

Senate BILL NO. 43

INTRODUCED BY *Maly*

A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO PROVIDE A REVIEW OF LOG SCALING ESTIMATES AT FOREST PRODUCTS MILLS; REQUIRING MILL OPERATORS TO TEMPORARILY PRESERVE LOG SCALING ESTIMATES; PROVIDING FOR PROCEEDINGS IN JUSTICE COURT TO RESOLVE DISPUTES OVER LOG SCALING; PROVIDING PENALTIES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Statement of purpose. The purpose of this act is to promote confidence among independent loggers and the mills to which they sell logs in the honesty of commercial transactions between the two groups.

Section 2. Definitions. As used in this chapter:

(1) "Mill" means any sawmill, pulp mill, or other industrial facility which processes logs into usable products.

(2) "Scaler" means a person employed at a mill to estimate, on the basis of dimensional measurements and visual evidence, the volume, in terms of sound board-feet, in a log, or a person who operates a weighing device to estimate the sound board-foot volume in a log.

(3) "State inspector" means the department of natural

resources and conservation or its agent.

Section 3. Mill operator's duty to mark purchased logs. (1) A person operating a mill in this state, who employs a scaler to assist him in purchasing logs brought to the mill, shall temporarily preserve the scaler's estimate of log sizes as prescribed in this section. The mill operator or his agent shall write, on the butt end of a log with an indelible pen or crayon, the scaler's estimate of the dimensions and usable volume, in board-feet, of the log, and the identity of the seller. The scaler may be the operator's agent. Each log brought to and purchased at the mill shall be marked in this manner and the markings preserved until the log is converted into lumber or some other product, unless a log's volume is estimated by weighing two (2) or more logs together.

(2) When volume is estimated from the weight of two (2) or more logs together, the combined weight of the lot and the formula used to derive the volume of sound board-feet therefrom shall be marked on at least one (1) of the logs, and the other logs of the lot shall be marked in a manner sufficient to identify them as having been sold in the same lot.

(3) This section does not apply to a log which the mill operator acquires before it is brought to the mill.

(4) The mill operator's obligation under this section

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1 is a duty owed to the person selling the log, and the seller
2 may waive his right to require the operator to mark the
3 logs.

4 Section 4. Entry and inspection by state inspector.

5 (1) Upon complaint by a person who has sold logs to a mill
6 operator, the state inspector shall immediately proceed to
7 the mill and shall check the scaler's estimate on the logs
8 sold by the complainant.

9 (2) The state inspector may not enter office quarters
10 in the mill without consent of the operator or a search
11 warrant from a court of competent jurisdiction; he may enter
12 any other part of the mill without further authority if he
13 has received a complaint.

14 (3) If the state inspector determines that a log
15 contains more usable volume than the scaler's estimate
16 indicates, the mill operator may either accept or contest
17 the state inspector's findings.

18 Section 5. Accepting or contesting state inspector's
19 findings. (1) If a mill operator accepts the state
20 inspector's findings, he shall pay the complainant the
21 actual value of the difference between the inspector's
22 findings and the scaler's estimate and also reimburse the
23 complainant for reasonable actual costs of pursuing the
24 complaint.

25 (2) If a mill operator contests the state inspector's

1 findings, the state inspector shall impound each log in
2 question pending a hearing in a justice court in the county,
3 and shall petition the justice court to resolve the dispute.

4 Section 6. Contested findings -- proceedings in
5 justice court. (1) A justice court may hear and decide a
6 case involving a dispute between the state inspector and a
7 mill operator concerning the usable volume of logs purchased
8 by the mill operator upon petition of the state inspector.
9 Plaintiff's fees shall be paid by the complainant.

10 (2) If the court finds that the mill operator has
11 underestimated the usable volume, it shall award triple the
12 stumpage value of the amount of the underestimation to the
13 complainant.

14 (3) If the court finds that the mill operator has
15 correctly estimated or overestimated the usable volume of
16 the logs, it shall award reasonable costs to the mill
17 operator and assess all such costs to the complainant.

18 Section 7. Penalties. A mill operator who fails to
19 mark a log when required, or who disposes of a log impounded
20 by the state inspector, commits a misdemeanor, and upon
21 conviction shall be fined not to exceed five hundred dollars
22 (\$500) or imprisoned in the county jail for a term not to
23 exceed three (3) months, or both.

24 Section 8. The department of natural resources and
25 conservation is authorized not to exceed three (3)

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- 1 positions, subject to the appropriation of funds therefor,
- 2 to implement this act during the 1975-1977 biennium.

-End-

STATE OF MONTANA

REQUEST NO. 28-75

FISCAL NOTE

Form BD-15

In compliance with a written request received January 13, 19 75, there is hereby submitted a Fiscal Note for Senate Bill 43 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act directing the Department of Natural Resources and Conservation to provide a review of log scaling estimates at forest products mills and requiring mill operators to temporarily preserve log scaling estimates.

ASSUMPTIONS:

1. Three inspectors would be required at an annual salary of \$10,440 plus benefits.
2. Three additional vehicles with radios will be required for inspectors at a total cost of \$19,000.
3. Travel, supplies, repairs and communications would require additional expenditures of \$8,300 in FY 76 and \$9,300 in FY 77.

FISCAL IMPACT:

	FY 76	FY 77
Additional expenditure under proposed law		
Personal Services	\$ 35,392	\$ 38,524
Operating Expenses	8,300	9,300
Capital Outlay	<u>19,000</u>	<u>500</u>
 TOTAL EXPENDITURES	 <u>\$ 62,692</u>	 <u>\$ 48,324</u>

CONCLUSION:

Enactment of Senate Bill 43 would result in an increase in expenditures of approximately \$111,000 during the biennium.

Michael B. Pellings

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: January 18, 1975