

# MAINE STATE LEGISLATURE

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(EMERGENCY)  
FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 1251**

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H. P. 1005

House of Representatives, March 11, 1981

Speaker laid before the House and on Motion of Representative Hall of Sangerville, referred to the Committee on Appropriations and Financial Affairs. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Davis of Monmouth.

Cosponsor: Representative C. W. Smith of Mars Hill.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

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**AN ACT to Amend the Spruce Budworm Suppression Act.**

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**Emergency Preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the spruce budworm spray project for 1981 must be undertaken, in order to be effective, prior to the expiration of such 90-day period following adjournment; and

Whereas, it is necessary and appropriate to effectuate certain modifications in the manner in which spruce budworm spray projects and management programs are undertaken and financed; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1.** 12 MRSA § 8406, sub-§ 1, as repealed and replaced by PL 1979, c. 737, § 5, is repealed and the following enacted in its place:

**1. Pre-project excise tax.** The pre-project tax for 1981 shall be that amount as is computed in the following manner.

**A.** The ratio of the planned spray acres for each landowner to the total planned spray acres for the 1981 project shall be computed for all landowners controlling 1% or more of the total planned spray acres in the project.

**B.** The ratio computed in paragraph A shall be multiplied by the estimate of total project cost provided in section 8405, subsection 1.

This pre-project excise tax shall be assessed and billed by the State Tax Assessor within 30 days following the effective date of this section.

Sec. 2. 12 MRSA § 8411, sub-§ 11 is enacted to read:

**11. Charge for spraying services.** The director shall charge the post-project spray tax for all acres treated on lands owned by any government or any agency, bureau or commission thereof.

Sec. 3. 12 MRSA § 8423, as enacted by PL 1979, c. 737, § 12, is repealed.

Sec. 4. 12 MRSA § 8423-A is enacted to read:

#### § 8423-A. Definitions

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

**1. Commissioner.** "Commissioner" means the Commissioner of Conservation.

**2. Designated spray area.** "Designated spray area" means that land area within the district designated by the director, pursuant to section 8424, subsection 4, for inclusion within a spray project.

**3. Director.** "Director" means the Director of the Bureau of Forestry.

**4. District.** "District" means the Spruce Fir Forest Protection District established by section 8423-B.

**5. Forest landowners.** "Forest landowners" means persons who own forest lands within the district, including, without limitation, persons owning or claiming timber and grass rights in public reserved land located within the district.

**6. Hardwood.** "Hardwood" means forest land on which maple, beech, birch, oak, elm, basswood, poplar and ash, singly or in combination, comprise 75% or more of the stocking.

**7. Management program.** "Management program" means all activities undertaken by the Bureau of Forestry in connection with the short-term and long-term suppression, control and prevention of spruce budworm infestations, including, without limitation, any activities undertaken in connection with spray

projects, spruce budworm survey and detection activities, silvicultural, marketing and integrated pest management programs, research and related activities.

8. **Mixed wood.** “Mixed wood” means forest land on which neither hardwood nor softwood comprise 75% of the stand but are a combination of both.

9. **Person.** “Person” means any individual, partnership, joint venture, corporation or other legal entity, or any group of persons which acts as tenancy in common or joint tenancy for ownership purposes and includes any government or any agency, bureau or commission thereof.

10. **Rebate.** “Rebate” means a payment by the State back to a person subject to taxation pursuant to this subchapter.

11. **Rule.** “Rule” means a duly-adopted regulation of general applicability promulgated by the Bureau of Forestry. Such rules shall have the force and effect of law.

12. **Softwood.** “Softwood” means forest land on which pine, spruce, fir, hemlock, cedar and larch, singly or in combination, comprise 75% or more of the stocking.

13. **Spray program area.** “Spray program area” means all that forest land within the district for which applications have been made and approved by the director pursuant to section 8424, subsections 2 and 3, except as removed pursuant to section 8425, subsection 2.

14. **Spray project.** “Spray project” means all activities undertaken or caused to be undertaken by the Bureau of Forestry in connection with the application of insecticides or other materials against spruce budworm insects within a single year.

15. **Spruce budworm.** “Spruce budworm” means the insect of the species known as *Choristoneura fumiferana*, Clem., at any stage of its biological development.

Sec. 5. 12 MRSA § 8423-B is enacted to read:

**§ 8423-B. Spruce fir forest protection district**

There is established a Spruce Fir Forest Protection District consisting of the following municipalities and townships:

1. **Aroostook County.** All municipalities and townships in Aroostook County except the following: Caribou, Easton, Fort Fairfield, Fort Kent, Frenchville, Houlton, Limestone, Littleton, Madawaska, Mapleton, Mars Hill, New Limerick, New Sweden, Oakfield, Presque Isle, Washburn and Woodland;

2. **Franklin County.** The following municipalities and townships in Franklin County: Alder Stream, Chain of Ponds, Coburn Gore, Coplin Plantation, Dallas Plantation, Eustis, Jim Pond, Lang and Rangeley;

**3. Hancock County.** All municipalities and townships in Hancock County north and east of a line formed by the northern and eastern boundaries of the following municipalities and townships: Otis, Ellsworth, T.8, S.D., Hancock, Sullivan and T.7, S.D., except the following: T.9., S.D. and T. 10, S.D.;

**4. Penobscot County.** All municipalities and townships in Penobscot County north of a line formed by the southern and western boundaries of the following municipalities: Bradley, Clifton, Milford, Argyle, Alton and Lagrange;

**5. Piscataquis County.** All municipalities and townships in Piscataquis County except the following: Abbot, Atkinson, Dover-Foxcroft, Guilford, Kingsbury Plantation, Milo, Monson, Parkman, Sangerville, Sebec and Wellington;

**6. Somerset County.** All municipalities and townships in Somerset County north and east of a line formed by the southern and western boundaries of the following municipalities and townships: Mayfield Plantation, Moscow, Pleasant Ridge Plantation, Carrying Place, T.3, R.4, B.K.P., W.K.R. and Flagstaff Plantation, except for the following: T.5, R.6, B.K.P., W.K.R.; and

**7. Washington County.** All municipalities and townships in Washington County except the following: Addison, Beals, Cutler, Eastport, Harrington, Jonesport, Lubec, Machias, Machiasport, Milbridge, Roque Bluffs, Steuben and Trescott.

**Sec. 6.** 12 MRSA § 8424, sub-§ 2, first sentence, as enacted by PL 1979, c. 737, § 12, is amended to read:

~~Forest land owners~~ landowners may apply to the director prior to December 1st of any year to be eligible to participate in the spray ~~project~~ projects for the following year 4 years.

**Sec. 7.** 12 MRSA § 8424, sub-§ 3, last ¶, as enacted by PL 1979, c. 737, § 12, is repealed and the following enacted in its place:

Upon the director's acceptance of any such application, the forest land involved shall, for a period of 4 years, be and remain eligible for inclusion with the spray project, as determined on an annual basis pursuant to subsection 4, and shall be subject to taxation pursuant to section 8427, regardless of any change in ownership of such forest land. At the expiration of such 4-year period, application must be renewed by the forest landowner and accepted by the director, in accordance with this section in order to enable continued eligibility for participation in subsequent spray projects.

**Sec. 8.** 12 MRSA § 8424, sub-§ 6, ¶ A, as enacted by PL 1979, c. 737, § 12, is amended to read:

**A.** All land within 2 miles of publicly maintained roads within the district shall be designated by the director as settlement corridors.

**Sec. 9.** 12 MRSA § 8427, sub-§ 1, first sentence, as enacted by PL 1979, c. 737, § 12, is amended to read:

~~Forest land owners landowners~~ within the ~~spray program area~~ district shall be subject to the excise taxes authorized under this section for the privilege of owning such lands and of receiving the benefits of spray project eligibility.

**Sec. 10.** 12 MRSA § 8427, sub-§ 3, first sentence, as enacted by PL 1979, c. 737, § 12, is amended to read:

The post-project excise tax for all ~~land owners landowners~~ within the ~~spray program area~~ district shall be computed and assessed as follows.

**Sec. 11.** 12 MRSA § 8427, sub-§ 3, ¶C, as enacted by PL 1979, c. 737, § 12, is repealed and the following enacted in its place:

**C.** Ninety percent of the amount computed under paragraph B shall be raised by a post-project spray tax, the per acre rate of which shall be calculated by dividing the sum to be so raised by the number of acres which actually received spray treatment, as determined by the director. Ten percent of the amount computed under paragraph B shall be raised by a post-project shared tax, applicable to all taxable acres in the district, the per acre rate of which shall be calculated in accordance with the following: Each taxable acre in the district which is classified as mixed wood shall be taxed at 1/2 the rate applicable to each taxable acre in the district classified as softwood; and each such acre classified as hardwood is not subject to taxation under this paragraph.

**Sec. 12.** 12 MRSA § 8427, sub-§ 3, ¶E, as enacted by PL 1979, c. 737, § 12, is repealed and the following enacted in its place:

**E.** The director shall certify in writing to the State Tax Assessor, by September 1st, the post-project shared tax rates for softwood and mixed-wood acres and the post-project spray tax rate, together with the number of acres within each ownership which are subject to such taxes.

**Sec. 13.** 12 MRSA § 8427, sub-§ 3, ¶¶F and G are enacted to read:

**F.** The amount of the post-project excise taxes payable by each landowner shall be reduced by the amount assessed upon that landowner on account of the pre-project excise tax payable for that calendar year.

**G.** The State Tax Assessor shall compute, assess and bill, by November 1st the amount of post-project excise taxes payable by each landowner in accordance with this section.

**Sec. 14.** 12 MRSA § 8427, sub-§ 3, last ¶, as enacted by PL 1979, c. 737, § 12, is repealed and the following enacted in its place:

In the event that the amount so calculated results in a negative balance for any landowner, the State Tax Assessor shall refund to that landowner the amount of the balance in the form of a tax rebate. The rebate shall be made no later than February 28th of the year following the assessment date.

**Emergency clause.** In view of the emergency cited in the preamble, sections 1 and 2 of this Act take effect when approved and sections 3 to 14 take effect on October 1, 1981.

## STATEMENT OF FACT

The present tax rate for funding the spruce budworm project is insufficient for purposes of the 1981 program. Section 1 of this bill provides a formula to resolve this insufficiency.

Section 2 coordinates the existing law with the provisions to take effect October 1, 1981.

The remaining sections carry forward the Spruce Fir Forest Protection District concept, and provide for a procedure whereby, following completion of the project, excess funds may be returned to any who may have overpaid.