

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1396

H. P. 1126

House of Representatives, March 21, 1979

Referred to the Committee on Energy and Natural Resources. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Blodgett of Waldoboro.

Cosponsor: Mr. Hall of Sangerville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Make Substantive Changes in the Forestry Statutes.

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

Sec. 1. 12 MRSA § 501, last ¶, as enacted by PL 1977, c. 360, § 3, is repealed and the following enacted in its place:

The director is authorized, with the consent of the commissioner, to sell, grant, lease, transfer or otherwise convey any real or personal property under the jurisdiction of the bureau. This authority shall not apply to the state nursery or lands acquired under the authority of section 512.

Sec. 2. 12 MRSA § 505, as last amended by PL 1973, c. 460, § 18, is repealed and the following enacted in its place:

§ 505. Establishment of nurseries

1. Establishment; purpose. The director may establish within the State one or more forest nurseries, the maintenance of which shall be paid from an appropriation for that purpose, the object of which is to furnish at cost tree seedlings, transplants and shrub material for use in planting the present and potential forest lands within the State.

2. Surplus. The director is authorized to dispose of surplus materials from the nursery in the most economical manner possible.

3. Resale; penalty. No person shall resell at a profit materials received from the nursery with their roots attached within one year of receipt of the materials.

Any person who violates this prohibition shall be subject to a civil penalty not to exceed 200% of the value received at resale, payable to the State, to be recovered in a civil action.

Sec. 3. 12 MRSA § 519, as last amended by PL 1973, c. 759, is repealed.

Sec. 4. 12 MRSA § 1027, first sentence, as enacted by PL 1975, c. 764, § 3, is amended to read:

The Department of Conservation may make grants ~~of up to \$100,000 a year, in the aggregate~~ upon such terms and conditions as the commissioner deems reasonable out of funds available pursuant to section 1014, subsection 4, for the following purposes:

Sec. 5. 12 MRSA § 1402-A, first ¶, as amended by PL 1973, c. 460, § 18, is further amended to read:

No person shall place any trailer, camper, shelter or tent from May 1st to November 30th at any public campsite maintained or authorized by the bureau and keep such trailer, camper, shelter or tent so located, vacant or occupied, for more than ~~one week~~ 14 days in any 30-day period. Person already having placed a trailer, camper, shelter or tent at such a campsite for more than ~~one week~~ 14 days shall remove any such item and leave at the request of the director or of any fish and game warden.

Sec. 6. 12 MRSA § 1653, as enacted by PL 1965, c. 365, § 3, is repealed and the following enacted in its place:

§ 1653. Partial payment of costs of suppressing forest fires

Any person who shall intentionally or negligently cause a fire which burns forest, brush, grass or other lands or shall intentionally fail to take reasonable action to control a fire on his own land shall be liable civilly up to a maximum of \$2,000 of the suppression costs to the State or municipality which aids in suppressing the fire.

Sec. 7. 25 MRSA § 2436-A is repealed.

Sec. 8. 25 MRSA § 2440, as repealed and replaced by PL 1975, c. 770, § 111, is amended to read:

§ 2440. Penalties; recovery and appropriation

Penalties provided in sections 2431 to ~~2436-A~~ 2436 and section 2439 may be recovered by complaint, indictment or civil action, ½ to the municipality where the offense is committed and ½ to the State.

Sec. 9. 38 MRSA § 599, sub-§ 2, ¶D, as enacted by PL 1973, c. 438, § 8, is amended to read:

D. Open burning for training, research and recreational purposes provided that fires for recreational purposes ~~on a person's own property~~ do not require a permit.

STATEMENT OF FACT

This series of substantive changes in the Maine forestry statutes were compiled during the total review of forestry laws undertaken for the recodification.

The purpose and impact of these changes are as follows.

Section 1: The phrase “and which is determined by the director to be surplus to the needs of the bureau” is removed and the consent of the commissioner is substituted for the consent of the Governor. The “surplus” requirement has hindered the granting of public utility easements over bureau property. Since the bureau no longer has custody of public lands, the “surplus” requirement is not necessary to prevent disposal of these lands. The role of the commissioner is inserted consistent with the commissioner role in other Department of Conservation statutes.

Section 2: The proposed changes will broaden the type of seedlings and transplants available to state agencies as well as private individuals; allow the director to dispose of surplus in the most economical manner; establish a maximum time period before resale of one year; and increase the resale penalty from \$50 to a civil penalty equal to 200% of the value received on the prohibited resale. These changes will, in some cases, conform the law to present practices of the bureau and enable a more efficient operation of the nursery.

Section 3: The regulation of roadside harvesting practices is so complicated by exemptions and subjective judgment that the bureau finds present law unenforceable.

Section 4: The present language restricts research grants for the budworm program totaling more than \$100,000 even though the research account is a carrying account and has built up a surplus. The bureau is not requesting a higher appropriation, but merely requests authority to allocate research funds available in the carrying account in a timely fashion.

Section 5: The normal stay at bureau campsites is 14 days. This change will conform maximum use of a campsite during any 30-day period to normal vacation periods.

Section 6: This change will subject an intentional or negligent action which results in a forest fire to a civil penalty of up to \$2,000 of the suppression costs, a much more likely deterrent than the present \$500 maximum. This change will not effect possible criminal liability.

Section 7, 8 and 9: Present regulation of air pollution outlaws open burning except for certain kinds of burning done with a permit. Recreational camp fires on land of another currently fall into this category. From either a forest fire prevention or air pollution viewpoint, there is little justification for requiring a permit for a recreational fire whether or not it is located on a person's own property. The exception to this rule is the requirement of Title 12, section 1402, for a permit for any out-of-door fire within the Maine Forestry District. The bureau's personnel would be overwhelmed by a strict implementation and enforcement of the present law on a statewide basis as Title 38, section 599, now requires. The bill also deletes a reference to Title 25, section 2436-A, which is being repealed.

Title 25, section 2436-A, specifically allows the burning of "debris" which is outlawed by Title 38, section 599. As the permitting authority under all these open burning regulations, the Bureau of Forestry prefers a resolution of the conflict.