



PENNSYLVANIA FOREST PRODUCTS ASSOCIATION

301 Chestnut Street, Suite 102, Harrisburg PA, 17101

Ph: 717-901-0420 800-232-4562

Fax: 717-901-0360

Email: pfpa@paforestproducts.org

Web: paforestproducts.org

**Statement by
Paul Lyskava, Executive Director
Pennsylvania Forest Products Association
on HB 2133, pn 3037
Before the House Transportation Committee
September 26, 2008**

Chairman Markosek and members of the Committee, Good Afternoon. My name is Paul Lyskava and I am Executive Director of the Pennsylvania Forest Products Association (PFPA). PFPA is a trade association which is located in Harrisburg, Pennsylvania and we represent the various sectors of the state's timber, lumber, wood products and paper industry.

Pennsylvania is the nation's leading producer of hardwood lumber. In normal economic times, Pennsylvania's forest products industry includes some 2,400 companies, which employ more than 80,000 Pennsylvanians and account to about one of every nine of the state's manufacturing employees. Unfortunately for many of us in the forest products industry, these are not normal economic times.

Thank you for the opportunity to comment on the provisions of HB 2133.

PFPA *does not* oppose a reasonable revision of the bond schedule for posted roads. It has been more than a decade since the bond schedule has been revised and it is hard to argue that a reasonable increase in the bond amounts would be inappropriate. Furthermore, we support giving this responsibility to the Department, as provided in HB 2133.

PFPA does, however, oppose the other major provision of HB 2133, which is the rebuttable presumption in favor of the municipality. Such a provision will place significantly unfair and costly burdens on loggers and sawmills, farmers, and other small, family-owned businesses.

Under this provision of the bill, and to properly protect its interests, the user of the road would need to establish the evidence and proof regarding issues such as joint use, impacts of

normal use, nonperformance of normal maintenance by the municipality, and impacts from snow or ice removal.

The vast majority of logging companies in this state employ less than five employees. Two-thirds of the sawmill establishments in the state employ less than twenty employees. These establishments do not have the human or financial resources at their disposal to defend themselves against the presumption that they are the primary cause of damage to every posted road that they run.

Furthermore, the rebuttable presumption provision in HB 2133 opens the opportunity for inadvertent or premeditated abuse by local governments. For example, a township could try and “double-dip” joint users of a road - billing each for full cost of excess maintenance, knowing that a smaller company might not have the resources to prove otherwise.

There has been a long history of conflict among municipalities and timber harvesters, with much of it centered on the implementation of road posting and bonding. Luckily, our association and the Pennsylvania State Association of Township Supervisors (PSATS) have had a pretty good relationship and have worked together on many of these issues of conflict. In addition to working on legislation, we have jointly partnered with the Pennsylvania Department of Agriculture’s Hardwoods Development Council, the Department of Conservation and Natural Resources and Penn State to address road posting and bonding and other forestry issues in outreach and educational materials developed specifically for local government officials.

A few years ago, the Joint Conservation Committee’s Forestry Task Force examined the impact that inconsistencies in the local implementation of road posting and bonding were having on forest product companies and other small manufacturers. As a result of this review, the Task Force recommended a number of amendments to the Title 75 Motor Vehicle Code that better standardize road posting and bonding actions and enforcement by municipalities. Many of these recommendations were enacted as part of Act 33 of 2001, which was supported by PFPA and other groups, with the consent of PSATS.

Among its provisions, Act 33 clarified the requirements for engineering or traffic study and the need for a reasonable alternative route for posted roads and bridges. It also imposed upon local authorities, the burden and responsibility to properly adhere to the requirements of Title 75, Chapter 49 and related Department regulations, and established penalties for municipalities who failed to comply.

Act 33 has generally worked well. Our office still regularly receives a few inquiries from industry regarding the improper implementation of road posting and bonding rules by a municipality. Often, these issues can be addressed by educating the offending municipal official on the provisions of Title 75 and the regulations in Chapter 189.

Unfortunately, there are still instances where township officials seemingly know they are acting contrary to state law and regulation. They seem to risk penalty because of the likelihood that an individual or small company will either not know the law or not make the effort to gain relief in court.

HB 2133, with its rebuttable presumption provision, would essentially reverse much of the intent of Act 33 and the protections it provides to small haulers. It would dramatically tilt the balance of power in favor of the municipality.

In conclusion, I want to recognize and comment on the Marcellus Shale, which has the potential to pump tens of millions of dollars of investment into Pennsylvania's rural communities. Certainly the Commonwealth has the responsibility to ensure that the development of this natural gas resource is done in such a way that protects our natural resources. It is also understandable that both the state and local governments naturally would seek access to a share of the millions being invested to help offset the additional utilization of services and infrastructure.

That given, I would urge the members of the General Assembly to recognize that much of the future legislation and regulation addressing issues related the Marcellus Shale will have impacts beyond the gas industry. They will impact loggers, sawmills, farmers and other small, family-owned businesses located in your community. We're not all from Texas and we don't all have deep pockets.

I believe that HB 2133 is an instance which proves this point.

The state's hardwoods industry is experiencing tough times. The housing market, the current banking and financial crisis, the loss of furniture manufacturing to Asia, and even a shift in consumer taste have put our hardwood industry in its worst economic downturn in more than two decades. Sawmills are in their third straight year of declining demand and lower prices for hardwood lumber. At the same time, energy, transportation and insurance have driven up the operational costs for the material they can sell. Each day, we see more owners of logging

companies and small sawmills get out of the business – and with it comes the loss of good paying manufacturing jobs in this state.

Enactment of HB 2133 in its current form would result in the loss of more logging and sawmill jobs in the state. It would have other impacts as well. Forest landowners will see declining value for their timber. A further restrained log and lumber markets will impact the costs and competitiveness of the state's cabinet, millwork and paper producers who are also a substantial source of jobs in the state. And the scarcity of loggers will make it more difficult for the state to develop cellulosic ethanol and other biomass energy opportunities.

I again thank the Committee to the opportunity to comment on the bill.