

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 1530**

H. P. 1334

House of Representatives, April 9, 1981

Submitted by the Department of Conservation pursuant to Joint Rule 24.

Referred to the Committee on Appropriations and Financial Affairs. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative C.W. Smith of Mars Hill.

Cosponsor: Senator Pearson of Old Town.

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STATE OF MAINE

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

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

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

**Sec. 1.** 12 MRSA § 8423, as enacted by PL 1979, c. 737, § 12, is repealed.

**Sec. 2.** 12 MRSA § 8423-A is enacted to read:

**§ 8423-A. Definitions**

As used in this subchapter, unless the context indicates otherwise, 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 land owners.** "Forest land owners" 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. **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.

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

8. **Rebate.** "Rebate" means a payment by the State back to a person subject to taxation pursuant to this subchapter.

9. **Rule.** "Rule" means a duly-adopted regulation of general applicability promulgated by the Bureau of Forestry. These rules shall have the force and effect of law.

10. **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.

11. **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.

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

Sec. 3. 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 areas accepted by the director pursuant to section 8424, subsection 3.

Sec. 4. 12 MRSA § 8424, sub-§ 2, first sentence, as enacted by PL 1979, c. 737, § 12, is amended to read:

Forest land owners 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~~ 5 years.

**Sec. 5.** 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 5 years, be and remain eligible for inclusion within the spray project. The areas sprayed each year shall be 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 the 5-year period, application must be renewed by the forest land owner and accepted by the director in accordance with this section in order to enable continued eligibility for participation in subsequent spray projects.**

**Sec. 6.** 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. 7.** 12 MRSA § 8426, sub-§ 2, first sentence, as enacted by PL 1979, c. 737, § 12, is amended to read:

Following the recommendation made in accordance with subsection 1, the Legislature shall determine, not later than February 15th, the amount, if any, authorized for expenditure for any spray project in that calendar year ~~and shall determine the pre-project excise tax rate, applicable to all acres within the spray program area, necessary to finance the full amount so authorized.~~

**Sec. 8.** 12 MRSA § 8427, sub-§ 1, first sentence, as enacted by PL 1979, c. 737, § 12, is amended to read:

Forest land owners 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. 9.** 12 MRSA § 8427, sub-§ 2, as enacted by PL 1979, c. 737, § 12, is repealed and the following enacted in its place:

**2. Pre-project excise tax.** The pre-project excise tax shall be computed in the following manner:

**A.** The ratio of the planned spray acres for each landowner to the total planned spray acres 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 8426, subsection 1; and

**C.** The pre-project excise tax shall be assessed and billed by the State Tax Assessor within 30 days following the legislative authorization provided in section 8426, subsection 2.

**Sec. 10.** 12 MRSA § 8427, sub-§ 3, as enacted by PL 1979, c. 737, § 12, is repealed and the following enacted in its place:

3. **Post-project excise tax.** The post-project tax for forest land owners within the district shall be computed and assessed as follows.

A. The director shall determine the total amount of costs incurred or budgeted to be expended in connection with any spray project conducted during the then current calendar year.

B. The amount computed in paragraph A shall be reduced by the amount of any moneys received for that project from the Government of the United States.

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.

D. 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 by dividing the sum to be raised by the number of acres within the district, as designated by the director.

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

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 the post-project excise taxes payable by each landowner in accordance with this section.

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.

#### STATEMENT OF FACT

This bill provides for carrying forward the Spruce Fir Forest Protection District concept, including the continuation of a 2-tiered tax policy for financial support of the program, as well as a procedure whereby, following completion of the project, excess funds are returned to any who have overpaid.