

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2008

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Legislative Document

No. 2273

S.P. 896

March 25, 2008

**Resolve, To Temporarily Suspend the Rate-setting Procedures for  
the Forest Products Industry**

(EMERGENCY)

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Reference to the Committee on Agriculture, Conservation and Forestry suggested and  
ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator MARTIN of Aroostook. (GOVERNOR'S BILL)  
Cosponsored by Representative JACKSON of Allagash.

1       **Emergency preamble. Whereas,** acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3       **Whereas,** Maine is dependent on its natural resources-based economy; and

4       **Whereas,** the Legislature recognizes that fuel costs and other economic forces have  
5 a devastating impact on the Maine economy, especially with regards to loggers and  
6 truckers carrying forest products; and

7       **Whereas,** it is in the public interest to ensure a reasonable rate of compensation for  
8 wood harvesting and hauling services in all regions of the State and to assess the impact  
9 of the Maine Revised Statutes, Title 26, chapter 18 on those services; and

10       **Whereas,** ensuring a reasonable rate of compensation for wood harvesting and  
11 hauling services is achievable via a statewide market power study of the forest products  
12 industry; and

13       **Whereas,** fairness dictates that the provisions of the Maine Revised Statutes, Title  
14 26, chapter 18, except certain portions of Title 26, section 1354, be suspended pending  
15 completion of such a study and enactment of legislation pursuant to that study; and

16       **Whereas,** a majority of the providers of wood harvesting and hauling services  
17 subject to the Maine Revised Statutes, Title 26, chapter 18 have voted to support the  
18 suspension of those statutory provisions until June 1, 2009; and

19       **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
20 the meaning of the Constitution of Maine and require the following legislation as  
21 immediately necessary for the preservation of the public peace, health and safety; now,  
22 therefore, be it

23       **Sec. 1. Rates of compensation for forest products harvesting and hauling**  
24 **services termination. Resolved:** That the operation of the Maine Revised Statutes,  
25 Title 26, chapter 18 is suspended until June 1, 2009, except that forest products harvesters  
26 and haulers may continue to join together and form an association to meet, confer and  
27 share information as provided in Title 26, section 1354. The Legislature may consider  
28 terminating the suspension described in this section on or after January 7, 2009 by  
29 resolve. The Governor may terminate the suspension described in this section at any time  
30 that the Legislature is not in session. The Governor shall make the termination in writing.  
31 The termination does not become effective until 60 days following the written notice; and  
32 be it further

33       **Sec. 2. Department of the Attorney General to study the statewide**  
34 **market for forest products harvesting and hauling services. Resolved:** That  
35 the Department of the Attorney General, referred to this section as "the department," shall  
36 conduct a study of the statewide market for forest products harvesting and hauling  
37 services. The department shall examine competition within the industry and determine  
38 what, if any, changes are necessary to ensure fair competition throughout the State. The

1 department shall consider the relevance of and study at a minimum the following on a  
2 statewide basis:

- 3 1. Issues of market concentration and horizontal market power;
- 4 2. Issues of vertical market power arising from integrated ownership or control of  
5 hauling, harvesting and other related assets;
- 6 3. The existence of barriers to entry into the harvesting and hauling industry,  
7 including required capitalization;
- 8 4. The extent to which imbalances of supply and demand create opportunities for the  
9 unreasonable exercise of market power;
- 10 5. The advantages and disadvantages of altering the current market system in the  
11 harvesting and hauling of forest products;
- 12 6. The approaches taken in other states to address similar issues; and
- 13 7. The statewide market for such services.

14 In conducting the study, the department shall consult with the Executive Department,  
15 State Planning Office; the Department of Labor; forest landowners; industry  
16 representatives; and other parties as determined appropriate by the department.

17 The department shall use the services of the State Economist and may retain an  
18 independent expert as it determines necessary in order to conduct the study.

19 The department shall make available a draft interim report for public comment not  
20 later than December 1, 2008. The final report of its findings and recommendations must  
21 be submitted no later than January 15, 2009 to the joint standing committee of the  
22 Legislature having jurisdiction over forest products harvesting and hauling services. The  
23 interim and final reports must include any legislation necessary to implement the  
24 recommendations of the department. If the department requires an extension of time to  
25 make its reports, it may apply to the Legislative Council, which may grant the extension.  
26 Any legislation or recommendation of the department pursuant to the study must apply to  
27 all landowners in the State; and be it further

28 **Sec. 3. Legislation. Resolved:** That the joint standing committee of the  
29 Legislature having jurisdiction over forest products harvesting and hauling services may  
30 submit a bill related to the study to the First Regular Session of the 124th Legislature.

31 **Emergency clause.** In view of the emergency cited in the preamble, this  
32 legislation takes effect when approved.

### 33 SUMMARY

34 This resolve provides for the immediate suspension until June 1, 2009 of the  
35 requirements of the Maine Revised Statutes, Title 26, chapter 18, which regulates rates of  
36 compensation for forest products harvesting and hauling services, except for the section

1 of that chapter that allows harvesters or haulers to form an association for rate  
2 determination proceedings. The suspension may be lifted by the Governor prior to June  
3 1, 2009 if the Legislature is not in session.

4 This resolve also requires the Department of the Attorney General to conduct a study  
5 of the statewide market for forest products harvesting and hauling services and to submit  
6 legislation implementing the department's recommendations. The final report must be  
7 submitted by January 15, 2009.