

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 1453**

H. P. 1101

House of Representatives, March 20, 1979

On Motion of Mrs. Post of Owl's Head, referred to the Committee on Taxation.  
Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Brenerman of Portland.

Cosponsor: Mr. Davies of Orono.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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**AN ACT to Establish an Excise Tax on Timber Harvest.**

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

Sec. 1. 12 MRSA § 520-B, last paragraph, last sentence, as enacted by PL 1977, c. 509, § 1, is amended to read:

Such information may be given only on the written request of the duly authorized officer when that officer's government permits the exchange of like information with the taxing officials of this State and when that officer agrees that such information shall be used only for tax collection purposes and for the purposes of timber harvest excise tax, Title 36, section 2717.

Sec. 2. 36 MRSA c. 366 is enacted to read:

**CHAPTER 366**

**TIMBER HARVEST EXCISE TAX**

**§ 2711. Purpose**

**It is declared that:**

1. **Protection of forest land in public interest.** Protection of forest land from premature harvesting or forced conversion to more intensive uses as the result of economic pressures caused by assessment of forest lands for purposes of property taxation at values incompatible with their use as forest land is in the public interest and contributes to the welfare of the inhabitants of the State; and

2. **Encouragement of production of forest products in public interest.** Encouragement of production of forest products for use by Maine citizens and industry, without significantly diminishing the tax revenues available to municipalities is also in the public interest.

The State having foregone immediate revenue to encourage forest management now finds that it is proper to recover that revenue at the time of ability to pay.

The purpose of the Timber Harvest Excise Tax is to recover that revenue for public purposes by levying a tax on the privilege of severing natural resources in Maine.

#### § 2712. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. **Cut.** Timber is deemed "cut" at the time in the ordinary course of business when the quantity of timber harvested is first definitely determined.

**Forest land.** "Forest land" means land used primarily for growth of trees and forest products, but does not include ledge, marsh, open swamp, bog water and similar areas which are unsuitable for growing a forest type as defined in section 573, even though those areas may exist within forest lands. Land which would otherwise be included within this definition shall not be excluded because of multiple use for public recreation.

3. **Forest landowner.** "Forest landowner" means:

A. Any individual, partnership or corporation liable for payment of the real property tax. In cases of divided ownership of land and the timber rights thereon, the owner of the timber rights is the forest landowner for purposes of this chapter; or

B. Any individual, partnership or corporation who purchases stumpage, if that individual, partnership or corporation is related within the meaning of the United States Internal Revenue Code, section 267, to the owner of the land where the timber is harvested.

4. **Person.** "Person" means, without limitation, any individual, partnership or corporation.

5. **Timber.** "Timber" means all forest products having commercial value.

#### § 2713. Administration; regulations

The State Tax Assessor shall have the powers and duties provided in this chapter. He shall adopt and amend such rules and regulations as may be reasonable and appropriate to carry out these responsibilities. He may contract with municipal, State and Federal governments or their agencies to assist in the carrying out of any of his assigned tasks. He is authorized to request such technical assistance from the Bureau of Forestry of the Department of Conservation, as the respective department may be able to provide.

**§ 2714. Applicability**

Owners of all forest land in both the organized and unorganized territories shall be subject to this chapter.

**§ 2715. Excise tax**

1. **Imposition.** The owners of forest land shall be subject to an excise tax levied upon the total number of cords harvested in each tax year.

2. **Rate.** The tax rate in 1980 shall be 50¢ per cord or \$1 per 1,000 board feet.

**§ 2716. Exemptions**

No tax shall be imposed under this chapter upon:

1. **First 500 cords.** The first 500 cords, or equivalent measure of timber harvested in any year by any forest landowner; and

2. **Certain landowner uses.** The harvesting of any timber for the forest landowner's personal fuel, fencing or construction purposes.

**§ 2717. Report of harvest**

The Bureau of Forestry shall forward to the State Tax Assessor the reports of timber harvested submitted pursuant to Title 12, section 520-B.

The State Tax Assessor may accept that report as sufficient evidence of the facts, or may either with or without hearing and notice thereof to the owner, investigate and determine the fact of the quantity of each variety and kind of product cut during the periods preceding the reports.

**§ 2718. Tax levy**

The State Tax Assessor shall assess and levy against each owner an excise tax on the volume of wood cut as determined under section 2715. Upon making that assessment, the State Tax Assessor shall mail a duplicate of the certificate of assessment by registered mail to the owner who made the report of cutting at the owner's last known address. The tax thereby assessed shall become due and payable to the State Tax Assessor on the last day of the next calendar month after the mailing to the owner of that certificate of assessment.

Revenues raised under this chapter shall be remitted to the General Fund. It is the intent of this chapter that an amount equal to the revenues paid into the

General Fund under this chapter shall be appropriated by the Legislature to reimburse municipalities for tax revenues lost by operation of chapter 105, subchapter II-A, the Tree Growth Tax Law.

§ 2719. Liability for taxes

1. Owner personally liable. The owner of the forest land shall be personally liable for any excise tax because of any wood products cut from that land, which tax shall also be a lien on those wood products wherever situated and in whatever form or, if mingled with other products, then on the common mass, until paid, while in the possession of the owner or of any person other than a purchaser for value without notice in the ordinary course of business.

2. Penalty. If any excise tax remains unpaid for 30 days after it becomes due, there shall be added a penalty of 10%, and the tax and penalty shall thereafter draw interest at the rate of 1% per month until paid.

At the expiration of 30 days, the State Tax Assessor shall report to the Attorney General any unpaid excise tax adding that penalty, and the Attorney General shall thereupon proceed to collect the same with interest by suit against the owner and by attachment or other legal means to enforce the lien or by any or all such means.

§ 2720. Appeal

Any person aggrieved by a determination of the State Tax Assessor under this chapter may appeal in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. A person aggrieved hereunder is:

1. Person with certain legal interest. Any person with a legal interest in the land subject to determination; and

2. Municipality in which land located. Any municipality in which the land is subject to determination is located.

§ 2721. Failure to report; supply information; pay tax

Any person required under this chapter and Title 12, section 520-B to file a report of harvest or to pay any tax or supply any information, who intentionally fails to pay that tax, supply that information or make that report, at the time or times required by law or regulation shall, in addition to any other penalties provided by law, be guilty of a Class D crime.

§ 2722. False statements

Any person who makes and subscribes any report of harvest or other document required by law or regulation under this chapter, which contains or is verified by written declaration that it is made under the penalties of perjury, and which is not true and correct as to every material matter; or knowingly aids or procures the preparation or presentation in a matter arising under this chapter of a report or other document which if fraudulent or is false as to any material matter, shall be guilty of a Class D crime.

STATEMENT OF FACT

The State has foregone immediate revenue from forest lands to encourage their wise management. This bill imposes a tax upon the severing of timber in order to recover a portion of that revenue at the time when the landowner's ability to pay is greatest.

It is the intent of this bill that the tax revenues raised by it will go to reimburse municipalities for the revenue loss caused by the Tree Growth Tax Law.