

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 1381

7
8 H.P. 960

House of Representatives, April 25, 1985

9 Reference to the Committee on Energy and Natural Resources suggested
10 and ordered printed.

11 EDWIN H. PERT, Clerk

Presented by Representative McGowan of Canaan.

12 Cosponsored by Senator Twitchell of Oxford and Representative Mills of
Bethel.

13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-FIVE
17

18 AN ACT to Amend the Wood Measurement Laws.
19

20 Emergency preamble. Whereas, Acts of the Legis-
21 lature do not become effective until 90 days after
22 adjournment unless enacted as emergencies; and

23 Whereas, certain provisions of the existing wood
24 measurement laws are unworkable and will impose great
25 economic hardship on many Maine forest related busi-
26 nesses; and

27 Whereas, pursuant to the wood measurement laws, a
28 large volume of regulations consisting of more than
29 80 pages are due to become effective on April 30,
30 1985, unless legislative action is taken to the con-
31 trary; and

32 Whereas, these regulations are not easily under-
33 standable by most of the Maine citizens who must com-
34 ply with them; and

1 Whereas, in the judgment of the Legislature,
2 these facts create an emergency within the meaning of
3 the Constitution of Maine and require the following
4 legislation as immediately necessary for the preser-
5 vation of the public peace, health and safety; now,
6 therefore,

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

9 Sec. 1. 10 MRSA §2361-A, sub-§2, as enacted by
10 PL 1983, c. 804, §2, is amended to read:

11 2. Butt diameter. Except as otherwise provided
12 by the state sealer, "butt diameter" means the diame-
13 ter of the severed stem butt, measured ~~outside~~ inside
14 the bark, the short way through the center, disre-
15 garding crevices and cracks.

16 Sec. 2. 10 MRSA §2361-A, sub-§5, as enacted by
17 PL 1983, c. 804, §2, is repealed.

18 Sec. 3. 10 MRSA §2363-A, sub-§2, as enacted by
19 PL 1983, c. 804, §6, is amended to read:

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

23 A. The weight measurement shall not be converted
24 to volume. Nothing in this paragraph may prevent
25 conversion to another unit of measurement for in-
26 ventory and informational purposes;

27 B. Where payment is made for services harvesting
28 wood, ~~all~~ weight measurements ~~shall~~ may be ex-
29 pressed on either a green wood basis or an
30 oven-dried basis as may be agreed by the parties.
31 Except as otherwise provided by the state sealer,
32 when the wood is not, or will not be, weighed
33 within 15 days of felling, the person performing
34 the services may, prior to hauling, require that
35 the wood instead be measured by butt measure, or
36 other 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 Sec. 4. 10 MRSA §2364-A, sub-§2, ¶¶A to C, as
5 enacted by PL 1983, c. 804, §7, are amended to read:

6 A. When payment is made for services harvesting
7 wood, all wood that is properly prepared shall be
8 measured in full, without regard to its future
9 merchantability or use. Nothing in this subsection
10 may prevent making reasonable volume deduc-
11 tions for defects which have been provided for in
12 the written cutting specifications for the
13 products being measured. Nothing in this subsection
14 prevents making reasonable deductions based
15 on quantity factors, such as for loose piling,
16 short or undersized wood or for wood that was not
17 designated to be harvested, hauled or chipped.

18 B. The written cutting specifications for prop-
19 erly prepared ~~tree stems~~ wood shall be provided
20 to the person providing the service and shall be
21 signed in duplicate by the person requiring the
22 service and by the person providing the service.

23 C. When payment is made for services in hauling
24 or trucking wood, all wood that was designated to
25 be hauled and which was hauled, shall be measured
26 in full, but nothing in this paragraph may be
27 construed to prohibit agreement of the parties to
28 allow deduction from gross scale for defective
29 wood and payment on the basis of net scale, gross
30 scale less deduction for defect, so long as both
31 gross scale and net scale are shown on the mea-
32 surement tally sheet. No such deduction may be
33 allowed when payment is made on a weight basis
34 for services in hauling or trucking wood desig-
35 ated to be hauled.

36 Sec. 5. 10 MRSA §2364-A, sub-§3, as enacted by
37 PL 1983, c. 804, §7, is repealed and the following
38 enacted in its place:

39 3. Measurement tally sheet. When payment is
40 made for services, the person providing the service
41 shall receive a measurement tally sheet no later than

1 such time as the final accounting and payment is made
2 for the wood measured. The measurement tally sheet
3 shall set forth the total measure of the wood, iden-
4 tifying the person or persons providing the service,
5 the location from which the wood was hauled or mea-
6 sured and the date the measurements were made. Un-
7 less otherwise agreed upon by the parties, wood sold
8 or taken outside the State shall be scaled while
9 still within the State. If wood is measured outside
10 the State, the measurement tally sheets must be fur-
11 nished to the person providing the service by buyers
12 of wood outside the State and the tally sheets must
13 contain the same information as those required for
14 wood measured within the State. If, upon a complaint
15 and after investigation and except in the case of in-
16 advertent error, the state sealer determines that
17 measurement tally sheets have not been promptly pro-
18 vided, or that the scale was inaccurate, he shall re-
19 quire, for a period of not less than one year, that
20 the buyer of the wood measure and provide the person
21 providing the service a completed measurement tally
22 sheet for wood that is taken outside the State with-
23 out regard to previous agreements.

24 Sec. 6. 10 MRSA §2364-A, sub-§4, as enacted by
25 PL 1983, c. 804, §7, is amended to read:

26 4. Specification for properly prepared wood.
27 Companies or individuals buying wood for processing
28 shall give contractors or landowners written speci-
29 fications for properly prepared wood. ~~No deductions~~
30 Deductions for quality or future merchantability may
31 not be made for properly prepared wood, meeting the
32 written specifications which have been provided by
33 the companies and individuals buying the wood. Noth-
34 ing in this subsection may be construed to prohibit
35 these deductions where defective wood, not meeting
36 these specifications, is bought.

37 Sec. 7. 10 MRSA §2369, as enacted by PL 1983, c.
38 804, §11, is repealed and the following enacted in
39 its place:

40 §2369. Transition provision

41 No wood measurement rules promulgated pursuant to
42 this subchapter which otherwise becomes effective on

1 April 30, 1985, may become effective if promulgated
2 prior to the effective date of this section.

3 **Emergency clause.** In view of the emergency cited
4 in the preamble, this Act shall take effect when ap-
5 proved.

6 STATEMENT OF FACT

7 Section 1 of the bill redefines the term "butt"
8 diameter to mean diameter of the severed stem mea-
9 sured inside the bark.

10 Section 2 repeals the definition of greenwood.

11 Section 3 amends the weight scale provisions of
12 the present law by allowing agreement of the parties
13 to govern whether payment for harvesting wood would
14 be on a greenwood or oven-dried basis.

15 Section 4 permits deduction for defect when the
16 deductions are provided for in the cutting specifica-
17 tions when payment is made for services, also re-
18 quires that both the employer and employee sign cut-
19 ting specifications in duplicate. Section 4 permits
20 deduction for defective wood in the payment of ser-
21 vices for trucking, except where payment is made on a
22 weight basis for services in hauling or trucking wood
23 that is defective.

24 Section 5 refines the statutory language relating
25 to the handling of measurement tally sheets.

26 Section 6 permits deduction for defect in the
27 purchase of wood not meeting written specifications.

28 Section 7 repeals the requirement that rules are
29 to be promulgated and effective on April 30, 1985, if
30 the rules were promulgated prior to the effective
31 date of this bill.

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