

MAINE STATE LEGISLATURE

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R. of S.

1

L.D. 1334

2

(Filing No. S- 177)

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STATE OF MAINE

4

SENATE

5

113TH LEGISLATURE

6

FIRST REGULAR SESSION

7

COMMITTEE AMENDMENT " A " to S.P. 439, L.D.

8

1334, Bill, "AN ACT to Improve Fire Prevention Activ-

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ity of Railroads."

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Amend the bill by striking out everything after

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the enacting clause and inserting in its place the

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following:

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'Sec. 1. 12 MRSA §9405, sub-§§1 to 6 are enacted

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to read:

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1. Definitions. As used in this chapter, unless

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the context otherwise indicates, the following terms

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have the following meanings.

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A. "Clear" means to cut and burn or to remove

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from the right-of-way.

20

B. "Inflammable materials" include grass, weeds,

21

brush, logs, waste railroad ties, refuse materi-

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al, debris and all materials which burn easily.

23

C. "Right-of-way" means a distance not less than

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25 feet away from the track measured horizontally

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from each outer rail or the entire width of a

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railroad company's ownership, whichever is less.

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2. Right-of-way clearance plan. Every railroad

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company, prior to October 1st of each year, shall

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submit a plan to clear its right-of-way of inflamma-

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ble materials to the Bureau of Forestry, subject to

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approval by the director, setting forth the company's

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plans for clearance of its right-of-way during the

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following calendar year. That plan shall set forth

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action to be taken by the company to clear its right-

35

of-way. The plan shall include the following:

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- 1 A. A description of action to be taken;
2 B. A timetable of operations;
3 C. The location of operations, identified by
4 mile-post number where available; and
5 D. Such other information as the director, by
6 rule, shall require.
- 7 3. Action by the director. In addition to any
8 other action authorized by law, the director shall:
- 9 A. Receive and review right-of-way clearance
10 plans as submitted pursuant to this section. He
11 has the authority to make alterations or amend-
12 ments to any plan prior to approval and to re-
13 quest a refiling of the plan. If the plan con-
14 tains the information required by this section
15 and the director determines that execution of the
16 plan will sufficiently control the hazard of fire
17 on the railroad right-of-way, the director shall
18 notify the company by December 31st of the calen-
19 dar year that its plan has been approved.
- 20 If it is determined by the director that the exe-
21 cutation of the plan will not sufficiently control
22 the fire hazard on the railroad right-of-way, he
23 shall notify the railroad within 21 days of re-
24 ceiving the plan. The railroad will in turn have
25 21 days to submit a revised plan. A final ap-
26 proved plan shall be adopted by December 31st of
27 each calendar year. The director, if determined
28 necessary, may extend the deadline for filing of
29 an approved plan;
- 30 B. Inspect annually or more frequently the com-
31 pany's right-of-way;
- 32 C. Monitor plan compliance; and
33 D. Suspend the execution of any plan and order

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1 the refiling of an amended plan within 14 days of
2 any determination that conditions giving rise to
3 a fire hazard have so changed, or that new infor-
4 mation has been made available, since the date of
5 plan approval as to require a plan amendment.

6 4. Compliance. The railroad shall comply with
7 all of the terms of the approved plan. If failure to
8 comply with the plan is the result of circumstances
9 beyond the control of the railroad, those circum-
10 stances shall constitute an affirmative defense to
11 any action for violation of this subsection.

12 5. Filing fee. The owner of the right-of-way
13 shall be assessed an annual filing fee of \$2 per mile
14 of right-of-way within this State which is payable
15 upon submission of the plan. Refiled or amended
16 plans shall be exempt from any such fee. All reve-
17 nuues derived from filing fees shall be deposited in a
18 special revenue account in the Bureau of Forestry, to
19 be used to carry out the purposes of this chapter.
20 This account shall be allocated by the Legislature.

21 6. Rules. The director shall have general su-
22 pervision over compliance with this section. Subject
23 to any applicable requirement of the Maine Adminis-
24 trative Procedure Act, Title 5, chapter 375, the di-
25 rector shall make rules, prescribe forms and make
26 suitable orders as to procedures adopted to assure
27 compliance with this section.

28 Sec. 2. 12 MRSA §9703, as enacted by PL 1979, c.
29 545, §3, is amended to read:

30 §9703. Partial payment of costs of suppressing for-
31 est fires

32 Any person who intentionally or negligently
33 causes a fire which burns forest, brush, grass or
34 other lands or intentionally fails to take reasonable
35 action to control a fire on his own land shall be li-
36 able civilly up to a maximum of \$2,000 of the sup-

