

**§2512. Failure to pay for trees harvested**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Forest products" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass fuel wood, fuel wood or other products commonly known as forest products, but does not include Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material, cones or other seed crops. [PL 2005, c. 546, §1 (NEW).]

B. "Handling or processing facility" means sawmills; bolter mills; shingle mills; veneer mills; fence pole and piling making operations; pulp and paper mills; wafer board, particle board and plywood mills; whole tree chippers; commercial fuel wood processors; custom wood processing mills; and log yards established to accumulate logs awaiting shipment to these facilities. [PL 2005, c. 546, §1 (NEW).]

C. "Harvest operation" means the harvest of forest products on land in a single municipality or township. Land harvested need not be contiguous, and more than one harvester may work a harvest operation. [PL 2005, c. 546, §1 (NEW).]

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**2. Payment required within 45 days.** Absent a written contract that indicates different payment terms between the landowner and the person conducting a harvest operation, the person conducting the harvest operation shall provide to the landowner full payment for each truckload of harvested forest products transported to a handling or processing facility within 45 days of delivery to the handling or processing facility. In accordance with Title 10, section 2364-A, subsection 2, paragraph G, the person conducting the harvest operation shall provide to the landowner a copy of the measurement tally sheet or stumpage sheet for each truckload of forest products transported to a handling or processing facility when the person conducting the harvest operation pays the landowner.

[PL 2005, c. 546, §1 (NEW).]

**3. Penalties.** The following penalties apply.

A. A person who violates subsection 2 commits a civil violation for which a fine of not more than \$1,000 may be adjudged. [PL 2005, c. 546, §1 (NEW).]

B. A person who violates subsection 2 after having been adjudicated as having violated subsection 2 within the previous 5 years commits a civil violation for which a fine of not more than \$2,000 may be adjudged. [PL 2005, c. 546, §1 (NEW).]

C. A person who violates subsection 2 after having been adjudicated as having committed 2 or more civil violations under subsection 2 within the previous 5 years commits a Class E crime. Violation of this paragraph is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. [PL 2005, c. 546, §1 (NEW).]

D. In addition to any other penalties imposed in this subsection, the court may order a person adjudicated as having violated this section to provide upon request to any forest ranger of the Department of Agriculture, Conservation and Forestry, Bureau of Forestry copies of measurement tally sheets for subsequent harvest operations being conducted by the violator for a period not to exceed one year. [PL 2005, c. 546, §1 (NEW); PL 2011, c. 657, Pt. W, §§5, 7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

[PL 2005, c. 546, §1 (NEW); PL 2011, c. 657, Pt. W, §§5, 7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

**4. Restitution.** In addition to any penalties imposed pursuant to subsection 3 and, when appropriate, in accordance with the requirements of Title 17-A, chapter 69, the court shall order restitution to the landowner on the basis of an adequate factual foundation. The amount of restitution

may be determined by using the measured volume of the harvested forest products as listed on the measurement tally sheet or stumpage sheet in accordance with Title 10, section 2364-A, subsection 2 and by the terms of the sales contract according to the measurement procedures set forth in Title 10, section 2363-A that are applicable to a sale of wood.

Any restitution ordered and paid must be deducted from the amount of any restitution awarded in a civil action brought by the owner or the State against the offender based on the same facts.

[PL 2019, c. 113, Pt. C, §56 (AMD).]

**5. Exemptions.** The following are exempt from this section:

A. The Department of Transportation in the performance of activities under Title 23, section 701; [PL 2005, c. 546, §1 (NEW).]

B. Public utilities in maintaining adequate facilities in emergencies in compliance with Title 35-A, section 301; and [PL 2005, c. 546, §1 (NEW).]

C. Municipal employees, persons contracting with a municipality or other legitimate agents of a municipality acting within the course and scope of their employment or performing volunteer work for the municipality removing street trees or fallen trees or in emergencies. [PL 2005, c. 546, §1 (NEW).]

[PL 2005, c. 546, §1 (NEW).]

#### SECTION HISTORY

PL 2005, c. 546, §1 (NEW). PL 2011, c. 657, Pt. W, §§5, 7 (REV). PL 2013, c. 405, Pt. A, §23 (REV). PL 2019, c. 113, Pt. C, §56 (AMD).

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