sec. 6. 30 MRSA §3662 is repealed.

15 Sec. 7. 30 MRSA §3662-A, as enacted by PL 1965,
16 c. 321, is repealed.

17 Sec. 8. 30 MRSA §3663 is repealed.

18 Sec. 9. Transition provisions. Rules adopted by
19 the State Sealer of Weights and Measures pursuant to
20 this subchapter as it existed prior to this Act shall
21 be valid under this Act, unless they are inconsistent
22 with it until such rules are amended, repealed or
23 otherwise terminated according to law.

24 STATEMENT OF FACT

25 This bill revises the wood measurement law in
26 light of the Department of Agriculture, Food and
27 Rural Resources' experience in administering it since
28 the 1977 revision. The purposes of this bill are as
29 follows:

30 1. The prohibition of butt scale measurement as
31 a basis for payment in sales of wood, except where
32 expressly agreed upon by the parties;

33 2. The encouragement of a new system of measure-
34 ment called butt measure, in which individual trees
35 are measured simply according to the linear measure-

1 ment of the butt end without any conversion to volume
2 or otherwise. The quantity of wood cut would be
3 expressed in the total number of diameter inches for
4 each tree species. By contrast, under the current
5 system of butt scale, the butt ends of the trees are
6 individually measured and then converted to volume by
7 means of a formula;

8 3. The requirement that all sales of wood based
9 on weight be calculated based on green weight, except
10 in the case of wood chips where oven-dry weight may
11 be used. Any moisture adjustments shall be computed
12 on these standards;

13 4. Where payment is made for services, the pro-
14 hibition of any conversions in wood measurement
15 (cords to board feet), except where expressly pro-
16 vided for in the bill;

17 5. A requirement that wood sellers and wood
18 workers measure all wood tendered, harvested, hauled
19 or chipped that was specified to be harvested, hauled
20 or chipped;

21 6. Where payment is made for services, a pro-
22 hibition against the use of dual measurement guide-
23 lines or specifications -- one set for harvesting and
24 another set for calculating payment. Measurement
25 deductions may not be made from gross scale or gross
26 measure for grading or other purposes;

27 7. Decriminalization of violations of the wood
28 measurement law and its implementing regulations;

29 8. The provision of expanded remedies to persons
30 aggrieved by violations of this subchapter. These
31 expanded remedies include a private right of action
32 to enforce the subchapter, in which a person may be
33 awarded treble damages and attorneys' fees, and a
34 remedy for persons discriminated against in
35 retaliation for filing a complaint or otherwise
36 asserting claims under this subchapter; and

37 9. The repeal of miscellaneous wood measurement
38 legislation that has been superseded by, or incorpo-
39 rated into, the wood measurement law codified in
40 Title 10, or the department's rule-making authority
41 under that law.

