

§ 75-79-1. Short title.

## **Mississippi Statutes**

### **Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS**

#### **Chapter 79. PULPWOOD SCALING AND PRACTICES**

*Current through 3/27/2018*

#### **§ 75-79-1. Short title**

This chapter shall be known and may be cited as the "Mississippi Uniform Pulpwood Scaling and Practices Act."

**Cite as Miss. Code § 75-79-1**

**Source: Laws, 1982, ch. 317, § 1, eff. 7/1/1982.**

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§ 75-79-3. Purpose.

## **Mississippi Statutes**

### **Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS**

#### **Chapter 79. PULPWOOD SCALING AND PRACTICES**

*Current through 3/27/2018*

#### **§ 75-79-3. Purpose**

The purpose of this chapter is to insure that acceptable standards are applied uniformly in the scaling of pulpwood throughout the State of Mississippi.

**Cite as Miss. Code § 75-79-3**

**Source: Laws, 1982, ch. 317, § 2, eff. 7/1/1982.**

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§ 75-79-5. Definitions.

## Mississippi Statutes

### Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS

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##### § 75-79-5. Definitions

The following words and phrases, as used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context or subject matter otherwise requires:

- (a) "Person" means any individual, firm, copartnership, association, corporation, receiver, trustee, legal representative, organization or any other group or combination acting as a unit.
- (b) "Commissioner" means the Mississippi Commissioner of Agriculture and Commerce.
- (c) "Pulpwood" means any timber product delivered to a receiving facility in short-length form, eight (8) feet or less, and intended for use as a raw material in the manufacture of pulp and pulp products.
- (d) "Pulpwood cutter-hauler" or "cutter-hauler" means any person engaging in or continuing to engage in this state in the business of severing and carrying pulpwood.
- (e) "Pulpwood receiving facility" or "facility" means any woodyard, pulpmill or other place of business at which pulpwood is received from pulpwood cutter-haulers as herein defined in the regular course of business.
- (f) "Facility operator" means any person who owns, operates or manages a pulpwood receiving facility as herein defined. Provided, however, that any landowner who shall pay employees an hourly wage to both cut and collect pulpwood on his private property shall not be deemed a facility operator under the provisions of this chapter.

Cite as Miss. Code § 75-79-5

Source: Laws, 1982, ch. 317, § 3, eff. 7/1/1982.

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§ 75-79-7. General powers and duties of commissioner of agriculture and commerce.

## Mississippi Statutes

## **Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS**

### **Chapter 79. PULPWOOD SCALING AND PRACTICES**

*Current through 3/27/2018*

#### **§ 75-79-7. General powers and duties of commissioner of agriculture and commerce**

It shall be the function and duty of the commissioner to:

- (a) Issue licenses to operators of pulpwood receiving facilities determined to qualify under the provisions of this chapter, and revoke or suspend licenses previously issued by the commissioner in any case where the licensee is determined to have violated any of the provisions of this chapter.
- (b) Establish standard procedures and promulgate regulations for the measurement of pulpwood offered for sale, both by weight and by volume, in a manner consistent with the Mississippi Weights and Measures Law of 1964, as amended (Section 75-27-1 et seq.). Such standard provisions and regulations shall require that all pulpwood receiving facilities shall give every cutter-hauler a ticket which shall state at the minimum (i) the name of the cutter-hauler; (ii) the name of the landowner from which the wood was severed or the name of the owner of the timber; (iii) the county or county code in which the timber was severed; and (iv) the number of cords or, in the event of weighing, the gross weight on the truck of the cutter-hauler. In the event that neither the cutter-hauler nor the landowner nor the owner of the timber is the person to be paid for such pulpwood, the ticket shall also contain the name of the payee. The ticket shall be prepared upon delivery and acceptance of a load of pulpwood and shall be made available for inspection by the cutter-hauler if the cutter-hauler so desires. All cutter-haulers have the right to inspect the ticket before unloading of the pulpwood. However, where such wood is measured on scales, the ticket shall be issued at the time of the weighing and shall state the gross weight of the wood and truck and the tare weight of the truck after unloading to determine the net weight of the wood; the number of cords is not required on tickets so weighed. The pulpwood facility shall keep a copy of such ticket on file for subsequent inspection by the State Tax Commission and the Department of Agriculture and Commerce for a period not less than three (3) years. The facility operator shall maintain on the facility premises, at a minimum, the following information on the cutter-hauler and the payee for the pulpwood if the payee is someone other than the cutter-hauler:
  - (i) name;
  - (ii) social security number or employer identification number, or both;
  - (iii) address; and
  - (iv) the corresponding identification code used on the scale ticket. The facility operator

is required to obtain, in good faith, such information from the cutter-hauler who is liable for the accuracy of this information.

- (c) Conduct periodic inspections no less than once every six (6) months, and establish and carry out other procedures designed to insure that licensees will comply with the provisions of this chapter.
- (d) Receive, investigate and take appropriate action with respect to any charge or complaint filed with the commissioner to the effect that any pulpwood receiving facility operator has violated any provision of this chapter.
- (e) Randomly weigh, at his discretion, any agricultural product being delivered throughout the state to determine the accuracy of the bill of lading. If the weight exceeds or falls below the amount of weight reported on the bill of lading by five percent (5%) or more, then the commissioner shall report the discrepancy, in writing, to the Director of the Agriculture and Livestock Theft Bureau. Such agricultural products shall be weighed on certified scales approved by the Weights and Measures Division of the Department of Agriculture and Commerce.

**Cite as Miss. Code § 75-79-7**

**Source: Laws, 1982, ch. 317, § 4; Laws, 1994, ch. 575, § 1; reenacted, Laws, 1995, ch. 465, § 1; reenacted, Laws, 1997, ch. 322, §1; reenacted without change, Laws, 2000, ch. 509, §1; reenacted without change, Laws, 2004, ch. 423, § 1, eff. 7/1/2004.**

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§ 75-79-9. License required for pulpwood receiving facility.

## **Mississippi Statutes**

### **Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS**

#### **Chapter 79. PULPWOOD SCALING AND PRACTICES**

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##### **§ 75-79-9. License required for pulpwood receiving facility**

No person shall engage in the business of operating a pulpwood receiving facility as defined in this chapter without having first obtained a license pursuant to this chapter.

**Cite as Miss. Code § 75-79-9**

Source: Laws, 1982, ch. 317, § 5(1), eff. 7/1/1982.

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§ 75-79-11. Application for license.

## **Mississippi Statutes**

### **Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS**

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#### **§ 75-79-11. Application for license**

Applications for licenses under this chapter shall be made in writing, under oath, on forms prescribed by the commissioner for each separate pulpwood receiving facility. The application shall contain the name of the applicant, the address of the pulpwood receiving facility for which the license is to be issued, the name or names of the owners thereof and such further information as the commissioner, by regulation, requires. Provided, however, no financial statement shall be required.

**Cite as Miss. Code § 75-79-11**

Source: Laws, 1982, ch. 317, § 5(2), eff. 7/1/1982.

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§ 75-79-13. License fee.

## **Mississippi Statutes**

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#### **§ 75-79-13. License fee**

The license fee for each calendar year or part thereof shall be Thirty Dollars (\$ 30.00) for each

pulpwood receiving facility operated within the state. A renewal of the license may be accomplished by submitting the payment of the annual fee and a certification, on a form provided by the commissioner, that none of the information on the original license application has changed.

**Cite as Miss. Code § 75-79-13**

**Source:** Laws, 1982, ch. 317, § 5(3); Laws, 1994, ch. 575, § 2; reenacted, Laws, 1995, ch. 465, § 2; reenacted, Laws, 1997, ch. 322, §2; reenacted without change, Laws, 2000, ch. 509, §2; reenacted without change, Laws, 2004, ch. 423, §2, eff. 7/1/2004.

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§ 75-79-15. Issuance of license; contents; display.

## **Mississippi Statutes**

### **Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS**

#### **Chapter 79. PULPWOOD SCALING AND PRACTICES**

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#### **§ 75-79-15. Issuance of license; contents; display**

Upon the filing of an application and the payment of the required fee, the commissioner shall issue a license to the applicant to operate a pulpwood receiving facility under and in accordance with the provisions of this chapter for a period which shall expire the last day of December next following the date of its issuance.

Each license shall specify the location of the facility for which it is issued and must be conspicuously displayed there.

**Cite as Miss. Code § 75-79-15**

**Source:** Laws, 1982, ch. 317, § 5(4), (5), eff. 7/1/1982.

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§ 75-79-17. Loss or destruction of license; replacement; fee.

## **Mississippi Statutes**

### **Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS**

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### **§ 75-79-17. Loss or destruction of license; replacement; fee**

Upon the loss or destruction of a license issued to a pulpwood receiving facility operator, a duplicate thereof or a new license may be issued under the same number for a fee of two dollars (\$ 2.00).

**Cite as Miss. Code § 75-79-17**

**Source: Laws, 1982, ch. 317, § 5(6), eff. 7/1/1982.**

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§ 75-79-19. Penalty for operating without license.

## **Mississippi Statutes**

### **Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS**

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### **§ 75-79-19. Penalty for operating without license**

Any person who operates a pulpwood receiving facility as defined in Section 75-79-5 without a proper license shall upon a first conviction thereof be guilty of a misdemeanor and shall be punished by a fine of not less than three hundred dollars (\$ 300.00) nor more than one thousand dollars (\$ 1,000.00), and upon a second or subsequent conviction thereof, he shall be punished by a fine of not less than one thousand dollars (\$ 1,000.00) nor more than five thousand dollars (\$ 5,000.00).

**Cite as Miss. Code § 75-79-19**

**Source: Laws, 1982, ch. 317, § 6, eff. 7/1/1982.**

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§ 75-79-21. Denial, suspension, cancellation or revocation of license; grounds; procedure.

## Mississippi Statutes

### Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS

#### Chapter 79. PULPWOOD SCALING AND PRACTICES

*Current through 3/27/2018*

##### **§ 75-79-21. Denial, suspension, cancellation or revocation of license; grounds; procedure**

- (1) The commissioner may deny an application for a license, or revoke or suspend a license after it has been granted, for any of the following reasons:
  - (a) Any material misstatement in the application for a license.
  - (b) Defrauding any pulpwood cutter-hauler in the measurement of pulpwood to the cutter-hauler's damage.
  - (c) Failure to maintain accurate weighing and measuring devices used in the measurement of pulpwood.
  - (d) Requiring a pulpwood cutter-hauler to deliver or transfer any quantity of pulpwood to the facility operator's control as a condition of the purchase or receipt thereof before the facility operator has notified the cutter-hauler of the total number of cords or the volume for which payment will be made. This does not include out-of-specification wood culled when discovered during unloading.
  - (e) Willful failure to apply standards established by law or by the commissioner in the measurement of pulpwood.
  - (f) Discriminating against a pulpwood cutter-hauler because the cutter-hauler has filed a complaint, given testimony or otherwise sought relief under this chapter.
  - (g) Any violation of the rules and regulations of the Mississippi Department of Agriculture and Commerce or violation of any other of the laws governing pulpwood scaling and practices.
- (2) If a pulpwood receiving facility operator is convicted of any crime involving fraud under the provisions of this chapter, the commissioner, may, in his discretion, suspend, cancel or revoke the license of such operator.
- (3) All proceedings for the suspension, cancellation or revocation of licenses shall be before the commissioner, and the proceedings shall be in accordance with rules and regulations which shall be adopted by the commissioner. No license shall be cancelled or revoked, except after a hearing before the commissioner, upon reasonable notice to the licensee and an opportunity to appear and defend. Whenever the commissioner suspends, cancels

or revokes a license, he shall prepare an order so providing which shall state the reason or reasons for such suspension, cancellation or revocation. The order shall be sent by certified mail by the commissioner to the licensee at the address of the pulpwood receiving facility licensed. Within thirty (30) days after the mailing of the order, the licensee, if dissatisfied with the order of the commissioner, may appeal to the chancery court of the county in which the pulpwood receiving facility is located by filing a written notice of appeal alleging the pertinent facts upon which such appeal is grounded. At the time of the filing of the appeal, the appellant shall give a bond for costs conditioned upon his prosecution of the appeal without delay and payment of all costs assessed against him. Appeal may be with supersedeas and shall be subject to the provisions of Section 11-51-31.

- (4) In case a license issued to a pulpwood receiving facility operator expires or is suspended, cancelled or revoked by the commissioner or his designated representative, such license shall be immediately returned to the commissioner.

**Cite as Miss. Code § 75-79-21**

**Source:** Laws, 1982, ch. 317, §§ 7(1), 8; Laws, 1994, ch. 575, § 3; reenacted, Laws, 1995, ch. 465, § 3; reenacted, Laws, 1997, ch. 322, §3; reenacted without change, Laws, 2000, ch. 509, §3; reenacted without change, Laws, 2004, ch. 423, §3, eff. 7/1/2004.

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§ 75-79-22. Repealed.

## **Mississippi Statutes**

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#### **§ 75-79-22. Repealed**

**Cite as Miss. Code § 75-79-22**

**History.** Repealed by Laws, 2004, ch. 423, §4, eff. 7/1/2004.

**Prior History:** ( Laws, 1997, ch. 322, §5; Laws, 2000, ch. 509, §4, eff. 7/1/2000.)

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§ 75-79-23. Licensee is responsible for acts of his employees.

## **Mississippi Statutes**

### **Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS**

#### **Chapter 79. PULPWOOD SCALING AND PRACTICES**

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##### **§ 75-79-23. Licensee is responsible for acts of his employees**

Each licensee shall be responsible for the acts of any or all of his employees while acting as his agent, if such licensee after actual knowledge of such acts retained the benefits, proceeds, profits or advantages accruing from such acts or otherwise ratified such acts.

**Cite as Miss. Code § 75-79-23**

**Source: Laws, 1982, ch. 317, § 7(2), eff. 7/1/1982.**

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§ 75-79-25. Chapter not to restrict free dealing.

## **Mississippi Statutes**

### **Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS**

#### **Chapter 79. PULPWOOD SCALING AND PRACTICES**

*Current through 3/27/2018*

##### **§ 75-79-25. Chapter not to restrict free dealing**

Nothing in this chapter shall require any person to buy from or sell to any other person in any situation or transaction in which the persons would otherwise be free, in their discretion, to deal or not to deal one with the other.

**Cite as Miss. Code § 75-79-25**

**Source: Laws, 1982, ch. 317, § 7(3), eff. 7/1/1982.**

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§ 75-79-27. Inspection of pulpwood receiving facilities and equipment.

## **Mississippi Statutes**

### **Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS**

#### **Chapter 79. PULPWOOD SCALING AND PRACTICES**

*Current through 3/27/2018*

#### **§ 75-79-27. Inspection of pulpwood receiving facilities and equipment**

Every pulpwood receiving facility and all such devices as are used there for the weighing or measuring of pulpwood shall be inspected periodically by the commissioner to insure compliance with this chapter. The commissioner may make such additional investigations and examinations of any licensee or other person as he deems necessary to determine compliance with this chapter. Such investigations and examinations may be made on the basis of a complaint filed with the commissioner or on his own initiative. For such purposes the commissioner may examine all scales tickets involving the buying and selling of pulpwood.

**Cite as Miss. Code § 75-79-27**

**Source: Laws, 1982, ch. 317, § 9(1), eff. 7/1/1982.**

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§ 75-79-29. Subpoena powers; oaths and affirmations; enforcement; penalty.

## **Mississippi Statutes**

### **Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS**

#### **Chapter 79. PULPWOOD SCALING AND PRACTICES**

*Current through 3/27/2018*

#### **§ 75-79-29. Subpoena powers; oaths and affirmations; enforcement; penalty**

The commissioner shall have power to issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records and other evidence before him in any matter over which it has jurisdiction, control or supervision pertaining to this chapter.

The commissioner or any agent designated by him, may administer oaths and affirmations, examine witnesses and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the state at any designated place of hearing.

If any person refuses to obey any such subpoena, or to give testimony, or to produce evidence as required thereby, any judge or the chancellor of the chancery court of the First Judicial District of Hinds County may, upon application and proof of such refusal, make an order awarding process of subpoena, or subpoena duces tecum, out of the court, for the witness to appear before the commissioner and to give testimony, and to produce evidence as required thereby. Upon filing such order in the office of the clerk of the court or the office of the clerk of such chancery court, the clerk shall issue process of subpoena, as directed, under the seal of the court, requiring the person to whom it is directed, to appear at the time and place therein designated.

If any person served with any such subpoena shall refuse to obey the same, and to give testimony, and to produce evidence as required thereby, the commissioner may apply to any judge or the chancellor of the chancery court of the First Judicial District of Hinds County for an attachment against such person, as for a contempt. The judge or chancellor, upon satisfactory proof of such refusal, shall issue an attachment, directed to any sheriff, constable or police officer, for the arrest of such person, and upon his being brought before such judge, proceed to a hearing of the case. The judge or chancellor shall have power to enforce obedience to such subpoena and the answering of any question, and the production of any evidence, that may be proper by imposition of a fine, not exceeding five hundred dollars (\$ 500.00), or by imprisonment in the county jail, or by both imposition of a fine and imprisonment, and to compel such witness to pay the costs of such proceeding.

**Cite as Miss. Code § 75-79-29**

**Source: Laws, 1982, ch. 317, § 9(2)-(5), eff. 7/1/1982.**

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§ 75-79-31. Investigation of alleged violation.

## **Mississippi Statutes**

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#### **§ 75-79-31. Investigation of alleged violation**

If an investigation by the commissioner indicates probable cause for belief that a violation of law has occurred, the commissioner shall refer the complaint with any evidence gathered during the investigation to the agency or official charged with the administration of such law and to the district attorney having jurisdiction, with a recommendation that it be considered for presentation to the next grand jury, as well as any further recommendations for seeking civil remedies.

**Cite as Miss. Code § 75-79-31**

**Source:** Laws, 1982, ch. 317, § 9(6), eff. 7/1/1982.

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§ 75-79-33. Repealed.

## **Mississippi Statutes**

### **Title 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS**

#### **Chapter 79. PULPWOOD SCALING AND PRACTICES**

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#### **§ 75-79-33. Repealed**

**Cite as Miss. Code § 75-79-33**

**History.** Repealed by 1994, ch. 455, § 1, eff. 7/1/1994.

**Prior History:** (Laws, 1982, ch. 317, § 10; Reenacted, Laws 1985, ch. 306, §§ 1, 2; Laws 1988, ch. 335, § 1.)