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LAW/RWH

P.L.2013, CHAPTER 234, *approved January 17, 2014*
Assembly, No. 1144

1 AN ACT concerning the delivery of building materials and
2 amending P.L.1968, c.222.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 1 of P.L.1968, c.222 (C.51:4-23) is amended to read
8 as follows:

9 1. As used in this act:

10 "Building materials" means lumber, wood and wood product
11 materials regulated by the Superintendent of the Office of Weights
12 and Measures pursuant to section 5 of P.L.1968, c.222 (C.51:4-27)
13 and used in connection with the construction, fabrication and
14 erection of residential, utility or business premises.

15 "Consumer" means any person who purchases building materials
16 for incorporation into any type of structure.

17 "Dealer" means "equipped dealer" or "unequipped dealer."

18 "Deputy superintendent" means the deputy superintendent of the
19 **【Division】** Office of Weights and Measures in the Division of
20 Consumer Affairs in the Department of Law and Public Safety.

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

25 "Delivery ticket" means any printed or electronic system that
26 provides for: (1) (a) tickets serially numbered and used only in
27 consecutive order or; (b) tickets with a unique identification of each
28 transaction associated with that ticket only if the system of unique
29 identification is established in such a manner that the Office of
30 Weights and Measures may readily determine compliance with
31 section 6 of P.L.1968, c.222 (C.51:4-28); (2) a means of providing
32 the consumer with a copy of the delivery ticket; (3) a means by
33 which the delivery ticket shall be readily available for inspection
34 while materials are in transit and after delivery; and (4) a means of
35 maintaining a copy of the ticket for a period of two years from the
36 date of issuance of the ticket. A record of delivery tickets shall be
37 available for inspection and audit by the Office of Weights and
38 Measures.

39 **【"Division" means the State Division of Weights and Measures.】**

40 "Engaging in business," "engage in business" or "engaged in
41 business" shall include any single transaction, act or sale.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 "Equipped dealer" means any person who is regularly engaged
2 in the business of selling or selling and delivering building
3 materials to consumers in this State and who maintains unloading or
4 loading, storage, transportation, communication, sales, services or
5 other facilities therefor, with an office accessible to the public with
6 a competent person on duty, commensurate with the nature and
7 other requirements of the business and an "unequipped dealer"
8 means any person who is regularly engaged in the business of
9 selling building materials at retail in this State to consumers in this
10 State who does not maintain loading, unloading or storage facilities.

11 "Labeling" means all labels and other written, printed, branded,
12 or graphic matter upon any building materials or accompanying
13 such building materials.

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

17 "Office" means the Office of Weights and Measures in the
18 Division of Consumer Affairs in the Department of Law and Public
19 Safety.

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

23 "Mislabeled" or "misbranded" shall be deemed to mean the
24 labeling is misleading, deceiving, or tends to be misleading or
25 deceiving in any particular, and there shall also be taken into
26 account, among other things, not only the representations made or
27 suggested by any statement, word, design, or any combination
28 thereof, but also the extent to which such labeling fails to reveal
29 facts material in the light of such representations or material with
30 respect to consequences which may result from the use of such
31 building materials, to which such labeling relates under the
32 conditions of use prescribed in the labeling thereof or under such
33 conditions of use as are customary or usual.

34 "Misrepresentation" means any manifestation by words or other
35 conduct by one person to another that, under the circumstances,
36 amounts to an assertion not in accordance with the facts.

37 "Offered for sale" or "exposed for sale" shall be construed to
38 include the use of any advertising media or means.

39 "Person" includes corporation, companies, association, societies,
40 firms, partnerships and joint stock companies as well as individuals.

41 "Superintendent" means the Superintendent of the **[Division]**
42 Office of Weights and Measures.

43 "Vehicle" means any motor vehicle or motor-drawn vehicle
44 under the control of a dealer in or upon which the products involved
45 are loaded.

46 "Weights and measures officials" means a State or local weights

1 and measures official.
2 (cf: P.L.1968, c.222, s.1)

3
4 2. Section 3 of P.L.1968, c.222 (C.51:4-25) is amended to read
5 as follows:

6 3. It shall be unlawful for any dealer to engage in the business
7 of selling or selling and delivering building materials, to a
8 consumer for use in this State unless he shall have obtained from
9 the **【Division】** Office of Weights and Measures a license to engage
10 in said business.

11 (cf: P.L.1968, c.222, s.3)

12
13 3. Section 4 of P.L.1968, c.222 (C.51:4-26) is amended to read
14 as follows:

15 4. Applications for a license shall be made upon forms
16 prescribed and furnished by the superintendent and shall list the
17 places of business of the dealer. The fee for a dealer's license shall
18 be \$100. Such license shall expire one year after date of issuance.
19 Renewal notices shall be issued to licensees at least 30 days prior to
20 the expiration of the license.

21 (cf: P.L.1994, c.60, s.13)

22
23 4. Section 6 of P.L.1968, c.222 (C.51:4-28) is amended to read
24 as follows:

25 6. No dealer shall deliver or cause to be delivered by vehicles
26 under his own control or the control of any contractor or other
27 carrier any building materials without each delivery being
28 accompanied by a delivery ticket **【and duplicate thereof】**. Each
29 **【such】** delivery ticket shall be serially numbered and used only in
30 consecutive order or uniquely identified. On such tickets there
31 shall be distinctly and indelibly expressed in ink or otherwise, the
32 quantity, species, quality, or grade, name and type of each such
33 building materials, trademark, name and address of the seller, the
34 name and address of the purchaser and the date of delivery. One
35 ticket shall be retained at the point of sale or place from which
36 delivery commences; and the **【second ticket】** duplicate shall be
37 delivered to the person receiving such building materials or his
38 representative.

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

44 Any person issuing or directing the issuance of, or possessing a
45 delivery ticket showing a different species, quantity, quality, or
46 grade, name or type other than the species, quantity, quality or
47 grade, name or type of building material being delivered or persons

1 appearing at the place of delivery each with a delivery ticket for the
2 same delivery, which tickets have different species, quantity,
3 quality or grade, name or type appearing thereon, shall be deemed
4 guilty of a violation of this act.

5 (cf: P.L.1968, c.222, s.6)

6

7 5. Section 10 of P.L.1968, c.222 (C.51:4-32) is amended to
8 read as follows:

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

12 (a) Inspect and measure any building materials while in transit
13 from the dealer to the consumer in vehicles owned, leased or rented
14 by the dealer, after the same have been delivered to the consumer
15 or after they have been incorporated in the building or structure in
16 which they have become a part. They shall also have full power and
17 authority to inspect the delivery **【slips】** tickets issued with any
18 shipment and all records of the person, firm or corporation selling
19 or selling and delivering such building materials in connection with
20 the building materials so delivered.

21 (b) Issue stop-use, stop-removal, removal, condemnation,
22 confiscation orders with reference to building materials, which he
23 finds being used, sold, offered, exposed for sale, kept or in the
24 process of delivery by a dealer in vehicles owned, leased or rented
25 by him in violation of any of the provisions of this act or any rule,
26 regulation, or order promulgated by the superintendent. Any such
27 order **【must】** shall be supported by legal processes, as provided in
28 section 15 of P.L.1968, c.222 (C.51:4-37), by the superintendent
29 within 30 days.

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

39 (cf: P.L.1968, c.222, s.10)

40

41 6. Section 11 of P.L.1968, c.222 (C.51:4-33) is amended to
42 read as follows:

43 11. In the event that the superintendent or any of his agents**【,**
44 **servants】** or employees or any weights and measures officials issue
45 any stop-use, stop-removal, removal, condemnation, or confiscating
46 orders with reference to building materials found being used, sold,
47 offered, exposed for sale, kept or in the process of delivery by a

1 dealer in vehicles owned or leased or rented by him in violation of
2 any of the provisions of this act or any rule, regulation, or order
3 promulgated by the superintendent then in that event the dealer
4 shall be responsible as provided for in **[paragraph]** section 15 of
5 **[the act]** P.L.1968, c.222 (C.51:4-37). The consumer shall not be
6 primarily liable for any violation of any of the provisions of this act
7 committed by the dealer nor shall the consumer be liable as a
8 guarantor or surety for any violation of any provisions committed
9 by the dealer nor shall the consumer be deemed to warrant any
10 action or actions exercised by the dealer which actions are in
11 violation of any of the provisions of this act.

12 (cf: P.L.1968, c.222, s.11)

13

14 7. Section 16 of P.L.1968, c.222 (C.51:4-38) is amended to
15 read as follows:

16 16. Any person who knowingly violates any of the provisions of
17 this act for which specific penalty or punishment is not otherwise
18 provided, shall pay a penalty of not less than \$50.00 nor more than
19 \$100.00 for the first offense, not less than \$100.00 nor more than
20 \$250.00 for the second offense, and not less than \$250.00 nor more
21 than \$500.00 for each subsequent offense.

22 The Superior Court and municipal court shall have jurisdiction of
23 proceedings for the collection and enforcement of a penalty
24 imposed because of the violation, within the territorial jurisdiction
25 of the court, of any provision of this act. The penalty shall be
26 collected and enforced in a summary proceeding pursuant to **["the**
27 **penalty enforcement law" (N.J.S.2A:58-1 et seq.)]** the "Penalty
28 Enforcement Law of 1999" P.L.1999, c.274 (C.2A:58-10 et seq.).
29 Process shall be either in the nature of a summons or warrant and
30 shall issue in the name of the State, upon the complaint of the
31 superintendent or any other weights and measures official.

32 (cf: P.L.1991, c.91, s.481)

33

34 8. This act shall take effect on the 180th day following
35 enactment.

36

37

38

39

40 _____
41 Requires building materials dealer to provide uniquely identified
delivery ticket to consumer.

ASSEMBLY, No. 1144

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Co-Sponsored by:

Assemblyman Diegnan

SYNOPSIS

Requires building materials dealer to provide uniquely identified delivery ticket to consumer.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 9/25/2012)

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13 and used in connection with the construction, fabrication and
14 erection of residential, utility or business premises.

15 "Consumer" means any person who purchases building materials
16 for incorporation into any type of structure.

17 "Dealer" means "equipped dealer" or "unequipped dealer."

18 "Deputy superintendent" means the deputy superintendent of the
19 **[Division]** Office of Weights and Measures in the Division of
20 Consumer Affairs in the Department of Law and Public Safety.

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

25 "Delivery ticket" means any printed or electronic system that
26 provides for: (1) (a) tickets serially numbered and used only in
27 consecutive order or; (b) tickets with a unique identification of each
28 transaction associated with that ticket only if the system of unique
29 identification is established in such a manner that the Office of
30 Weights and Measures may readily determine compliance with
31 section 6 of P.L.1968, c.222 (C.51:4-28); (2) a means of providing
32 the consumer with a copy of the delivery ticket; (3) a means by
33 which the delivery ticket shall be readily available for inspection
34 while materials are in transit and after delivery; and (4) a means of
35 maintaining a copy of the ticket for a period of two years from the
36 date of issuance of the ticket. A record of delivery tickets shall be
37 available for inspection and audit by the Office of Weights and
38 Measures.

39 **["Division" means the State Division of Weights and Measures.]**

40 "Engaging in business," "engage in business" or "engaged in
41 business" shall include any single transaction, act or sale.

42 "Equipped dealer" means any person who is regularly engaged
43 in the business of selling or selling and delivering building
44 materials to consumers in this State and who maintains unloading or
45 loading, storage, transportation, communication, sales, services or

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

Matter underlined thus is new matter.

1 other facilities therefor, with an office accessible to the public with
2 a competent person on duty, commensurate with the nature and
3 other requirements of the business and an "unequipped dealer"
4 means any person who is regularly engaged in the business of
5 selling building materials at retail in this State to consumers in this
6 State who does not maintain loading, unloading or storage facilities.

7 "Labeling" means all labels and other written, printed, branded,
8 or graphic matter upon any building materials or accompanying
9 such building materials.

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

13 "Office" means the Office of Weights and Measures in the
14 Division of Consumer Affairs in the Department of Law and Public
15 Safety.

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

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20 labeling is misleading, deceiving, or tends to be misleading or
21 deceiving in any particular, and there shall also be taken into
22 account, among other things, not only the representations made or
23 suggested by any statement, word, design, or any combination
24 thereof, but also the extent to which such labeling fails to reveal
25 facts material in the light of such representations or material with
26 respect to consequences which may result from the use of such
27 building materials, to which such labeling relates under the
28 conditions of use prescribed in the labeling thereof or under such
29 conditions of use as are customary or usual.

30 "Misrepresentation" means any manifestation by words or other
31 conduct by one person to another that, under the circumstances,
32 amounts to an assertion not in accordance with the facts.

33 "Offered for sale" or "exposed for sale" shall be construed to
34 include the use of any advertising media or means.

35 "Person" includes corporation, companies, association, societies,
36 firms, partnerships and joint stock companies as well as individuals.

37 "Superintendent" means the Superintendent of the **[Division]**
38 Office of Weights and Measures.

39 "Vehicle" means any motor vehicle or motor-drawn vehicle
40 under the control of a dealer in or upon which the products involved
41 are loaded.

42 "Weights and measures officials" means a State or local weights
43 and measures official.

44 (cf: P.L.1968, c.222, s.1)

45

46 2. Section 3 of P.L.1968, c.222 (C.51:4-25) is amended to read
47 as follows:

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4

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

6 (cf: P.L.1968, c.222, s.3)

7

8 3. Section 4 of P.L.1968, c.222 (C.51:4-26) is amended to read
9 as follows:

10 4. Applications for a license shall be made upon forms
11 prescribed and furnished by the superintendent and shall list the
12 places of business of the dealer. The fee for a dealer's license shall
13 be \$100. Such license shall expire one year after date of issuance.
14 Renewal notices shall be issued to licensees at least 30 days prior to
15 the expiration of the license.

16 (cf: P.L.1994, c.60, s.13)

17

18 4. Section 6 of P.L.1968, c.222 (C.51:4-28) is amended to read
19 as follows:

20 6. No dealer shall deliver or cause to be delivered by vehicles
21 under his own control or the control of any contractor or other
22 carrier any building materials without each delivery being
23 accompanied by a delivery ticket **[and duplicate thereof]**. Each
24 **[such] delivery ticket shall be [serially numbered and used only in**
25 **consecutive order] serially numbered and used only in consecutive**
26 **order or uniquely identified.** On such tickets there shall be
27 distinctly and indelibly expressed in ink or otherwise, the quantity,
28 species, quality, or grade, name and type of each such building
29 materials, trademark, name and address of the seller, the name and
30 address of the purchaser and the date of delivery. One ticket shall
31 be retained at the point of sale or place from which delivery
32 commences; and the **[second ticket] duplicate** shall be delivered to
33 the person receiving such building materials or his representative.

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

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

47 (cf: P.L.1968, c. 222, s.6)

1 5. Section 10 of P.L.1968, c.222 (C.51:4-32) is amended to
2 read as follows:

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

6 (a) Inspect and measure any building materials while in transit
7 from the dealer to the consumer in vehicles owned, leased or rented
8 by the dealer, after the same have been delivered to the consumer
9 or after they have been incorporated in the building or structure in
10 which they have become a part. They shall also have full power and
11 authority to inspect the delivery **【slips】** tickets issued with any
12 shipment and all records of the person, firm or corporation selling
13 or selling and delivering such building materials in connection with
14 the building materials so delivered.

15 (b) Issue stop-use, stop-removal, removal, condemnation,
16 confiscation orders with reference to building materials, which he
17 finds being used, sold, offered, exposed for sale, kept or in the
18 process of delivery by a dealer in vehicles owned, leased or rented
19 by him in violation of any of the provisions of this act or any rule,
20 regulation, or order promulgated by the superintendent. Any such
21 order **【must】** shall be supported by legal processes, as provided in
22 section 15 of P.L.1968, c.222 (C.51:4-37), by the superintendent
23 within 30 days.

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

33 (P.L.1968, c.222, s.10)

34

35 6. Section 11 of P.L.1968, c.222 (C.51:4-33) is amended to
36 read as follows:

37 11. In the event that the superintendent or any of his agents**【,**
38 **servants】** or employees or any weights and measures officials issue
39 any stop-use, stop-removal, removal, condemnation, or confiscating
40 orders with reference to building materials found being used, sold,
41 offered, exposed for sale, kept or in the process of delivery by a
42 dealer in vehicles owned or leased or rented by him in violation of
43 any of the provisions of this act or any rule, regulation, or order
44 promulgated by the superintendent then in that event the dealer
45 shall be responsible as provided for in **【paragraph】** section 15 of
46 **【the act】** P.L.1968, c.222 (C.51:4-37). The consumer shall not be
47 primarily liable for any violation of any of the provisions of this act

1 committed by the dealer nor shall the consumer be liable as a
2 guarantor or surety for any violation of any provisions committed
3 by the dealer nor shall the consumer be deemed to warrant any
4 action or actions exercised by the dealer which actions are in
5 violation of any of the provisions of this act.

6 (cf: P.L.1968, c.222, s.11)

7

8 7. Section 16 of P.L.1968, c.222 (C.51:4-38) is amended to
9 read as follows:

10 16. Any person who knowingly violates any of the provisions of
11 this act for which specific penalty or punishment is not otherwise
12 provided, shall pay a penalty of not less than \$50.00 nor more than
13 \$100.00 for the first offense, not less than \$100.00 nor more than
14 \$250.00 for the second offense, and not less than \$250.00 nor more
15 than \$500.00 for each subsequent offense.

16 The Superior Court and municipal court shall have jurisdiction of
17 proceedings for the collection and enforcement of a penalty
18 imposed because of the violation, within the territorial jurisdiction
19 of the court, of any provision of this act. The penalty shall be
20 collected and enforced in a summary proceeding pursuant to ["the
21 penalty enforcement law" (N.J.S.2A:58-1 et seq.)] the "Penalty
22 Enforcement Law of 1999" P.L.1999, c.274 (C.2A:58-10 et seq.).
23 Process shall be either in the nature of a summons or warrant and
24 shall issue in the name of the State, upon the complaint of the
25 superintendent or any other weights and measures official.

26 (cf: P.L.1991, c.91, s.481)

27

28 8. This act shall take effect on the 180th day following
29 enactment.

30

31

32

STATEMENT

33

34 This bill provides that a dealer of building materials must deliver
35 a uniquely identified delivery ticket with those building materials.
36 The bill defines "delivery ticket" as any printed or electronic system
37 that provides for:

- 38 • tickets which are serially numbered and only used in
39 consecutive order or a unique identification of each
40 transaction associated with that ticket;
- 41 • a means of providing the consumer with a copy of the
42 delivery ticket;
- 43 • a means by which the ticket is readily available for
44 inspection when materials are in transit and after delivery;
45 and
- 46 • a means of maintaining a copy of the ticket for a period of
47 two years from the date of issuance of the ticket.

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7

1 In addition, the bill requires a renewal notice for a licensed
2 dealer to be issued to that dealer at least 30 days prior to the
3 expiration of the license.

4 The bill also updates the current law to reflect that the former
5 State Division of Weights and Measures is now the Office of
6 Weights and Measures within the Division of Consumer Affairs in
7 the Department of Law and Public Safety.

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1144

STATE OF NEW JERSEY

DATED: SEPTEMBER 24, 2012

The Assembly Consumer Affairs Committee reports favorably Assembly Bill No. 1144.

This bill clarifies the requirements for the delivery tickets which must accompany the delivered building materials. Under current law, dealers of building materials must provide a delivery ticket with each order of building materials. These delivery tickets must be serially numbered, only used in consecutive order, and contain the details of each order. For each order, one tickets must be retained at the point of sale, or where the delivery commences, and a second ticket with the same information must be delivered to the person receiving the building materials.

This bill slightly changes these requirements by defining "delivery ticket "as any printed or electronic system that provides for:

- tickets which are serially numbered and only used in consecutive order or a unique identification of each transaction associated with that ticket;
- a means of providing the consumer with a copy of the delivery ticket;
- a means by which the ticket is readily available for inspection when materials are in transit and after delivery; and
- a means of maintaining a copy of the ticket for a period of two years from the date of issuance of the ticket.

In addition, the bill requires a renewal notice for a licensed dealer to be issued to that dealer at least 30 days prior to the expiration of the license.

The bill also updates the current law to reflect that the former State Division of Weights and Measures is now the Office of Weights and Measures within the Division of Consumer Affairs in the Department of Law and Public Safety.

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE COMMERCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1144

STATE OF NEW JERSEY

DATED: DECEMBER 12, 2013

The Senate Commerce Committee reports favorably Assembly Bill No. 1144.

This bill clarifies the requirements for the delivery tickets which must accompany delivered building materials. Under current law, dealers of building materials must provide a delivery ticket with each order of building materials. These delivery tickets must be serially numbered, only used in consecutive order, and contain the details of each order. For each order, one ticket must be retained at the point of sale, or where the delivery commences, and a second ticket with the same information must be delivered to the person receiving the building materials.

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SENATE, No. 2731

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED APRIL 29, 2013

Sponsored by:

Senator JIM WHELAN

District 2 (Atlantic)

Senator JAMES BEACH

District 6 (Burlington and Camden)

SYNOPSIS

Requires building materials dealer to provide uniquely identified delivery ticket to consumer.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/21/2013)

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2

1 AN ACT concerning the delivery of building materials and
2 amending P.L.1968, c.222.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1968, c.222 (C.51:4-23) is amended to read
8 as follows:

9 1. As used in this act:

10 "Building materials" means lumber, wood and wood product
11 materials regulated by the Superintendent of the Office of Weights
12 and Measures pursuant to section 5 of P.L.1968, c.222 (C.51:4-27)
13 and used in connection with the construction, fabrication and
14 erection of residential, utility or business premises.

15 "Consumer" means any person who purchases building materials
16 for incorporation into any type of structure.

17 "Dealer" means "equipped dealer" or "unequipped dealer."

18 "Deputy superintendent" means the deputy superintendent of the
19 **[Division]** Office of Weights and Measures in the Division of
20 Consumer Affairs in the Department of Law and Public Safety.

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

25 "Delivery ticket" means any printed or electronic system that
26 provides for: (1) (a) tickets serially numbered and used only in
27 consecutive order or; (b) tickets with a unique identification of each
28 transaction associated with that ticket only if the system of unique
29 identification is established in such a manner that the Office of
30 Weights and Measures may readily determine compliance with
31 section 6 of P.L.1968, c.222 (C.51:4-28); (2) a means of providing
32 the consumer with a copy of the delivery ticket; (3) a means by
33 which the delivery ticket shall be readily available for inspection
34 while materials are in transit and after delivery; and (4) a means of
35 maintaining a copy of the ticket for a period of two years from the
36 date of issuance of the ticket. A record of delivery tickets shall be
37 available for inspection and audit by the Office of Weights and
38 Measures.

39 **["Division" means the State Division of Weights and Measures.]**

40 "Engaging in business," "engage in business" or "engaged in
41 business" shall include any single transaction, act or sale.

42 "Equipped dealer" means any person who is regularly engaged
43 in the business of selling or selling and delivering building
44 materials to consumers in this State and who maintains unloading or
45 loading, storage, transportation, communication, sales, services or

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

Matter underlined thus is new matter.

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1 other facilities therefor, with an office accessible to the public with
2 a competent person on duty, commensurate with the nature and
3 other requirements of the business and an "unequipped dealer"
4 means any person who is regularly engaged in the business of
5 selling building materials at retail in this State to consumers in this
6 State who does not maintain loading, unloading or storage facilities.

7 "Labeling" means all labels and other written, printed, branded,
8 or graphic matter upon any building materials or accompanying
9 such building materials.

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

13 "Office" means the Office of Weights and Measures in the
14 Division of Consumer Affairs in the Department of Law and Public
15 Safety.

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

19 "Mislabeled" or "misbranded" shall be deemed to mean the
20 labeling is misleading, deceiving, or tends to be misleading or
21 deceiving in any particular, and there shall also be taken into
22 account, among other things, not only the representations made or
23 suggested by any statement, word, design, or any combination
24 thereof, but also the extent to which such labeling fails to reveal
25 facts material in the light of such representations or material with
26 respect to consequences which may result from the use of such
27 building materials, to which such labeling relates under the
28 conditions of use prescribed in the labeling thereof or under such
29 conditions of use as are customary or usual.

30 "Misrepresentation" means any manifestation by words or other
31 conduct by one person to another that, under the circumstances,
32 amounts to an assertion not in accordance with the facts.

33 "Offered for sale" or "exposed for sale" shall be construed to
34 include the use of any advertising media or means.

35 "Person" includes corporation, companies, association, societies,
36 firms, partnerships and joint stock companies as well as individuals.

37 "Superintendent" means the Superintendent of the **[Division]**
38 Office of Weights and Measures.

39 "Vehicle" means any motor vehicle or motor-drawn vehicle
40 under the control of a dealer in or upon which the products involved
41 are loaded.

42 "Weights and measures officials" means a State or local weights
43 and measures official.

44 (cf: P.L.1968, c.222, s.1)

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46 2. Section 3 of P.L.1968, c.222 (C.51:4-25) is amended to read
47 as follows:

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

6 (cf: P.L.1968, c.222, s.3)

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8 3. Section 4 of P.L.1968, c.222 (C.51:4-26) is amended to read
9 as follows:

10 4. Applications for a license shall be made upon forms
11 prescribed and furnished by the superintendent and shall list the
12 places of business of the dealer. The fee for a dealer's license shall
13 be \$100. Such license shall expire one year after date of issuance.
14 Renewal notices shall be issued to licensees at least 30 days prior to
15 the expiration of the license.

16 (cf: P.L.1994, c.60, s.13)

17

18 4. Section 6 of P.L.1968, c.222 (C.51:4-28) is amended to read
19 as follows:

20 6. No dealer shall deliver or cause to be delivered by vehicles
21 under his own control or the control of any contractor or other
22 carrier any building materials without each delivery being
23 accompanied by a delivery ticket **【and duplicate thereof】**. Each
24 **【such】** delivery ticket shall be serially numbered and used only in
25 consecutive order or uniquely identified. On such tickets there
26 shall be distinctly and indelibly expressed in ink or otherwise, the
27 quantity, species, quality, or grade, name and type of each such
28 building materials, trademark, name and address of the seller, the
29 name and address of the purchaser and the date of delivery. One
30 ticket shall be retained at the point of sale or place from which
31 delivery commences; and the **【second ticket】** duplicate shall be
32 delivered to the person receiving such building materials or his
33 representative.

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

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

47 (cf: P.L.1968, c.222, s.6)

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1 5. Section 10 of P.L.1968, c.222 (C.51:4-32) is amended to
2 read as follows:

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

6 (a) Inspect and measure any building materials while in transit
7 from the dealer to the consumer in vehicles owned, leased or rented
8 by the dealer, after the same have been delivered to the consumer
9 or after they have been incorporated in the building or structure in
10 which they have become a part. They shall also have full power and
11 authority to inspect the delivery **【slips】** tickets issued with any
12 shipment and all records of the person, firm or corporation selling
13 or selling and delivering such building materials in connection with
14 the building materials so delivered.

15 (b) Issue stop-use, stop-removal, removal, condemnation,
16 confiscation orders with reference to building materials, which he
17 finds being used, sold, offered, exposed for sale, kept or in the
18 process of delivery by a dealer in vehicles owned, leased or rented
19 by him in violation of any of the provisions of this act or any rule,
20 regulation, or order promulgated by the superintendent. Any such
21 order **【must】** shall be supported by legal processes, as provided in
22 section 15 of P.L.1968, c.222 (C.51:4-37), by the superintendent
23 within 30 days.

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

33 (cf: P.L.1968, c.222, s.10)

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35 6. Section 11 of P.L.1968, c.222 (C.51:4-33) is amended to
36 read as follows:

37 11. In the event that the superintendent or any of his agents**【,**
38 **servants】** or employees or any weights and measures officials issue
39 any stop-use, stop-removal, removal, condemnation, or confiscating
40 orders with reference to building materials found being used, sold,
41 offered, exposed for sale, kept or in the process of delivery by a
42 dealer in vehicles owned or leased or rented by him in violation of
43 any of the provisions of this act or any rule, regulation, or order
44 promulgated by the superintendent then in that event the dealer
45 shall be responsible as provided for in **【paragraph】** section 15 of
46 **【the act】** P.L.1968, c.222 (C.51:4-37). The consumer shall not be
47 primarily liable for any violation of any of the provisions of this act

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1 committed by the dealer nor shall the consumer be liable as a
2 guarantor or surety for any violation of any provisions committed
3 by the dealer nor shall the consumer be deemed to warrant any
4 action or actions exercised by the dealer which actions are in
5 violation of any of the provisions of this act.

6 (cf: P.L.1968, c.222, s.11)

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8 7. Section 16 of P.L.1968, c.222 (C.51:4-38) is amended to
9 read as follows:

10 16. Any person who knowingly violates any of the provisions of
11 this act for which specific penalty or punishment is not otherwise
12 provided, shall pay a penalty of not less than \$50.00 nor more than
13 \$100.00 for the first offense, not less than \$100.00 nor more than
14 \$250.00 for the second offense, and not less than \$250.00 nor more
15 than \$500.00 for each subsequent offense.

16 The Superior Court and municipal court shall have jurisdiction of
17 proceedings for the collection and enforcement of a penalty
18 imposed because of the violation, within the territorial jurisdiction
19 of the court, of any provision of this act. The penalty shall be
20 collected and enforced in a summary proceeding pursuant to ["the
21 penalty enforcement law" (N.J.S.2A:58-1 et seq.)] the "Penalty
22 Enforcement Law of 1999" P.L.1999, c.274 (C.2A:58-10 et seq.).
23 Process shall be either in the nature of a summons or warrant and
24 shall issue in the name of the State, upon the complaint of the
25 superintendent or any other weights and measures official.

26 (cf: P.L.1991, c.91, s.481)

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28 8. This act shall take effect on the 180th day following
29 enactment.

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STATEMENT

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34 This bill clarifies the requirements for the delivery tickets which
35 must accompany the delivered building materials. Under current
36 law, dealers of building materials must provide a delivery ticket
37 with each order of building materials. These delivery tickets must
38 be serially numbered, only used in consecutive order, and contain
39 the details of each order. For each order, one tickets must be
40 retained at the point of sale, or where the delivery commences, and
41 a second ticket with the same information must be delivered to the
42 person receiving the building materials.

43 This bill slightly changes these requirements by defining
44 "delivery ticket "as any printed or electronic system that provides
45 for:

- 46 • tickets which are serially numbered and only used in
47 consecutive order or a unique identification of each
48 transaction associated with that ticket;

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- 1 • a means of providing the consumer with a copy of the
- 2 delivery ticket;
- 3 • a means by which the ticket is readily available for
- 4 inspection when materials are in transit and after delivery;
- 5 and
- 6 • a means of maintaining a copy of the ticket for a period of
- 7 two years from the date of issuance of the ticket.

8 In addition, the bill requires a renewal notice for a licensed
9 dealer to be issued to that dealer at least 30 days prior to the
10 expiration of the license.

11 The bill also updates the current law to reflect that the former
12 State Division of Weights and Measures is now the Office of
13 Weights and Measures within the Division of Consumer Affairs in
14 the Department of Law and Public Safety.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2731

STATE OF NEW JERSEY

DATED: DECEMBER 12, 2013

The Senate Commerce Committee reports favorably Senate Bill No. 2731.

This bill clarifies the requirements for the delivery tickets which must accompany delivered building materials. Under current law, dealers of building materials must provide a delivery ticket with each order of building materials. These delivery tickets must be serially numbered, only used in consecutive order, and contain the details of each order. For each order, one ticket must be retained at the point of sale, or where the delivery commences, and a second ticket with the same information must be delivered to the person receiving the building materials.

This bill slightly changes these requirements by defining "delivery ticket" as any printed or electronic system that provides for:

- tickets which are serially numbered and only used in consecutive order or a unique identification of each transaction associated with that ticket;
- a means of providing the consumer with a copy of the delivery ticket;
- a means by which the ticket is readily available for inspection when materials are in transit and after delivery; and
- a means of maintaining a copy of the ticket for a period of two years from the date of issuance of the ticket.

In addition, the bill requires a renewal notice for a licensed dealer to be issued to that dealer at least 30 days prior to the expiration of the license.

The bill also updates the current law to reflect that the former State Division of Weights and Measures is now the Office of Weights and Measures within the Division of Consumer Affairs in the Department of Law and Public Safety.