

MAINE STATE LEGISLATURE

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(New Draft of S.P. 623, L.D. 1768)

(New Title)
SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 2405

S.P.. 890

In Senate, April 2, 1984

Reported by Minority Report from The Joint Select Committee on Wood Measurement and printed under Joint Rule 2.

Original bill presented by Senator Carpenter of Aroostook and cosponsored by Representative Locke of Sebec.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-FOUR

AN ACT to Amend the Wood
Measurement Law.

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

Sec. 1. 10 MRSA §2361, as repealed and replaced by PL 1977, c. 537, §1, is repealed.

Sec. 2. 10 MRSA §2361-A is enacted to read:

§2361-A. Definitions

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

1 1. Agreement of the parties. "Agreement of the
2 parties" means the mutual agreement of the parties or
3 their representatives, and is distinguished from a
4 unilateral condition of employment.

5 2. Butt diameter. Except as otherwise provided
6 by the state sealer, "butt diameter" means the diame-
7 ter of the severed stem butt, measured outside the
8 bark, the short way through the center, disregarding
9 crevices and cracks.

10 3. Butt measure. "Butt measure" means the lin-
11 ear measure of the butt end of tree length wood,
12 without conversion to volume by any means. As may be
13 agreed upon by the parties, this measurement may be
14 represented with or without regard to butt diameter
15 classes.

16 4. Butt scale. "Butt scale" means the volume
17 measure of wood based solely on measurement of the
18 butt end of individual trees and converted to volume
19 by any means.

20 5. Green wood. "Green wood" means trees or
21 parts of trees that have been freshly felled.

22 6. Oven-dried wood. "Oven-dried wood" means
23 wood that has been oven-dried to remove its moisture
24 content according to standards as adopted by the
25 American Society of Testing and Materials.

26 7. Payment for services. "Payment for services"
27 means payment made for services in or incidental to
28 harvesting, hauling or chipping wood, and does not
29 involve transfer of title to the wood.

30 8. Properly prepared wood. "Properly prepared
31 wood" means wood that was required to be harvested
32 and yarded, and was prepared as directed, according
33 to written cutting specifications.

34 9. Sale of wood. "Sale of wood" means a trans-
35 action involving transfer of title to wood. Nothing
36 in this subchapter supersedes or in any way modifies
37 the measurement standards relating to fuel wood pro-
38 vided for in section 2302, subsection 1.

1 10. Standard cord. A "standard cord" means the
2 cubic foot measurement of 4 foot long wood, ranked
3 and well stowed, and stacked 4 feet wide, 4 feet high
4 and 8 feet long, or its equivalent, which stack mea-
5 sure contains 128 cubic feet of wood, bark and air
6 space. A "standard cord" when used in connection
7 with sawdust chips, bark or shavings means the volume
8 of material contained in 128 cubic feet at the time
9 of sale.

10 11. Wood. "Wood" means the severed but unpro-
11 cessed fibrous derivative of trees, without regard
12 for quality or grade and also means the chipped
13 fibrous derivative of trees.

14 12. Wood transactions. "Wood transactions"
15 means the "sale of wood" or "payment for services" as
16 those terms are defined in this section.

17 Sec. 3. 10 MRSa §2362, as repealed and replaced
18 by PL 1977, c. 537, §2, is repealed.

19 Sec. 4. 10 MRSa §2362-A is enacted to read:

20 §2362-A. Measurement of wood

21 1. Cubic measure and standard cord. In all wood
22 transactions the volume of wood may be measured in
23 cubic feet or by the standard cord as provided for by
24 the state sealer.

25 2. Weight scale. Where agreed upon by the par-
26 ties, weight measurement may be used in all wood
27 transactions, provided that:

28 A. The weight measurement shall not be converted
29 to volume;

30 B. Where payment is made for services in har-
31 vesting wood, all weight measurements shall be
32 expressed on a green wood or green weight basis.
33 Except as otherwise provided by the state sealer,
34 when the wood is not, or will not be, weighed
35 within 10 days of felling, the person performing
36 the services may, prior to hauling, require that
37 the wood instead be measured by butt measure, or
38 another authorized method of measurement; and

1 C. All sales of wood chips may be based on
2 oven-dried weight, except where payment is made
3 for harvesting wood.

4 3. Tree length wood. Butt measure shall be the
5 standard state method for the measurement of tree
6 length wood. Where expressly agreed upon, the par-
7 ties may use any other method of measurement autho-
8 rized by this subchapter.

9 A. Butt scale measurements may be used as fol-
10 lows.

11 (1) Where payment is made for services, the
12 use of butt scale measurements is prohibited
13 as of April 1, 1987. Until that date, the
14 use of butt scale measurements is permitted
15 for tree length wood under the following
16 conditions.

17 (a) The applicable butt scale table
18 shall be available upon request of any
19 interested party.

20 (b) The volume table to which the mea-
21 surements are applied shall reasonably
22 represent the volume of trees being cut
23 on the operation.

24 (c) In any case where butt scale is
25 permitted, the parties involved shall
26 provide upon request the state sealer
27 with a copy of the volume table for any
28 designated harvesting area within
29 10-days of the request.

30 4. Log length stems. Log length stems shall be
31 measured as follows.

32 A. The international 1/4 inch log rule shall be
33 the standard state rule for the measurement of
34 log length stems.

35 B. Where agreed upon by the parties, cubic foot
36 measurement, weight measurement, butt measure or
37 another log rule may also be used to measure log
38 length stems.

1 Sec. 5. 10 MRSA §2363, as amended by PL 1977, c.
2 694, §174, is repealed.

3 Sec. 6. 10 MRSA §2363-A is enacted to read:

4 §2363-A. Accurate and verifiable measurements

5 1. Standards. It is the intent of this subchap-
6 ter that any method of wood scaling or measurement
7 used in the sale of wood shall provide an accurate
8 and verifiable count of the volume, quantity, dimen-
9 sion or weight measured, according to the standards
10 established by the state sealer, provided that those
11 standards may be efficiently and conveniently applied
12 in transactions in this State involving the sale of
13 wood as defined in this subchapter.

14 2. Measurements. No person who scales or mea-
15 sures wood and no person who makes payment to another
16 in the sale of wood may represent a weight, volume,
17 quantity or dimension of wood which is less than the
18 weight, volume, quantity or dimension of wood to be
19 measured.

20 A. When payment is made for services in harvest-
21 ing wood, all wood that is properly prepared
22 shall be measured in full. Nothing in this sub-
23 section prevents making reasonable deductions
24 based on quantity factors, such as for loose pil-
25 ing, short or undersized wood or for wood that
26 was not designated to be harvested, hauled or
27 chipped.

28 The written cutting specifications for properly
29 prepared tree stems shall be made available to
30 the person providing the service and shall be
31 signed by both the person requiring the service
32 and by the person providing the service or his
33 authorized representative.

34 B. When payment is made for services in hauling
35 or trucking wood, all wood that was designated to
36 be hauled and which was hauled, shall be measured
37 in full.

38 C. In the sale of wood, all wood that meets the
39 specifications of the parties shall be measured
40 according to the terms of the sales contract.

1 D. When payment is made for services, payment
2 shall be expressed in the same unit of measure
3 that was used in making the measurement. Nothing
4 in this subsection may be interpreted to prohibit
5 the use of the standard cord or butt measure.

6 3. Payment. When payment is made for services,
7 the person providing the service shall promptly re-
8 ceive a copy of the tally sheet setting forth the to-
9 tal measure of the wood, identifying the person or
10 persons providing the service, the location from
11 which the wood was hauled and the date the measure-
12 ments were made.

13 Sec. 7. 10 MRSA §2364-A is enacted to read:

14 §2364-A. Licensing of measuring and scaling opera-
15 tors

16 The state sealer has the authority to license all
17 woodscalers and has the authority to issue rules and
18 establish fees for licensing. Once a licensing pro-
19 gram is instituted then the following provisions of
20 this section shall be in effect.

21 Fees collected under this section shall be depos-
22 ited in a separate account which shall not lapse and
23 shall be used to cover the cost of administering this
24 section.

25 1. Applications. Applications for licenses un-
26 der this subchapter shall be made in writing on forms
27 prescribed by the state sealer for each wood scaler.
28 The application shall include the name of the appli-
29 cant scaler, his qualifications and other pertinent
30 information as the state sealer shall require.

31 2. License; denial; revocation; suspension. The
32 state sealer may deny or revoke or suspend a license
33 or take enforcement action against the licensee for a
34 violation of this subchapter for any of the following
35 reasons:

36 A. Any material misstatement in the application
37 for a license;

38 B. Willful misrepresentation of the quantity of
39 wood measured;

1 C. Failure to maintain accurate weighing or mea-
2 suring devices; or

3 D. Willful failure to apply measurement stan-
4 dards or procedures established by the state
5 sealer.

6 3. Violation. Any person who scales or measures
7 wood without a proper license shall be in violation
8 of this section.

9 Sec. 8. 10 MRSA §2365-A is enacted to read:

10 §2365-A. Disputed wood

11 In case a dispute arises as to whether wood was
12 accurately scaled or measured, the person aggrieved
13 may file a complaint with the state sealer. Any com-
14 plaint shall be initiated within 30 calendar days of
15 the alleged grievance. The state sealer shall inves-
16 tigate the complaint. As part of the investigation,
17 the state sealer or deputy state sealer may subpoena
18 such witnesses and documents as may be necessary to
19 determine the matter, and may cause the disputed wood
20 to be impounded and check measured if it may be sepa-
21 rately identified. In the event that an aggrieved
22 party fails to file a complaint within 30 days of the
23 alleged grievance, the aggrieved party is barred from
24 seeking a remedy under section 2367.

25 Sec. 9. 10 MRSA §2366, as amended by PL 1979, c.
26 127, §62, is repealed.

27 Sec. 10. 10 MRSA §2366-A is enacted to read:

28 §2366-A. Rules

29 The state sealer shall, in a manner consistent
30 with the Maine Administrative Procedure Act, Title 5,
31 chapter 375, promulgate and adopt rules relating to:

32 1. Weight scale. Procedures for determining the
33 weight of wood according to weight scale;

34 2. Butt measure; other measurement sys-
35 tems. Procedures and standards for the lineal and
36 volumetric measurement of wood;

1 3. Measurement equipment standards and toler-
2 ances. Measurement equipment standards and toler-
3 ances;

4 4. Complaints; investigations. Procedures for
5 the filing and investigating of complaints and for
6 the sampling, check scaling and check measurement of
7 disputed wood;

8 5. Designation; units of measure. The designa-
9 tion of appropriate units of measure which can be ef-
10 ficiently and conveniently used in the sale of wood;

11 6. Dissemination; scaling and measurement tal-
12 lies. The dissemination of the scaling and measure-
13 ment tallies or slips as appropriate to prevent un-
14 fair or deceptive representations of the quantity of
15 wood measured;

16 7. Measuring and scaling operators; licens-
17 ing. Licensing of measuring and scaling operators;
18 and

19 8. Other standards. Other standards and rules
20 necessary to the administration of this subchapter.

21 Sec. 11. 10 MRSA §§2367 and 2368 are enacted to
22 read:

23 §2367. Violations; penalties

24 1. Civil violations. Any violation of this sub-
25 chapter or any rule promulgated pursuant to this sub-
26 chapter shall be a civil violation punishable by a
27 fine not to exceed \$1,000 for a first offense and
28 \$2,000 for each subsequent offense. These fines may
29 be recovered 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, pursuant to the
34 remedies set forth in Title 26, section 626-A. The
35 civil action for damages may be brought by either the
36 aggrieved party or, at the request of the state seal-
37 er, by the Attorney General.

1 expressed in inches, without regard to the butt diam-
2 eter class;

3 2. When payment is made for services, this new
4 draft prohibits the usage of butt scale measurements
5 as of April 1, 1987. When payment is made for other
6 than services, this new draft allows for the contin-
7 ued usage of butt scale measurements under specified
8 conditions;

9 3. Where payment is made for services, this new
10 draft requires that all properly prepared wood shall
11 be measured in full, but it does not prohibit deduc-
12 tions that are taken because of merchantability or
13 quality factors. Neither does it prohibit the taking
14 of deductions relating to quantity when wood is not
15 properly prepared, loose piled or short;

16 4. When weight measure is used, this new draft
17 allows for the use of alternative measurement when
18 wood is not properly weighed;

19 5. Establishes the international 1/4 inch log
20 rule as the state's standard for the measurement of
21 log length stems;

22 6. When payment is made for services, this new
23 draft prohibits the conversion of measurements from
24 one system or unit to another;

25 7. Provides for the licensing of scaling or mea-
26 surement operators;

27 8. Provides for the investigation of disputes
28 under the subchapter. The investigation may include
29 impounding and check scaling, except when the mea-
30 sured wood has already been processed and therefore
31 can no longer be identified;

32 9. Decriminalizes violations of the wood mea-
33 surement law, and provides for a civil fine and dam-
34 ages in the case of violations; and

1 10. Repeals the miscellaneous wood measurement
2 legislation that has been superseded by or incorpo-
3 rated into the wood measurement law codified in the
4 Revised Statutes, Title 10, or the department's rule-
5 making authority under that law.

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