

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

No. 417

H.P. 271

House of Representatives, February 4, 2025

**An Act Regarding the Confidentiality of Certain Records Belonging
to the Department of Agriculture, Conservation and Forestry
Related to the Bureau of Forestry**

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

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative POIRIER of Skowhegan.
Cosponsored by Representatives: BOYER of Poland, CARUSO of Caratunk, DUCHARME of
Madison, HENDERSON of Rumford, LEE of Auburn, OSHER of Orono, Senators: HAGGAN
of Penobscot, TALBOT ROSS of Cumberland.

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

2 **Sec. 1. 12 MRSA §8007** is enacted to read:

3 **§8007. Confidentiality of complaints and investigative records**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Commissioner" means the Commissioner of Agriculture, Conservation and
7 Forestry.

8 B. "Conclusion of an investigation" means that an investigation has been closed or one
9 of the following events has occurred with respect to the investigation:

10 (1) A notice of an adjudicatory hearing under Title 5, chapter 375, subchapter 4
11 has been issued;

12 (2) A consent agreement has been executed; or

13 (3) An enforcement proceeding has been filed in a court of competent jurisdiction.

14 C. "Department" means the Department of Agriculture, Conservation and Forestry.

15 **2. Records obtained during an investigation or through provision of services to**
16 **the public.** Records of the department are confidential if:

17 A. The records are obtained during an investigation of a complaint related to a
18 provision of or suspected violation of this Part; or

19 B. The records are obtained in connection with providing a service to the public
20 consistent with the bureau's duties pursuant to this Part.

21 Records obtained during an investigation of a complaint related to a provision of or
22 suspected violation of this Part become public upon conclusion of an investigation unless
23 the records are otherwise classified as confidential by any other provision of law.

24 **3. Exceptions.** Notwithstanding subsection 2, during the pendency of an investigation,
25 a complaint or investigative record may be disclosed:

26 A. To department employees designated by the commissioner;

27 B. By a department employee or complaint officer designated by the commissioner
28 when and to the extent considered necessary to facilitate the investigation;

29 C. To other state or federal agencies when the records contain evidence of possible
30 violations of laws enforced by those agencies;

31 D. Pursuant to rules adopted by the department, when the commissioner determines
32 that confidentiality is no longer warranted due to general public knowledge of the
33 circumstances surrounding the complaint or investigation and when the investigation
34 would not be prejudiced by the disclosure;

35 E. When and to the extent disclosure is considered necessary by the commissioner to
36 avoid imminent and serious harm. The authority of the commissioner to make a
37 disclosure pursuant to this paragraph may not be delegated; and

38 F. To a person being investigated on that person's request. The commissioner may
39 refuse to disclose part or all of any investigative information, including the fact of an

1 investigation, when the commissioner determines that disclosure would prejudice the
2 investigation. The authority of the commissioner to make such a determination may
3 not be delegated.

4 **4. Attorney General records.** The disclosure of investigative records of the
5 Department of the Attorney General to a department employee designated by the
6 commissioner does not constitute a waiver of the confidentiality of those records for any
7 other purposes. Further disclosure of those investigative records is subject to Title 16,
8 section 804 and the discretion of the Attorney General.

9 **5. Violation.** A person who knowingly or intentionally makes a disclosure of records
10 in violation of this section commits a civil violation for which a fine not to exceed \$1,000
11 may be adjudged.

12 **SUMMARY**

13 This bill establishes provisions governing the confidentiality of records belonging to
14 the Department of Agriculture, Conservation and Forestry associated with investigations
15 of complaints and suspected violations of the Maine Revised Statutes, Title 12, Part 11 and
16 records belonging to the department that are obtained in connection with providing a
17 service to the public in accordance with Part 11. The bill provides certain exceptions to the
18 provisions that require that records associated with an investigation are confidential.

19 The bill provides that the disclosure of any investigative records to the department by
20 the Department of the Attorney General does not constitute a waiver of the confidentiality
21 of those records and that further disclosure of those records by the department is subject to
22 constraints that include the discretion of the Attorney General.

23 The bill also provides that a person who knowingly or intentionally makes a disclosure
24 in violation of these provisions commits a civil violation for which a fine not to exceed
25 \$1,000 may be adjudged.