

Article 3 LUMBER AND LUMBER PRODUCTS

51: 4-17 to 51: 4-22. Repealed. L. 1968, c. 222, approved July 30, 1968.

51: 4-23. Definitions

As used in this act:

“Building materials” means lumber, wood and wood product materials used in connection with the construction, fabrication and erection of residential, utility or business premises.

“Consumer” means any person who purchases building materials for incorporation into any type of structure.

“Dealer” means “equipped dealer” or “unequipped dealer.”

“Deputy superintendent” means the deputy superintendent of the Division of Weights and Measures.

“Delivery”, “deliver” or “delivered”, except as otherwise in this act specifically provided, means transportation of building materials for sale or use in this State to a consumer by a dealer in vehicles owned, leased or rented by him.

“Division” means the State Division of Weights and Measures.

“Engaging in business”, “engage in business” or “engaged in business” shall include any single transaction, act or sale.

“Equipped dealer” means any person who is regularly engaged in the business of selling or selling and delivering building materials to consumers in this State and who maintains unloading or loading, storage, transportation, communication, sales, services or other facilities therefore, with an office accessible to the public with a competent person on duty, commensurate with the nature and other requirements of the business and an

“unequipped dealer” means any person who is regularly engaged in the business of selling building materials at retail in this State to consumers in this State who does not maintain loading, unloading or storage facilities.

“Labeling” means all labels and other written, printed, branded, or graphic matter upon any building materials or accompanying such building material.

“Lumber” means the wood obtained from the felling, trimming and working up of all kinds and types of trees for use as a structural material.

“Wood products” mean any product derived from trees as a result of any work or manufacturing process upon the same primarily intended for use as a building material.

“Mislabeled” or “misbranded” shall be deemed to mean the labeling its misleading, deceiving, or tends to be misleading or deceiving in any particular, and there shall also be taken into account, among other things, not only the representations made or suggested by any statement, word, design, or any combination therefore, but also the extent to which such labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of such building materials, to which such labeling relates under the conditions of use prescribed in the labeling therefore or under such conditions of use as are customary or usual.

“Misrepresentation” means any manifestation by words or other conduct by any person to another that, under the circumstances, amounts to an assertion not in accordance with the facts.

“Offered for sale” or “exposed for sale” shall be construed to include the use of any advertising media or means.

“Person” includes corporation, companies, association, societies, firms, partnerships and joint stock companies as well as individuals.

“Superintendent” means the Superintendent of the Division of Weights and Measures.

“Vehicle” means any motor vehicle or motor-drawn vehicle under the control of a dealer in or upon which the products involved are loaded.

“Weights and measures officials” means a State or local weights and measures official.

L.1968, c. 222. S 1, approved July 30, 1968.

51: 4-24 Compliance with act required for lawful sale

It shall be unlawful for any dealer to sell, sell and deliver, offer or advertise for sale to consumers by the use of any media, building materials, in this State except in accordance with the provisions of this act.

L. 1968, c. 222, S 2, approved July 30, 1968

51: 4-25. License

It shall be unlawful for any dealer to engage in the business of selling or selling and delivering building materials, to a consumer for use in this State unless he shall have obtained from the Division of Weights and Measures a license to engage in said business.

L. 1968, c. 222, S 3, approved July 30, 1968.

51:4-26. Application; fee; expiration

Applications for a license shall be made upon forms prescribed and furnished by the superintendent and shall list the places of business of the dealer. The fee for a dealer's license shall be \$50.00. Such license shall expire one year after date of insurance.

L. 1968, c 222, S 4, approved July 30, 1968.

51: 4-27. Grading, measuring and labeling

All lumber, wood products and building materials shall be graded, measured, and labeled in accordance with the applicable commercial standards of the United States Department of Commerce, the grading rules of approved grade rules writing agencies, or other industry standards as are accepted by the superintendent. The superintendent may not change, amend, modify or refuse to accept such standards without justifiable reason and where such standards or rules do not exist and where necessary to implement the provisions of this act, the superintendent shall establish the grade, measure and trade name only after consultation with the manufacturer and dealers involved.

L.1968, c. 222, S 5, approved July 30, 1968.

51: 4-28. Delivery ticket and duplicate; form and content; filing of voided tickets

No dealer shall deliver or cause to be delivered by vehicles under his own control or the control of any contractor or other carrier any building materials without each delivery being accompanied by a delivery ticket and duplicate thereof. Each such delivery ticket shall be serially numbered and used only in consecutive order. On such tickets there shall be distinctly and indelibly expresses in ink or otherwise, the quantity, species, quality, or grade, name and type of each building materials.

Trademark, name and address of the seller, the name and address of the purchaser and the date of delivery. One ticket shall be retained at the point of sale or place from which

delivery commences; and the second ticket shall be delivered to the person receiving such building materials or his representative.

All voided delivery tickets in duplicate, issued under the provisions of this act shall be kept on file at the place of business of the seller where the sale originated for a period of 2 years from date of issuance and shall be subject to inspection by any weights and measures official.

Any person issuing or directing the issuance of, or possessing a delivery ticket showing a different species, quantity, quality, or grade, name or type other than the species, quantity, quality or grade, name or type of building material being delivered or persons appearing at the place of delivery each with a delivery ticket for the same delivery, which tickets have different have different species, quantity, quality or grade, name or type appearing thereon, shall be deemed guilty of a violation of this act.

L. 1968, c. 222. S 6, approved July 30, 1968.

51: 4-29. Misrepresentation, mislabeling or misbranding; misdemeanor

Any person who misrepresents, mislabels or misbrands any lumber, wood product or building material or who causes a deviation from the applicable standards, rules or regulations, where such deviation misrepresents any lumber, wood product or building material so as to mislead or deceive of the same shall be guilty of a misdemeanor.

L. 1968, c. 222, S 7, approved July 30, 1968.

51: 4-30. Sale or purchase in compliance with superintendent's standards, rules or regulations

No person shall sell, expose for sale, offer for sale in this State, buy for the purpose of resale or manufacture for the purpose of resale in this State any lumber, wood

product or building materials which deviate from the applicable standards, rules or regulations promulgated by the superintendent.

L. 1968, c. 222, S 8, approved July 30, 1968.

51: 4-31. Rules, regulations or orders

The superintendent is authorized to establish and promulgate such rules, regulations or orders as he may deem necessary to implement the enforcement or administration of this act.

L. 1968, c. 222, S 9, approved July 30, 1968.

51: 4-32. Administration and enforcement by superintendent; power and authority of weights and measures officials

The superintendent shall have general supervision of the administration and enforcement of this act. All weights and measures officials shall have full power and authority to:

- (a) Inspect and measure any building materials while in transit from the dealer to the consumer in vehicles owned, leased or rented by the dealer, after the same have been delivered to the consumer or after they have been incorporated in the building or structure in which they have become a part. They shall also have full power and authority to inspect the delivery slips issued with any shipment and all records of the person, firm or corporation selling or selling and delivering such building materials in connection with the building materials so delivered.
- (b) Issue stop-use, stop-removal, removal, condemnation, confiscation orders with reference to building materials, which he finds being used, sold, offered,

exposed for sale, kept or in the process of delivery by a dealer in vehicles owned, leased or rented by him in violation of any of the provisions of this act or any rule, regulation, or order promulgated by the superintendent. Any such order must be supported by legal processes, as provided in section 15, by the superintendent within 30 days.

- (c) Seize for use as evidence, any building materials, which he finds used, kept, sold, offered for sale or exposed for sale or in the process of delivery by a dealer in vehicles owned, leased or rented by him in violation of any of the provisions of this act or any rule, regulation, or order promulgated by the superintendent. No person shall use, remove from the premises specified, or fail to remove from the premises specified any building materials contrary to the terms of a stop-use order, stop-removal order, or removal order issued under the authority of this section.

L. 1968, c. 222, S 10, approved July 30, 1968

51: 4-33. Stop-use, stop-removal, removal, condemnation, or confiscating orders; liability of consumers

In the event that the superintendent or any of his agents, servants or employees or any weights and measures officials issue any stop-use, stop-removal, removal, condemnation, or confiscating orders with reference to building materials found being used, sold, offered, exposed for sale, kept or in the process of delivery by a dealer in vehicles owned or leased or rented by him in violation of any of the provisions of this act or any rule, regulation, or order

promulgated by the superintendent then in that event the dealer shall be responsible as provided for in paragraph 15 of this act. The consumer shall not be primarily liable for any violation of any of the provisions of this act committed by the dealer nor shall the consumer be liable as a guarantor or surety for any violation of any provisions committed exercised by the dealer which actions are in violation of any of the provisions of this act.

L. 1968, c.222, S 11, approved July 30, 1968.

51: 4-34. Revocation, suspension, restriction or refusal to issue or renew license; hearing

The superintendent may, after proper notice and hearing, revoke, suspend, restrict or otherwise limit or refuse to issue or renew any license issued or granted pursuant to the provisions of this act for any of the following reasons:

- (a) fraud or misrepresentation in the application for or in the procuring of a license:
- (b) the violation of any rule, regulation or order promulgated by the superintendent:
- (c) (any dishonest, deceptive, or any fraudulent practice, contact or transaction:) and
- (d) the loaning or giving of any license.

Any license or applicant for license, any request, and shall be granted a hearing before the Attorney General or his designee upon any order, revocation or allegation of any weights and measures official.

L. 1968, c. 222, S 13, approved July 30, 1968.

51: 4-37. Subpoenas: oaths

The superintendent shall have power to issue subpoenas to compel production of any pertinent records, books or documents or the attendance of witnesses in any matter pertaining to his duties and shall have the power to administer oaths in taking testimony. Subpoenas shall be issued under the seal of the superintendent and shall be served in the same manner as subpoenas issued out of a County Court of this State.

Upon failure of any person to obey a subpoena as aforesaid, the superintendent may apply to the Superior Court for appropriate relief.

L. 1968, c. 222, S 15, approved July 30, 1968.

51: 4-38. Violations; penalties; collection and enforcement; process

Any person who knowingly violates any of the provisions of this act for which specific penalty or punishment is not otherwise provided, shall pay a penalty of not less than \$50.00 nor more than \$100.00 for the first offense, not less than \$100.00 nor more than \$250.00 for the second offense, and not less than \$250.00 nor more than \$500.00 for each subsequent offense.

Every county district court and municipal court shall have jurisdiction of proceedings for the collection and enforcement of a penalty imposed because of the violation, within the territorial jurisdiction of the court, of any provision of this act. The penalty shall be collected and enforced in a summary proceeding pursuant to the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.) Process shall be either in the nature of a

summons or warrant and shall issue in the name of the State, upon the complaint of the superintendent or any other weights and measures official.