

FIRST REGULAR SESSION

SENATE BILL NO. 471

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

Read 1st time February 27, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1511S.01I

AN ACT

To repeal sections 280.005, 280.010, 280.020, 280.030, 280.035, 280.037, 280.038, 280.040, 280.050, 280.060, 280.070, 280.080, 280.090, 280.095, 280.100, 280.110, 280.120, 280.130, and 280.140, RSMo, relating to the treated timber law.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 280.005, 280.010, 280.020, 280.030, 280.035, 280.037, 280.038, 280.040, 280.050, 280.060, 280.070, 280.080, 280.090, 280.095, 280.100, 280.110, 280.120, 280.130, and 280.140, RSMo, are repealed, to read as follows:

[280.005. Sections 280.005 to 280.140 shall be known as the "Missouri Treated Timber Law".]

[280.010. As used in this chapter the following terms mean:

(1) "Brand", an identification mark assigned to a treated timber producer, used to mark treated timber products after treatment;

(2) "Director", the director of the state department of agriculture;

(3) "Preservative" includes such chemicals or combination thereof that will protect wood or wood products against deterioration or destruction from any one or combination of the following: insects, fungi, bacteria, or other wood-destroying organisms;

(4) "Retention of preservatives", the amount of preservative in pounds per cubic foot or metric equivalent retained in wood after preservative treatment;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 (5) "Stop-sale", an administrative order provided by law,
16 restraining the sale, disposition, and movement of a definite
17 amount of treated timber, of a specific piece, bundle, charge or
18 shipment if the treated timber is distinguished by piece, bundle,
19 charge or shipment;

20 (6) "Treated timber", wood or wood products treated by the
21 impregnation or application of chemical solutions or chemical
22 mixtures for the purpose of retarding or preventing deterioration
23 or destruction by insects, fungi, bacteria, or other wood-destroying
24 organisms;

25 (7) "Treated timber dealer", any retail or wholesale place of
26 business other than treated timber producers that sells or offers for
27 sale treated timber products;

28 (8) "Treated timber producer", any person, firm or
29 corporation who engages in the business of treating timber
30 products with preservatives.]

[280.020. It shall be unlawful for any treated timber
2 producer to sell or offer for sale within the state of Missouri any
3 treated timber unless such treated timber meets the standards for
4 such products as established by the director under the provisions
5 of this chapter.]

[280.030. Every treated timber producer shall annually
2 secure a license from the director before such treated timber may
3 be sold or offered for sale in the state of Missouri. The fee for such
4 treated timber producer license shall be two hundred dollars
5 annually. This annual license fee shall also allow the sale of
6 treated timber without the additional purchase of the treated
7 timber dealer license required by section 280.035.]

[280.035. Every treated timber dealer who engages in the
2 business of selling treated timber shall annually secure a license
3 from the director for each location or place of business where such
4 sales occur before such treated timber may be sold or offered for
5 sale in the state of Missouri by such treated timber dealer. The fee
6 for a treated timber dealer license shall be fifteen dollars.]

[280.037. Every treated timber dealer before selling or
2 offering for sale treated timber in the state of Missouri shall file

3 a license application provided by the department of agriculture and
4 shall give the following information:

5 (1) Company name, address, and telephone number; and

6 (2) The type of treated timber to be sold.]

[280.038. 1. No license is transferable. All persons holding
2 a Missouri treated timber license shall post the license in a
3 conspicuous place in the place of business to which it applies. The
4 licensing year shall be twelve months, or any fraction thereof
5 beginning on July first and ending June thirtieth. Fees collected
6 under sections 280.030 and 280.035 shall constitute a fund for the
7 payment of costs of inspection, sampling, and analysis and other
8 expenses necessary for the administration of sections 280.005 to
9 280.145 and shall be deposited in the state treasury and credited
10 to the general revenue fund.

11 2. If the application for renewal of any treated timber
12 license is not filed prior to expiration date in any year, a penalty
13 of fifty percent shall be assessed and added to the original fee and
14 shall be paid by the applicant before that renewal license shall be
15 issued.]

[280.040. Whenever the director has knowledge that a
2 licensee licensed under the provisions of this chapter has violated
3 the provisions of this chapter, in order to protect the interest of the
4 public, the director, after hearing, may suspend or revoke his
5 license. The licensee shall be notified in writing of the violation,
6 date and place of the hearing of suspension or revocation of his
7 license.]

[280.050. The director may promulgate rules to establish
2 specifications for wood preservation and treating practices; to
3 prescribe the minimum net retention of preservative per cubic foot
4 or metric equivalent of wood in treating timber products; to
5 establish branding requirements for treated timber; and to set
6 requirements for preservative and product use information to be
7 supplied to purchasers. No rule or portion of a rule promulgated
8 under the authority of this chapter shall become effective unless it
9 has been promulgated pursuant to the provisions of section
10 536.024.]

[280.060. Every treated timber producer chemically treating timber for sale or offer for sale in Missouri, whether in state or out of state, shall, before selling or offering for sale, file with the director a statement giving the following information:

(1) The type of treatment used in processing the treated timber;

(2) The guaranteed net retention of preservative per cubic foot or metric equivalent of treated timber.]

[280.070. Treated timber products shall be clearly branded before being sold or offered for sale within the state of Missouri as determined by rule. Each brand so used must be registered with the director.]

[280.080. All treated timber being sold or offered for sale within the state shall be accompanied by an invoice which shall carry the following information in addition to the price, terms of sale and other information required by the purchaser:

(1) The type of preservative used in processing treated timber;

(2) The guaranteed net retention of preservative per cubic foot or metric equivalent of treated wood; and

(3) Other information determined necessary and prescribed by the director by rule.]

[280.090. For the purpose of carrying out the provisions and requirements of this chapter and the rules made and notices given pursuant thereto, the director or his authorized agents, inspectors or employees may enter into or upon any premises during reasonable business hours and open any package or container containing or believed to contain treated timber and to take reasonable samples for testing purposes of preservatives used or treated products being sold or offered for sale. If the director or his authorized agent is denied access to any premises, where such access was sought for the purposes set forth in this chapter, the director or his authorized agent may apply to a court of competent jurisdiction for a search warrant authorizing access to the premises. The court may issue a search warrant for the purposes requested upon probable cause being shown.]

[280.095. 1. The director or his authorized agent is authorized to issue and enforce written or printed "stop sale" orders to the owner or custodian of any treated timber and to hold those timber products at a designated place when the director or his authorized agent finds treated timber being offered for sale in violation of any provision of this chapter or rules promulgated pursuant thereto.

2. The owner or custodian of the treated timber subject to the "stop sale" order may require, and upon request shall be granted, a hearing in the circuit court of the city or county in which the products are located to determine whether probable cause exists that the statutes or regulations have been violated. The hearing shall be granted within three working days of the day of receipt by the court of the request for a hearing. The director or his agent shall, at the time of the seizure, notify in writing the custodian of the seized treated timber of the right to a hearing. If the custodian is not the owner of the treated timber, the director or his agent shall make reasonable efforts to notify the person holding title to the property, as owner, of the seizure and of his right to a hearing.

3. The "stop sale" order shall be effective until the law has been complied with and the treated timber has been released, in writing, by the director, or the violations have been otherwise legally disposed of by written authority. When the requirements of this chapter and rules promulgated hereto have been complied with, the director shall release the treated timber. If compliance is not obtained within thirty days, the director may begin, or upon request of the owner or custodian shall begin, proceedings for condemnation.]

[280.100. Any treated timber being sold or offered for sale in Missouri in violation of the provisions of this chapter may be proceeded against in any circuit court in any county of the state where it may be found and seized for condemnation, provided the offending person, firm or corporation has had official warning from the director of the department of agriculture or his authorized agent of this or previous violation.]

[280.110. 1. If any treated timber is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court may direct, and the proceeds, if the treated timber is sold, less legal costs and administrative costs and civil penalty, shall be paid to the person holding title to the treated timber; provided that the treated timber shall not be sold contrary to the provisions of sections 280.005 to 280.140; and provided, further, that upon payment of costs and execution and delivery of a good and sufficient bond, conditioned that the treated timber shall not be disposed of unlawfully, the court may direct that said treated timber be delivered to the owner or custodian thereof for retreating or disposal, as the case may be.

2. If the court orders a condemnation sale to dispose of the treated timber, ten percent of the proceeds or ten thousand dollars, whichever is less, shall be paid to the general revenue fund as a civil penalty.]

[280.120. Exceptions:

(1) No part of this chapter shall be construed as affecting farmers or other persons treating timber or timber products for home or personal use;

(2) No part of this chapter shall be construed to prohibit any manufacturer of treated timber products from employing preservative standards and methods prescribed by federal or state agencies, departments or political subdivisions, railroads, mines, and public utilities in the manufacturing, sale and delivery in this state of their orders of treated timber products, except that the manufacturer must show proof of contract when requested to do so by the director;

(3) No part of this chapter shall be construed to include within the definition of treated timber dealer federal or state agencies, departments or political subdivisions, railroads, mines, public and municipal utilities and corporations organized under chapter 394 which engage in the sale of surplus treated timber products produced under preservative standards and methods as described in subdivision (2) of this section;

(4) No particular method or methods of treatment shall be

21 prescribed.]

2 [280.130. Any person, firm or corporation who violates any
3 provision or requirement of this chapter is guilty of a class B
4 misdemeanor and upon conviction thereof shall be punished by a
5 fine of not more than five hundred dollars, or by imprisonment for
not more than six months, or by both such fine and imprisonment.]

2 [280.140. The director is authorized to apply to the court to
3 grant a temporary or permanent injunction restraining any person
4 from violating or continuing to violate any of the provisions of
5 sections 280.005 to 280.140 or any rule promulgated under sections
6 280.005 to 280.140, notwithstanding the existence of other
remedies at law.]

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Bill

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