

# MAINE STATE LEGISLATURE

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November 29, 1965

Austin H. Wilkins, Commissioner

Forestry

Leon V. Walker, Jr., Assistant

Attorney General

**Christmas Tree Law**

You have asked for advice concerning several questions asked by David Faber with regard to the above law.

1. A "Christmas Tree" is defined in the statute as one cut for commercial purposes. "Commercial purposes" refers only to trees cut for transportation and sale, and not to trees cut for personal use or as gifts to friends. Intent to use the trees for commercial purposes will be all but impossible to prove, except perhaps in cases where a large number of trees are being cut or transported, since the law has no provision as to presumption of intent.

2. The Christmas Tree Law does not apply to noncommercial cutters.

3. The law does not apply to noncommercial transporters.

4. Since, as I mentioned above, there is no statutory presumption of intent, the only possibility of obtaining a conviction of the driver in your example would be that, due to the large number of trees involved, the court might disbelieve the driver's story.

5. In this example the person is not in violation of the Christmas Tree Law.

6. Sec. 4452 provides that the Forest Commissioner may, for sufficient cause after notice and hearing, suspend or revoke any registration. There is provision for an appeal. It is the Forest Commissioner who would determine the failure to pay.

7. The only provision in the law for refusal to issue a registration is in the case of a person, firm or corporation, whose registration has been revoked. In example 7 the applicant has never been issued a registration and is entitled to one, even though he has been accused of a prior failure to pay.

Since you may not have a copy of Mr. Faber's memo, I am returning it to you.

Leon V. Walker, Jr.  
Assistant Attorney General

LWVJr:R