

MAINE STATE LEGISLATURE

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N I N E T Y - E I G H T H L E G I S L A T U R E

Legislative Document

No. 1377

H. P. 975

House of Representatives, March 21, 1957.

On motion of Mr. Brockway of Milo, tabled pending reference. 1250 copies ordered printed. Thursday, March 28, 1957 assigned.

HARVEY R. PEASE, Clerk

Presented by Mr. Rowe of Madawaska.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

**AN ACT to Provide Additional Revenue by Severance Taxes on Severer of
Timber or Producer of Timber Products.**

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

R. S., c. 17-A, additional. The Revised Statutes are hereby amended by adding thereto a new chapter to be numbered 17-A, to read as follows:

Chapter 17-A.

Severance Tax.

Sec. 1. Tax imposed. There is hereby enacted and levied to be collected a privilege tax upon each person engaged or continuing within this State in the business of growing, felling, cutting, severing or producing logs or any timber products from the soil, for sale, profit or commercial use; or purchasing, logging or selling logs or timber products for commercial purposes. The tax imposed by this chapter shall be measured by the quantity as outlined below:

Pulpwood, \$1.60 per cord.

Lumber - softwood, 20c per thousand board feet.

Lumber - hardwood, 20c per thousand board feet.

The measure of this tax shall be the entire production, in this State, regardless of the place of sale, or to whom sold, or whether a sale has been made, or by whom used, or the fact that delivery may be made to points outside the State. If any timber or timber products are to be transported or delivered outside the State, then the quantity thereof shall be computed according to the measure-

ment specified in this section for the purpose of establishing the measure of the tax prior to beginning transportation or delivery outside the State.

If any person for any tax under this section shall ship or transport his timber or timber products, or any part thereof, out of the State, without making a sale then the measurement thereof in the condition or form in which they existed immediately at the point of severance, shall be the basis for the assessment of the tax imposed by this section.

In all cases where the tax levied by this chapter has been previously paid by the producer, grower or vendor, then purchasers are not required to report for tax such production, but are required to report such purchases to the Tax Assessor as having had tax paid by vendor, grower or producer. This report shall be filed monthly by purchasers and shall give the following information; name and address of producer, grower or vendor, timber severance tax permit number, number of units purchased and amounts from each county or counties from which the timber products were severed. If tax has not been paid by the producer, grower or vendor, it shall become the liability of the purchaser and shall be paid by him.

The tax hereby levied is primarily assessed against the grower of such timber products or against the owner of the land from which such products were severed, where such grower or owner is subject to taxation by the State of Maine.

The owner or owners of timber products produced or severed from the soil are hereby made proportionately responsible and liable for payment of any tax levied, and if tax due on such timber products produced or severed from the soil is unpaid, then such taxes shall be paid to the Tax Assessor by owner or owners thereof and the tax shall operate as first lien and privilege shall follow said timber products into the hands of the ultimate manufacturer or person or dealer, whether in good or bad faith.

Nothing in this chapter reference to withholding of taxes due under chapter 16 shall be construed to impair, abridge, alter or affect the obligations of any contract in existence at, prior to or after the time this chapter becomes effective.

Sec. 2. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings as defined in this section, except where the context clearly indicates otherwise:

- I. The word "Assessor" shall mean the State Tax Assessor.
- II. The term "grower" shall mean any person owning or leasing lands on which any timber or timber products are grown or produced.
- III. The term "lumber" shall mean products sawed or hewed from logs and shall be measured by actual board measure in units of board feet, as calculated in commercial channels.
- IV. The word "person" includes any individual, firm, copartnership, association, corporation, receiver, trustee or any other group or combination acting as a unit, and the plural as well as the singular.

V. The word "producer" shall mean any person engaging in or continuing to engage in this State in the business of severing or purchasing timber or timber products from the soil.

VI. The word "pulpwood" shall mean any timber or timber products severed, produced or used by the manufacturers in the production of pulp and pulp products and shall be measured in units of cords 4 feet high, 4 feet wide and 8 feet long, and shall be measured green with bark, as at date of severance.

VII. The term "sever" shall mean to cut, fell or otherwise separate or produce from the soil any timber or timber products.

VIII. The term "timber" shall mean timber after severance or production.

IX. The term "timber and timber products" shall mean timber of all kinds, species or sizes, after severance, including logs, lumber, poles, piling, posts, cordwood and pulpwood, cross ties and any other products derived from timber which have sale or commercial value.

Sec. 3. Measure of tax. The measure of tax is the quantity of the entire production at the date of severance or production, regardless of the place of sale or to whom sold, or whether a sale has been made or by whom used, or to the fact that delivery may be made to points outside of the State, and the quantity or value, as the case may be, of all timber or timber products shall be computed as at the date of severance from the soil in an unmanufactured state. In the case of logs where the tax cannot be computed from the log scale, due to the fact that no log record is used or available, the Assessor shall prescribe equitable rules and regulations for ascertaining the quantity of timber or timber products for the purposes of this chapter.

Sec. 4. Transport out of State without sale. If any person liable for any tax under this chapter shall transport or ship his timber or timber products or any part thereof, out of State, without making a sale, then the quantity in the condition or form in which they existed immediately before transportation out of State shall be the basis for the assessment of the tax imposed.

Sec. 5. Exceptions. The tax shall not apply to, nor shall such tax be required of, those individual owners of timber who occasionally sever or cut the same from their own premises, to be utilized by them in the construction or repair of their own structures, buildings or improvements, or for home consumption, or used in the processing of any farm products, or to a purchaser or consumer of timber, or its products, on which the tax levied has been paid.

Sec. 6. Collection. All taxes levied shall be collected by the Assessor. The Assessor shall pay all of such collections into the State Treasury to be credited to the general fund.

Sec. 7. Application. Liability for the tax imposed shall apply to any person who shall sever any timber or timber products from government, either State or Federal, county, municipality or privately owned land or lands, in event the timber or timber products severed enter commercial channels or trade or competitive markets.

Sec. 8. Title in dispute. When the title to any timber or timber products

being produced or severed from the soil is in dispute or whenever the purchaser of such timber or timber products, or any person engaged in the producing or severing of timber or timber products, from the soil, shall be withholding payments on account of litigation or for any other reason such purchaser of timber or timber products, or person actually engaged in producing or severing such timber or timber products, is hereby authorized, empowered and required to deduct from the gross amount thus held the amount of the tax levied, and to make remittance to the Assessor, as provided by this chapter.

Sec. 9. Statements filed. Every person producing or severing timber or timber products from the soil in this State, shall, when making the reports required by this chapter, file with the Assessor a statement, under oath, on forms prescribed by him of the business conducted by such person during the period for which the report is made, showing the kind of timber or timber products and the gross quantity thereof so severed or produced, and such other reasonable and necessary information pertaining thereto as the Assessor may require for the proper enforcement of the provisions of this chapter.

All persons engaged in the business of purchasing or manufacturing, in whole or in part, any timber or timber products in this State, shall make and keep for a period of 3 years, a complete and accurate record showing the gross quantity of timber or timber products purchased, the value thereof, the names of the persons from whom purchased, the time of the purchase, the county in which severed and any other information which the Assessor may require. Any person failing to make the report required by this section shall be guilty of a misdemeanor and be punished by a fine of not less than \$75 nor more than \$750 for each offense.

Sec. 10. Information from transporters; duties of Assessor. When requested by the Assessor, all transporters of timber or timber products which are subject to the tax imposed, out of, within or across the State of Maine, shall be required to furnish the Assessor such information relative to the transportation of such timber or timber products as may be necessary to carry out the provisions of this chapter.

The Assessor shall have the authority to inspect bills of lading, waybills or other documents, and such books or records as may relate to the transportation of timber or timber products in the hands of such transporter out of, within or across the State. The Assessor shall be empowered to demand the production of such bills of lading, waybills or other similar documents and books and records relating to the transportation of timber or timber products at any point in the State of Maine which he may designate.

The removal by the owner or owners, transporters, purchasers or producers of timber or timber products, except interstate commerce carriers, from the State without first paying all severance tax that might be due, or obtaining from the Assessor or his duly authorized agent, in advance, written approval or permit to remove from the State any of the timber resources taxed by this chapter, shall be guilty of a misdemeanor and, upon conviction, be fined not less than \$75 nor more than \$750 for each offense.

The Assessor, or his duly authorized agent, shall have the right and authority

to assess and collect any severance tax found to be due and unpaid, at the point of removal from the State, upon all timber or timber products found being removed from the State and shall assess, in addition to the tax found due, interest at the rate of 6% per annum, together with damages and penalties in an amount not to exceed \$750, and not to be less than \$75, upon any severer, producer, owner, purchaser or transporter, except interstate commerce carriers, found to be removing timber or timber products from the State.

In cases of interstate commerce carriers, duly qualified as such and having a permit to conduct such operations, using bills of lading or waybills prescribed or approved by the Interstate Commerce Commission, such common carriers shall all be required to keep the usual records at an office or offices in this State where such records are usually kept.

Sec. 11. Additional powers of Assessor. The Assessor shall have the power to require any person engaged in producing or severing timber or timber products from the soil, to furnish any additional information deemed by him to be necessary for the purpose of computing the amount of said tax. The Assessor shall have the power to examine the books, records, letters, papers, documents and all files of such persons for the purpose of assessing the tax; and to that end, shall have the power to examine witnesses, and if any such witness shall fail or refuse to appear at the request of the Assessor, or refuse access to books, records, letters, papers, documents and files, said Assessor shall have the power and authority to proceed as provided by chapter 17.

Sec. 12. Taxes due and payable. The taxes levied shall be due and payable in monthly installments, on or before the 15th day of the month next succeeding the month in which the tax accrues. The person liable for the tax shall, on or before the 15th day of the month make out a return on the form prescribed, showing the amount of the tax for which he is liable for the preceding month, and shall mail or send the same, together with a remittance for the amount of the tax, to the office of the Assessor. When the total tax for which any person is liable under this chapter does not exceed the sum of \$10 for any month, a quarterly return and remittance, in lieu of the monthly return may not be made on or before the 15th day of the month next succeeding the end of the quarter for which the tax is due. Such return shall be signed by the taxpayer or a duly authorized agent of the taxpayer.

Sec. 13. Reports. If any person engaged in the business of felling, logging, manufacturing, processing or otherwise handling of timber or timber products severed from the soil, or in purchasing timber or timber products shall fail to remit to the Assessor, as required, the tax imposed by this chapter for the reason that the owner of such timber or timber products is paying the tax direct to the Assessor, then such person shall report to the Assessor, on forms prescribed by him, the kinds and quantities of timber or timber products upon which the tax was not paid. Such reports shall be made at the end of each calendar month.

When any board of county commissioners, or any members thereof, of any county in the State shall purchase any timber or timber products upon which the tax has not been paid, then the said board shall file the reports and remit the tax due to the Assessor in the same manner as is required of other taxpayers.'