

CHAPTER 91

LOGS AND LUMBER

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NOTE: For definitions, see section 88.01

91.01 SURVEYOR GENERAL. The offices of the surveyor general are hereby consolidated into one office, which shall be located at the state capitol, St. Paul, and all the powers and duties and all the authority now by law conferred on these offices and officers shall devolve upon and be exercised by the state surveyor general of logs and lumber, hereinafter referred to as the surveyor general. He shall be appointed by the governor for a term of two years; and such term shall terminate at the end of each odd-numbered fiscal year. The duties of the surveyor general and of the director of forestry, and the duties of any deputy surveyor general and of any qualified forest officer, are hereby deemed to be not incompatible, and the director of forestry or any other forest officer may be the state surveyor general or deputies surveyor general, respectively, but no additional compensation shall be allowed for such additional service rendered by forest officers. The districts established for the survey and measurement of logs and timber are hereby discontinued, and the jurisdiction and control relating thereto are transferred to, and the same shall devolve upon, the office of the surveyor general. All public property and records now in the custody of each of the surveyors general or their deputies, wherever the same may be, shall forthwith be delivered into the custody and care of the surveyor general.

[1919 c 440 s 1; 1949 c 739 s 24; 1951 c 713 s 12] (6603)

91.02 DUTY OF SURVEYOR GENERAL. It shall be the duty of the surveyor general, and he is hereby authorized and empowered, to scale all state timber cut on any state lands.

[1919 c. 440 s. 2] (6604)

91.03 DEPARTMENT TO CHECK SCALING OF TIMBER. It is hereby expressly made the duty of the department to check, from time to time, the scaling of state timber done by the surveyor general or his deputies.

[1919 c. 440 s. 3] (6605)

91.04 SURVEYS TO BE MADE BY SURVEYOR GENERAL. The surveyor general or his deputy, upon request of the owner of any forest products, or of any person having written authority from the owner to deliver the same, or of any officer having possession thereof under judicial writ or process, shall survey the same and make a true bill thereof, showing by and to whom and at whose request the scale was made, the time and place of inspection, the number of pieces scaled, the marks thereon, the scale marks placed thereon by him, and the total number of feet board measure, or cords or pieces, as the case may be. He shall record such scale bill in his office, and upon payment, as hereinafter provided, to the state treasurer, of all costs and expenses of making the scale, recording the same, and making the bills thereof, shall deliver the original to the person to whom the scale was made, otherwise to the person requesting such survey. Such bill or the record thereof shall be prima facie evidence of the facts therein stated. The terms of sections 91.01 to 91.07 shall apply to the scaling and billing of logs and timber in chartered booms or elsewhere.

[1919 c 440 s 4]

91.05 ACTUAL EXPENSE, PAYMENT. For the purpose of carrying out the provisions of sections 91.01 to 91.07 relating to the scaling or measuring of state

timber, the permittee or purchaser of any state timber shall pay into the state treasury the actual field expense of scaling, counting, or measuring such timber as may be cut on any state land. Actual field expense includes all traveling expenses incurred by the surveyor general or his deputy in going from and returning to the office of the surveyor general and the point of survey or going from one point of survey to another, his expenses at the point of survey, and his salary for the time he is so engaged. Bills for such actual field expense and for scaling, as provided in section 91.04, shall be rendered the purchaser by the surveyor general each month while scaling is in progress and payment thereof must be made within 20 days after the same are rendered. Any money due for scaling work or actual field expenses shall be collected by the surveyor general and shall be deposited in the state treasury. If any permittee or purchaser fails to pay any such bill within the specified 20 days, the scalers shall be withdrawn forthwith and no further scaling service shall be rendered to such permittee or purchaser until such bill is paid.

[1919 c 440 s 5; 1951 c 662 s 2] (6607)

91.06 QUALIFICATIONS; BOND. The surveyor general shall have had at least five years experience, or its equivalent, in lumbering work, and shall give a bond to the state, approved by the attorney general, in the sum of \$10,000, conditioned for the faithful performance of the duties of his office, and for the delivery to his successor of all records, papers, and effects appertaining thereto. This bond, with his official oath, shall be filed with the secretary of state. The state and all persons aggrieved by failure to comply with the conditions of the bond, may sue thereon until the whole penalty or loss is recovered. Any official or employee authorized to scale any state timber under sale permits must have had at least three years' experience in lumbering work, or its equivalent, and shall be required to give a bond to the state in at least the sum of \$2,000, conditioned for the faithful performance of such duties, which bond shall be approved by the attorney general and, with the required oath and duplicate of appointment, shall be filed with the secretary of state before the appointee enters upon his duties as scaler. The premiums for these bonds shall be paid out of the surveyor general fund.

[1919 c. 440 s. 6] (6608)

91.07 ACCEPTANCE OF COMPENSATION OR GRATUITY A FELONY. Every estimator, cruiser, land examiner, scaler, appraiser, ranger, or any other employee or agent of the state charged by law, or any official authorized to make any estimate or scale of state timber, who shall accept any compensation or gratuity for his services as such from any other source except the state, or who shall make any false report of timber scaled, or insert in any such report any false statement or omit from any such report any statement required by law to be made therein, or who shall fail to report to the surveyor general or the director any trespass committed upon state lands which has come to his knowledge, shall be guilty of a felony. Any material discrepancy in the scale returned by any of the employees above described shall be considered prima facie evidence of the guilt of the person charged with violation of this statute.

[1919 c. 440 s. 7] (6609)

91.08 ALLOWANCE FOR DEFECTS; RECORD. In surveying and scaling logs or other timber, such allowance shall be made for defects therein as will make the same equal to sound, straight, and merchantable timber, and in the case of lumber a like reduction shall be made if any be decayed, waney, or shaky. The figures showing the survey shall be entered, at the time of scaling, in passbooks kept for that purpose, which books shall be filed and kept in the surveyor general's office for the inspection of interested persons.

[R. L. s. 2569] (6612)

91.09 POSTING SCALES; SCRIBNER'S RULE. The surveyor general shall keep posted in his office a written rule or scale of all sizes and lengths of logs, and be governed thereby in making surveys. Scribner's decimal C rule shall be the standard rule for all surveys, and every log shall be surveyed by the largest number of even feet in its length above ten and under 24 feet. All logs of 24 feet or more in length shall be surveyed as two logs or more.

[R. L. s. 2570] (6613)

91.10 SURVEY OF POSTS AND POLES; RULES. In scaling cedar posts, farm poles, and poles for carrying electric wires, the following rules shall be observed:

(1) Cedar posts six feet ten inches and seven feet ten inches long shall be rated as seven and eight foot posts, respectively, shall be cut from growing timber and peeled, and may be a quarter inch less at the top than the diameter specified, unless green, freshly cut or water-soaked; pipe rot, and other decay which does not impair the strength of the post, shall be disregarded; also four inches sweep one way; and if cut from growing timber, discoloration shall not be deemed a defect;

(2) Posts or poles from ten to 25 feet in length and four inches at top, known as large posts and small poles, may be two inches less than the length specified, and a quarter inch less in diameter at the top, unless green, freshly cut or water-soaked. In lengths not exceeding 18 feet, a crook of four inches one way shall be disregarded, and in greater lengths five inches; also pipe holes in top; and, in other respects, clause (1) shall govern;

(3) Electric wire poles shall be 25 feet or more in length, with a diameter of five inches at the top, and reasonably proportioned throughout; they must be cut from growing timber, peeled, and reasonably sound at the top; for five-inch poles, if seasoned, the top circumference must be 15 inches; for six-inch poles, 18½ inches; and seven-inch poles, 22 inches; if green, freshly cut, or water-soaked, 15, 19½, and 22¾ inches, respectively; in poles not more than 25 feet long, a sweep one way not exceeding one inch to each five feet shall be allowed; in greater lengths, one inch additional for each added five feet; the sweep shall be ascertained by stretching a line tightly from a point six feet above the butt to the top, on the side where the sweep is greatest, and measuring the widest space between the line and the pole; the total decay at the butt must not exceed ten per cent of its area; and twists shall be disregarded unless very unsightly; also large knots, if sound and smoothly trimmed.

[R. L. s. 2572] (6615)

91.11 TRANSFER OF LOGS; SCALE BILL; DELIVERY. When logs or other timber are surveyed upon the transfer thereof from one party to another, the surveyor general, at the time of the survey, shall place upon each log or piece the scale mark of the transferee, which shall supersede all prior marks thereon. The transferee shall pay for the scaling and be entitled to receive the scale bill; and when a scale bill is delivered to any person by the surveyor general, he shall note upon the margin of the record the name of the person to whom delivered, and the date of delivery.

[R. L. s. 2573] (6616)

91.12 RECORDING. The surveyor general shall also receive, for recording each log mark, 50 cents; for recording any instrument entitled to record in his office, other than a scale bill, ten cents per folio; for making and certifying a copy of any matter of record in his office, and for each duplicate scale bill, ten cents per folio, and 25 cents for each certificate. All these fees shall be payable in advance, and no instrument shall be deemed recorded until it is entered in the record index.

[R. L. s. 2575] (6618)

91.13 BOOKS OF RECORD; EVIDENCE. Each surveyor general shall keep in his office the following books of record:

(1) A record of log marks, in which he shall record all log marks filed for that purpose;

(2) A record of transfers, in which shall be recorded all bills of sale, mortgages, orders, and other instruments for the sale, transfer, encumbrance, or delivery of lumber, logs, and other timber in his district;

(3) A record of scale bills, in which he shall record the scale bills of lumber, logs, and timber by him surveyed; and

(4) A scale ledger, in which, as soon as any logs or timber are surveyed, he shall post and record the same to the several log marks found thereon, with the date of scaling, the number of logs or pieces of each mark, to whom scaled, if to any one, and the number of feet; which books shall be posted up so as to show the record concerning each mark of logs scaled during each month. Upon demand of any authorized person, he shall deliver a certified transcript of the record as to any mark to which postings have been so made.

All these books shall be public records, and none of them shall be removed from the surveyor general's office; but a duly certified copy of any record therein shall be prima facie evidence of the record and of the matters therein set forth.

[R. L. s. 2576] (6621)

91.14 TRANSFERS; RECORD AND EFFECT. The surveyor general shall not be required, except upon request of an officer who has duly attached or levied upon lumber, logs, or timber, to scale any of the same to a person whose title thereto does not appear of record in his office, without a written order from the record owner. He shall record, in the order of their receipt for record, all orders drawn by the owner and directing him to scale to another any logs of the owner's mark; and the first logs scaled, of the mark specified and within the lot described, shall be scaled to the person named in the order first received for record, and so on according to priority of record. These orders shall have preference over subsequent sales, transfers, and encumbrances.

[R. L. s. 2577] (6622)

91.15 INVALID WITHOUT RECORD; CERTIFICATES AS EVIDENCE. The certificate of the surveyor general of the district in which logs or timber were cut, or into which the same have been removed, that any mark thereon has been recorded in his office, and that no transfer thereof has been so recorded, shall be prima facie evidence that the logs or timber, having the unsuperseded mark aforesaid, are owned by the person in whose name the mark is recorded. A like certificate of the surveyor general that the mark has been transferred on the books of his office, or has been superseded of record as to any designated logs or timber, naming the person to whom the transfer or supersession was last made as shown by these books, shall be prima facie evidence of title thereto in the person so named. No transfer of any log mark, nor any sale, transfer, or encumbrance of any logs or timber cut in this state, shall be binding upon persons not parties thereto, unless the same be in writing and duly filed for record with the surveyor general. The surveyor general, in his discretion, may transfer to any person desiring the same any log mark that has been of record eight years or longer and is not in actual use.

[R. L. s. 2578] (6623)

91.16 RECORD OF LOG MARKS; EFFECT. No log mark shall be placed upon logs or other timber cut in this state until a copy of the mark has been recorded in the office of the surveyor general, and the mark shall plainly differ from any other log mark there recorded. The owner of logs cut in another state, who intends to bring the same into this state, may have his log mark recorded in this state with the same effect as though the logs were cut therein. Any log mark recorded pursuant to this chapter shall be deemed the property of the person in whose name the record is made, and the mark appearing upon logs or timber, and not superseded by another, shall be prima facie evidence of title thereto in the owner of that mark. No logs shall be scaled by the surveyor general or his deputies unless the marks upon the logs are properly recorded in accordance with the provisions of this chapter.

[R. L. s. 2579] (6624)

91.17 PROOF BEFORE RECORD. Before any surveyor general within this state shall record any log mark, the party in whose name the log mark is sought to be recorded shall satisfy the surveyor general, by competent evidence, that he owns timber which he intends to cut into logs and desires to identify with this mark, or is a legitimate dealer in logs, or that he owns unmarked logs already cut and desires to identify them by his mark.

[1905 c. 207 s. 1] (6625)

91.18 FALSE MARKING; PENALTY. Any person who shall place a mark, recorded in his name, or in the name of another, upon any log bearing no log mark, and which is the property of some person or party other than the recorded owner of the mark so placed upon the log, shall be guilty of larceny; and, upon conviction thereof, shall be punished by a fine of not less than \$50, and by imprisonment in the county jail for not less than three months, and until the fine is paid.

[1905 c. 207 s. 2] (6626)

91.19 TRANSFERS; LOGS, WHEN DEEMED ABANDONED. A sale, encumbrance, or other transfer of a recorded log mark may be made by bill of sale or other written evidence of intention to effect the same, and, when recorded, the instrument shall operate, according to its expressed intent, upon all logs and other timber bearing this mark and then owned by the maker thereof. All logs and timber found in the waters of this state, not in the possession or under the control of any person, which have no distinctive mark, or marks which are not recorded, shall be deemed abandoned and shall not be recognized as property by the courts.

[R. L. s. 2580] (6627)

91.20 STEALING LOGS; CHANGING MARKS. Whoever shall wilfully take, carry away, or otherwise convert, without the consent of the owner, any log, pile, cant, or other timber, not his own, from the waters of this state, or from any land upon which the same has been floated or cast by such waters, and whoever shall cut out or otherwise affect the marks upon any timber with intent to destroy or conceal the evidence of the owner's title thereto, or with like intent places upon any timber any mark other than that of the owner thereof, shall be guilty of larceny and liable to the owner for twice the value of the timber in a civil action therefor. In any prosecution under this section, if any property herein described or any property manufactured therefrom, shall be found in the possession of the defendant, the possession shall be presumptive evidence of his guilt. The owner of the property or manufactured product thereof, may at any time lawfully, by himself or his agent, enter in a peaceable manner into or upon any mill or mill boom, or any raft of the property in the waters of this state, or on or near the banks thereof, in search of the property which he may have lost, and any person who shall wilfully prevent or obstruct the search shall upon conviction thereof be liable to a penalty of not less than \$20 nor more than \$50 for each offense.

[R. L. s. 2581] (6628)

91.21 RECEIVER LIKEWISE GUILTY. Whoever shall purchase, secrete, or receive any such timber, taken as described in section 91.20, shall likewise be deemed guilty of the larceny thereof, unless the same was duly scaled to him by a surveyor general and the scale bill thereof be by him produced.

[R. L. s. 2582] (6629)

91.22 FALSIFYING SCALE BILL. Any surveyor general, or any deputy or other person employed or permitted by any surveyor general to aid in the performance of his official duties, who shall knowingly do, or permit or cause to be done, any act or thing whereby any false or untrue scale bill of logs or other timber surveyed within the jurisdiction of the surveyor general shall be issued or made, or who, with knowledge, or with reason to believe, that any scale bill, or the scale represented thereby, is false or untrue, shall cause any person to part with money or property in the belief that the same is correct, shall be guilty of a gross misdemeanor.

[R. L. s. 2583] (6630)

91.23 SIDE BOOMS. The parties constructing and operating side booms upon any of the rivers or streams of this state shall construct and operate the same so as to admit their own property and at the same time, as far as practicable, exclude the property of other parties. No person or party shall open or in any way injure any private boom, or otherwise interfere with the same, except so far as may be necessary to obtain any logs, timber, or floatables which, by accident or mistake, have run or been driven therein, and then only when it can be done without injury to this private boom. When, in such case the release cannot be made without hazard to the private boom, these logs and timber shall, upon the request of the owner thereof, be scaled and other floatables counted by the surveyor general and the value thereof fixed by him, or by consent of the parties be paid for by the owners of the pond or private boom, within 30 days from the time the scale is made.

[R. L. s. 2584] (6631)

91.24 WILFULLY INJURING BOOMS. Any person who wilfully and maliciously opens, breaks, cuts, or otherwise destroys or injures any side or other boom or turns the whole or any part of the logs or timber contained therein loose or adrift, unless the boom materially obstructs the navigation of any navigable stream, or unlawfully intrudes upon the property of any person, or who wilfully or maliciously cuts loose or turns adrift any boom, drill, string, or raft of logs, timber, or lumber is guilty of a felony, and shall be liable for all the damages sustained by reason of the wrongful act.

[R. L. s. 2585] (6632)