



Maine Forest Products Council

The voice of Maine's forest economy

Testimony in Opposition to LD 1815

“An Act to Protect Maine’s Consumers by Establishing an Abuse of Dominance Right of Action and Requiring Notification of Mergers”

Tuesday, January 9, 2024
Patrick Strauch, Executive Director

Good afternoon, Senator Curry, Representative Roberts and members of the Committee on Innovation, Development, Economic Advancement and Business. I’m Patrick Strauch, the Executive Director of the Maine Forest Products Council. The Maine Forest Products Council is an organization representing more than 300 members from all facets of the forest products industry from the stump to the mill.

I am submitting testimony today in opposition to LD 1815, “An Act to Protect Maine’s Consumers by Establishing an Abuse of Dominance Right of Action and Requiring Notification of Mergers” because the Council views this bill as a threat to Maine businesses, both large and small.

This bill, which is part of a national push that has so far been unsuccessful, would drastically change our antitrust laws, which are based on the federal law that has served consumers well. In doing so, LD 1815 would expose Maine businesses to litigation by allowing a plaintiff to bring an action against any person with a dominant position in the conduct of any trade, business or commerce, in any labor market or in any furnishing of a service in this state that abuses that dominant position.

A dominant position is presumed if a person has a share of 60% or more of a relevant market as a seller, or 50% or more of a relevant market as a buyer. How the size of a relevant labor market is determined is undefined, meaning this law could apply at the town level, county level, regionally or statewide, depending on the rulemaking process.

Dominance is so undefined, nearly anyone could bring action against nearly any business. Under this bill, "fair trade" is prioritized over "free trade", a significant policy shift that would benefit neither consumers nor businesses.

What could this mean for our industry? Here are a few examples:

- If a landowner owns 60% or more of a township and they sell wood, they could be considered to have a dominant position, leaving them open for lawsuits.

Companies represented on the MFPC Board

A & A Brochu Logging
American Forest Mgmt.
Baskahegan Co.
BBC Land, LLC
Columbia Forest Prod.
Cross Insurance
Family Forestry
Farm Credit East
Fontaine Inc.
H.C. Haynes
Huber Resources
INRS
J.D. Irving
Katahdin Forest Mgmt.
Key Bank
Kennebec Lumber
LandVest Inc.
Louisiana Pacific
Maibec Logging
ND Paper
Nicols Brothers
Pingree Associates
Prentiss & Carlisle
ReEnergy
Richard Wing & Son
Robbins Lumber
Sappi North America
Southern Maine Forestry
Stead Timberlands
St. Croix Tissue
St. Croix Chipping
TD Bank
Timber Resource Group
Timberstate G.
Wadsworth Woodlands
Wagner Forest Mgt.
Weyerhaeuser
Woodland Pulp

- If a mill purchases more than 50% of the wood supply in an undefined "relevant market", it would be considered to have a dominant position, leaving the facility open for lawsuits.
- It would also be problematic for the logging community where we have large contractors and sole proprietors conducting business in Maine's woods.

These examples (and more) would cause a substantial increase in lawsuits, requiring costly legal defenses, for standard practices that are in-line with the way we do business in the United States. Maine would be an outlier if we pass LD 1815.

When it comes down to it, our antitrust laws are well established, and have protected consumers adequately for more than 100 years and our industry follows these laws carefully. LD 1815 is a solution in search of a problem, and it would create chaos for our members, and for all businesses that operate in our state.

For these reasons, please vote **'Ought not to pass'** on LD 1815. I would be happy to answer any questions that you may have.