

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1726

S.P. 575

In Senate, May 14, 2019

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### **An Act To Penalize Violators of Wood Shipment and Quarantine Laws**

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Submitted by the Department of Agriculture, Conservation and Forestry pursuant to Joint Rule 204.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator BLACK of Franklin.  
Cosponsored by Representative HICKMAN of Winthrop.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 12 MRSA §8307** is enacted to read:

3 **§8307. Penalties**

4 **1. Civil violation.** A person who violates a rule adopted pursuant to sections 8305  
5 and 8306, or a condition or term of a permit, variance or decision issued by the director or  
6 the Commissioner of Agriculture, Conservation and Forestry in accordance with rules  
7 adopted pursuant to sections 8305 and 8306, commits a civil violation.

8 **2. Penalty.** Except as provided in subsection 3, the following penalties apply to  
9 violations of this section.

10 **A.** A person who violates this section commits a civil violation for which a fine of  
11 not less than \$100 and not more than \$1,000 may be adjudged for each day of that  
12 violation.

13 **B.** A person who violates this section after having been adjudicated of a violation of  
14 this section within the previous 5-year period commits a civil violation for which a  
15 fine of not less than \$1,000 and not more than \$2,000 may be adjudged for each day  
16 of that violation.

17 **3. Economic benefit.** If the economic benefit resulting from a violation under  
18 subsection 1 exceeds the applicable penalties under subsection 2, the maximum fines may  
19 be increased. The maximum fine may not exceed an amount equal to twice the economic  
20 benefit resulting from the violation. The bureau shall consider as economic benefit,  
21 without limitation, the costs avoided or the enhanced value accrued at the time of the  
22 violation by the violator as a result of not complying with the applicable legal  
23 requirements.

24 **4. Costs permitted.** In any action or proceeding brought by the Attorney General  
25 under this section, the court may award litigation costs, including court costs, reasonable  
26 attorney's fees and reasonable expert witness fees, to be deposited in the General Fund if  
27 the State or any of its officers or agencies is a prevailing party in the action or proceeding  
28 and the defendant's defense was not substantially justified. For the purposes of this  
29 subsection, a defense is substantially justified if the defense had a reasonable basis in law  
30 or fact at the time it was raised.

31 **SUMMARY**

32 This bill provides for penalties for violation of Department of Agriculture,  
33 Conservation and Forestry, Bureau of Forestry rules governing plant or wood products  
34 that may cause the introduction or spread of a dangerous forest insect or disease and rules  
35 governing the quarantine of forest or shade trees or part of a forest or shade tree capable  
36 of supporting a disease or insect infestation.

37 The bill sets fines at \$100 to \$1,000 for each day of a violation and from \$1,000 to  
38 \$2,000 for each day of a violation by a violator that violated the rules within the previous

1 5-year period. It allows maximum fines to be increased to account for economic benefit  
2 and provides for the award of litigation costs in any action or proceeding brought by the  
3 Attorney General.