

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND ELEVENTH LEGISLATURE

**SECOND SPECIAL SESSION**

November 18, 1983

AND AT THE

**SECOND REGULAR SESSION**

January 4, 1984 to April 25, 1984

AND AT THE

**THIRD SPECIAL SESSION**

September 4, 1984 to September 11, 1984

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH  
IN ACCORDANCE WITH MAINE REVISED STATUTES  
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1986

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND ELEVENTH LEGISLATURE  
JANUARY 4, 1984 TO APRIL 25, 1984

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with the private party or may make an agreement with another private party to operate and maintain the improvement.

All agreements made with private parties as contemplated in this section shall be subject to review by a subcommittee of the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

The provisions of section 1587 shall not apply to an agreement with a private party as contemplated in this section except, in the event that the state department or agency chooses to exercise an option to purchase energy production improvements, the department or agency before or at the time of the exercise of the option shall submit the proposed purchase of the energy production improvements for approval by the Legislature through the usual budget procedure.

Effective July 25, 1984.

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## CHAPTER 804

S.P. 889 - L.D. 2404

### AN ACT to Revise 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Sec. 1. 10 MRSA §2361, as repealed and replaced by PL 1977, c. 537, §1, is repealed.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. Agreement of the parties. "Agreement of the parties" means the mutual agreement of the parties or their authorized representatives, and is distinguished from a unilateral condition imposed by any party to the agreement. A party is a company or individual buying wood, a contractor, an individual

providing services described in subsection 7 or an authorized employee representative negotiating on behalf of the individual providing services.

2. Butt diameter. Except as otherwise provided by the state sealer, "butt diameter" means the diameter of the severed stem butt, measured outside the bark, the short way through the center, disregarding crevices and cracks.

3. Butt measure. "Butt measure" means the lineal measure of the butt end of tree length wood, without subsequent conversion to volume by any means. This measurement may be represented in either the number of stems in each butt diameter class by species, or alternatively in the cumulative sum of the butt diameters by species, expressed in inches, without regard to the butt diameter class.

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

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

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

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

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

9. Sale of wood. "Sale of wood" means a transaction involving transfer of title to wood.

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

11. Wood. "Wood" means the severed but unprocessed fibrous derivative of trees, without regard for quality or grade and also means the chipped fibrous derivative of trees.

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

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

Sec. 4. 10 MRSA §2362-A are enacted to read:

§2362-A. Fuel wood

Nothing in this subchapter supersedes or in any way modifies the measurement standards relating to fuel wood provided for in section 2302, subsection 1.

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

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

§2363-A. Measurement of wood

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

2. Weight scale. Where agreed upon by the parties, weight measurement may be used in all wood transactions, provided that:

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

B. Where payment is made for services harvesting wood, all weight measurements shall be expressed on a green wood basis. Except as otherwise provided by the state sealer, when the wood is not, or will not be, weighed within 15 days of felling, the person performing the services may, prior to hauling, require that the wood instead be measured by butt measure, or other authorized method of measurement; and

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

3. Tree length wood. Butt measure shall be the standard state method for the measurement of tree length wood. Where agreed upon, the parties may use any other method of measurement authorized by this subchapter.

A. Butt scale measurements may be used as follows.

(1) Where payment is made for services, the use of butt scale measurements is prohibited as of April 1, 1986. Until that date, the use of butt scale measurements is permitted for tree length wood under the following conditions.

(a) Prior to its usage, the parties or their authorized representatives, shall sign and date the volume table which shall designate the applicable harvesting area or areas.

(b) The parties, or their authorized representatives, shall receive a copy of the signed butt scale table prior to performance of the services, if a request is made in writing by the employee, an authorized employee representative or by the state sealer.

(c) The volume table to which the measurements are applied shall reasonably represent the volume of trees being cut on the operation.

(2) In the sale of wood, butt scale measurements shall continue to be permitted for tree length wood, under the following conditions.

(a) The applicable butt scale table shall be provided in a written contract agreement.

(b) The volume table to which the measurements are applied shall reasonably represent the volume of trees being cut on the operation.

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

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

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

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

§2364-A. Accurate and verifiable measurements

1. Standards. It is the intent of this subchapter that any method of wood scaling or measurement used in wood transactions shall provide an accurate and verifiable count of the volume, quantity, dimension or weight measured, according to the standards established by the state sealer, provided that those standards may be efficiently and conveniently applied in wood transactions, as defined in this subchapter.

2. Measurements. In all wood transactions, no person who scales or measures wood and no person who makes payment to another shall represent a weight, volume, quantity or dimension of wood which is less than the weight, volume, quantity or dimension of wood to be measured.

A. When payment is made for services harvesting wood, all wood that is properly prepared shall be measured in full, without regard to its future merchantability or use. Nothing in this subsection prevents making reasonable deductions based on quantity factors, such as for loose piling, short or undersized wood or for wood that was not designated to be harvested, hauled or chipped.

B. The written cutting specifications for properly prepared tree stems shall be provided to the person providing the service and shall be signed by the person requiring the service.

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

D. In the sale of wood, all wood that meets the specifications of the parties shall be measured by the terms of the sales contract according to the measurement procedures set forth in section 2363-A that are applicable to a sale of wood, as defined in this subchapter.

E. When payment is made for services, payment shall be expressed in the same system of measure that was used in making the measurement. Nothing



in this subsection may be interpreted to prohibit the use of the standard cord or butt measure.

3. Measurement tally sheet. When payment is made for services, the person providing the service shall promptly receive a copy of the tally sheet setting forth the total measure of the wood, identifying the person or persons providing the service, the location from which the wood was hauled and the date the measurements were made. If, based upon a complaint involving wood that is taken outside the State, the state sealer, after investigation, has reason to believe that there has been inaccurate measurement of the wood, that the measurement of the wood was inaccurately or incompletely represented on the measurement tally sheet or that a measurement tally sheet for the wood was not promptly provided to the person providing the service, then, except in a case of inadvertent error, the state sealer shall require, for a period of not less than one year, that the person requiring the service measure and provide the person providing the service a completed measurement tally sheet for wood that is taken outside the State.

4. Specification for properly prepared wood. Companies or individuals buying wood for processing shall give contractors or landowners written specifications for properly prepared wood. No deductions for quality or future merchantability may be made for properly prepared wood, meeting the written specifications which have been provided by the companies and individuals buying the wood.

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

§2365-A. Licensing of measuring and scaling operators

The state sealer has the authority to license all persons who measure or scale wood and has the authority to issue rules and establish fees for licensing. Annual license fees shall not exceed \$25 and funds collected shall cover the expenses involved in administering the licensing process and other costs related to the administration of this section. Once a licensing program is instituted then the following provisions of this section shall be in effect.

Fees collected under this section shall be deposited in a separate account which shall not lapse.

1. Applications. Applications for licenses under this subchapter shall be made in writing on forms

prescribed by the state sealer for each wood scaler. The application shall include the name of the applicant scaler, his qualifications, and other pertinent information as the state sealer shall require.

2. Violation. No person may scale or measure wood without first obtaining a proper license.

3. License; denial; revocation; suspension. The state sealer may take enforcement action against the licensee or may initiate proceedings in the Administrative Court, pursuant to Title 5, chapter 375, to revoke or suspend a license for any of the following reasons:

A. The licensee has violated any condition of the license;

B. The licensee has obtained a license by misrepresentation or failure to disclose fully all relevant facts; and

C. The licensee has violated any provision of the laws within this chapter.

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

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

§2366-A. Disputed wood

In case a dispute arises as to whether wood was accurately scaled or measured, the person aggrieved may file a complaint with the state sealer. Any complaint shall be initiated within 15 days of discovery of the alleged grievance. The state sealer shall investigate the complaint. As part of the investigation, the state sealer or deputy state sealer may subpoena such witnesses and documents as may be necessary to determine the matter, and may cause the disputed wood to be impounded and check measured if it may be separately identified. In the event that an aggrieved party fails to file a complaint within 15 days from discovery of the alleged grievance, the aggrieved party is barred from seeking a remedy under section 2368, subsection 1.

Sec. 11. 10 MRSA §§2367, 2368 and 2369 are enacted to read:

§2367. Rules

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

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

2. Butt measure; other measurement systems. Procedures and standards for the lineal and volumetric measurement of wood;

3. Measurement equipment standards and tolerances. Measurement equipment standards and tolerances;

4. Complaints; investigations. Procedures for the filing and investigating of complaints and for the sampling, check scaling and check measurement of disputed wood, including verification of butt scale tables;

5. Designation; units of measure. The designation of appropriate units of measure which can be efficiently and conveniently used in wood transactions;

6. Dissemination; scaling and measurement tallies. The dissemination of the scaling and measurement tallies or slips as appropriate to prevent unfair or deceptive representations of the quantity of wood measured;

7. Measuring and scaling operators; licensing. Licensing of measuring and scaling operators; and

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

§2368. Violations; penalties

1. Civil violations. Violations of this subchapter or any rule promulgated pursuant to this subchapter shall be a civil violation punishable by a civil penalty not to exceed \$1,000 for a first offense and \$2,000 for each subsequent offense. These civil penalties may be recovered by the state sealer on behalf of the State in a civil action.

2. Private action. Any person who violates this subchapter or any rule promulgated pursuant to this subchapter shall be liable in a civil action to any person aggrieved by the violation, pursuant to the remedies set forth in Title 26, section 626-A. The civil action for damages may be brought by either the

aggrieved party or, at the request of the state sealer, by the Attorney General.

§2369. Transition provision

1. Promulgate and adopt rules. The state sealer, in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, shall promulgate and adopt rules pursuant to this subchapter within 90 days of the effective date of this section. The rules shall become effective April 30, 1985.

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

§2753. Injunction

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

Sec. 13. 30 MRSA §3662 is repealed.

Sec. 14. 30 MRSA §3662-A, as enacted by PL 1965, c. 321, is repealed.

Sec. 15. 30 MRSA §3663 is repealed.

Sec. 16. Severability. If any provision of this Act is declared unconstitutional, or the applicability of the Act to any person or circumstance is held invalid, the constitutionality of the Act and the applicability of the Act to other persons and circumstances shall not be affected thereby.

Effective July 25, 1984.

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## CHAPTER 805

H.P. 1847 - L.D. 2442

AN ACT Clarifying the Extension of  
Consumers' Freedom of Choice Regarding Insured  
Mental Health Services.

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