

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 88, L.D. 123, Bill, "An Act to Clarify Laws Pertaining to the Enforcement of Forestry Fire Control Laws"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 12 MRSA §8901, sub-§2, ¶¶F and G, as enacted by PL 1979, c. 545, §3, are amended to read:

F. Have the authority to set backfires to control forest fires; and

G. Carry out such other duties as the director prescribes; and

Sec. 2. 12 MRSA §8901, sub-§2, ¶H is enacted to read:

H. Have rights of access to all lands within the State to carry out the duties they are authorized by law to administer and enforce. Entry into private property under this paragraph is not a trespass. This paragraph does not authorize entry into any building or structure.

Sec. 3. 12 MRSA §8907 is enacted to read:

§8907. Uniform citations

1. Form. The director may establish a statewide, uniform Maine Forest Service citation form. Prior to its use, the form must be approved by the Chief Judge of the District Court.

2. Citation books. The director shall issue the form established under subsection 1 in books with citations in not less than quadruplicate. The director may provide citation books to other law enforcement agencies and officers for their use in the enforcement of chapters 807 and 809. The director may not require other agencies to use this form.

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3. Form requirements. The form must include a statement that signing the citation does not constitute an admission of guilt and that failure to sign constitutes a separate offense which is a Class E crime.

4. Disposition; prohibited act. The director is responsible for the disposition of all Maine Forest Service citation forms. Except in accordance with law and as provided for in an applicable official policy or procedure of the Maine Forest Service, no ranger or other public employee may dispose of an official citation form.

5. Lawful complaint. A Maine Forest Service citation form may be filed in a court having jurisdiction and shall constitute a lawful complaint to commence any criminal prosecution or civil violation proceedings if:

A. The form is duly sworn to and otherwise satisfies the requirements of the general laws of this State, in respect to the form of a complaint; and

B. The form charges an offense.

6. Lawful summons. A Maine Forest Service citation, when served upon a person by a law enforcement officer, functions as a summons to appear in court.

7. Refusal to sign; prohibited act. Any person who refuses to sign a citation after having been ordered to do so by a law enforcement officer is guilty of a Class E crime in accordance with the provisions of section 9702.

Sec. 4. 12 MRSA §9301, as enacted by PL 1979, c. 545, §3, is amended to read:

§9301. Hazard clearance

Any municipal or private dump within the State established and maintained for the disposal of solid waste, as defined in Title 38, section 1303, rubbish-or-debris-of-any-nature which might facilitate either the origin or spread of forest fires shall be operated under the following preventive measures: A strip 10 feet wide cleared to mineral soil shall be constructed on all sides of the dump; a water supply, the suitability of which shall be determined by the forest ranger and town forest fire warden, may be substituted for the cleared strip along any portion of the perimeter; and all grass, weeds, slash, brush and debris and other inflammable material shall be removed for a distance of 100 feet in all directions outside the cleared mineral soil strip. Live trees need not be removed, except that

1 green branches of conifers and dead branches of all trees shall
2 be pruned to a height of 10 feet above the ground ground. Dead
3 snags of all trees shall be removed. During periods of high
4 forest fire hazard if a municipal dump is burning, municipal
5 officers shall maintain a watchman watchkeeper at such dumps and
6 owners and operators of private dumps shall do the same.

7
8 **Sec. 5. 12 MRSA §9321, sub-§6**, as enacted by PL 1979, c. 545,
9 §3, is repealed and the following enacted in its place:

11 6. Penalty. Notwithstanding section 9701 and unless
12 otherwise stated, any person who fails to comply with the
13 conditions of the permit or violates subchapter IV, article II,
14 commits a Class E crime. In addition, suppression costs of up to
15 \$2,000 may be assessed against any person who intentionally or
16 negligently causes a fire which burns forest, brush, grass or
17 other lands. Suppression costs shall be reimbursed to the State
18 or municipality which aided in suppressing the fire.

19
20 **Sec. 6. 12 MRSA §9322, sub-§2**, as amended by PL 1981, c. 698,
21 §81, is further amended to read:

22
23 2. Exemptions. This section shall does not apply to the use
24 of portable stoves which are fueled by propane gas, gasoline or
25 sterno, ~~or~~; to recreational fires kindled when the ground is
26 covered with snow; or to residential use of outdoor grills and
27 fireplaces for recreational purposes, such as preparing food.

28
29 **Sec. 7. 12 MRSA §9601**, as enacted by PL 1979, c. 545, §3, is
30 repealed and the following enacted in its place:

31 **§9601. Spark arresters**

32
33 1. Illegal operation. A person is guilty of illegal
34 operation of power-driven equipment if that person knowingly:

35
36 A. Operates power-driven equipment in, through or near
37 forest lands without an approved spark arrester;

38
39 B. Requires the operation of power-driven equipment in,
40 through or near forest lands without an approved spark
41 arrester; or

42
43 C. Permits the operation of power-driven equipment owned by
44 that person in, through or near forest lands without an
45 approved spark arrester.

46
47 Notwithstanding section 9701, any person who violates this
48 subsection commits a Class E crime.

1 2. Approved spark arresters. Spark arresters shall be
2 approved by the director if judged effective to prevent the
3 escape of sparks, carbon deposits or other substances likely to
4 cause fires. The director may permit the use of spark arresters
5 certified by the United States Forest Service, Department of
6 Agriculture.

7
8 Sec. 8. 12 MRSA §9601-A, as enacted by PL 1983, c. 104, is
9 amended to read:

11 §9601-A. Prohibition on sale of equipment without spark arresters

13 No person may sell or offer to sell any internal combustion
14 all-terrain vehicle, chain saw or skidder in this State that has
15 not been provided with a spark arresting device approved by the
16 director. This prohibition shall does not apply to casual sales
17 as defined in Title 36, section 1752.

19 Sec. 9. 12 MRSA §9706, 2nd ¶, as enacted by PL 1979, c. 545,
20 §3, is amended to read:

21 Any forest ranger making an arrest for any violation of this
22 chapter at a point more than 50 miles distant from the nearest
23 District Court may accept the personal recognizance of the
24 prisoner in a sum not exceeding ~~\$100~~ \$250 for ~~his~~ the prisoner's
25 appearance before the court on a specified date and a deposit in
26 money to the amount of the recognizance. The forest ranger shall
27 ~~forthwith~~ immediately report all such recognizances and forward
28 such deposits to the court to which such recognizance is
29 returnable.

31 Sec. 10. 17-A MRSA §802, sub-§1, as amended by 1983, c. 450,
32 §4, is further amended to read:

34 1. A person is guilty of arson if he that person starts,
35 causes, or maintains a fire, forest fire, grass fire or
36 explosion;

37 A. On the property of another with the intent to damage or
38 destroy property thereon; or

39 B. On ~~his~~ the person's own property or the property of
40 another;

41 (1) ~~with~~ With the intent to enable any person to
42 collect insurance proceeds for the loss caused by the
43 fire or explosion; or

44 (2) ~~which~~ Which recklessly endangers any person or the
45 property of another.

1 **Sec. 11. 17-A MRSA §803, sub-§1,** as enacted by PL 1975, c.
499, §1, is amended to read:

3
4 1. A person is guilty of causing a catastrophe if he that
5 person recklessly causes a catastrophe by explosion, fire, forest
6 fire, grass fire, flood, avalanche, collapse of a structure,
7 release of poison, radioactive material, bacteria, virus or other
8 such force or substance that is dangerous to human life and
9 difficult to confine.

11 **Sec. 12. 17-A MRSA §804, sub-§1, ¶A,** as enacted by PL 1975, c.
499, §1, is amended to read:

13 A. He That person starts, causes or maintains a fire,
15 forest fire, grass fire or explosion, and, knowing that its
16 spread would endanger human life or the property of another,
17 he that person fails to take reasonable measures to put out
18 or control the fire or to give a prompt fire alarm;

19 **Sec. 13. 38 MRSA §599, sub-§3, ¶¶H and I,** as repealed and
21 replaced by PL 1983, c. 504, §7, are amended to read:

23 H. Burning for hazardous abatement purposes such as, but
24 not limited to, the burning of grass fields; and

25 I. Burning for the containment or control of spills of
26 gasoline, kerosene, heating oil or similar petroleum
27 product.; and

29 **Sec. 14. 38 MRSA §599, sub-§3, ¶J** is enacted to read:

31 J. The burning of brush and demolition debris at municipal
32 solid waste disposal facilities.

35 **Sec. 15. 38 MRSA §599, sub-§4, ¶A,** as repealed and replaced by
36 PL 1983, c. 504, §7, is amended to read:

37 A. Residential use of outdoor grills and fireplaces for
38 recreational purposes such as preparing food; and

41 **Sec. 16. 38 MRSA §599, sub-§4, ¶B,** as repealed and replaced by
42 PL 1983, c. 504, §7, is repealed.

45
46
47 **STATEMENT OF FACT**

48 This amendment clarifies statutory language related to the
49 enforcement of forest fire laws by forest rangers of the Maine
50 Forest Service. This amendment primarily modifies sections 2, 3,
51 4 and 7 of the original bill.

COMMITTEE AMENDMENT "A" to H.P. 88, L.D. 123

1
2 Section 2 makes explicit a forest ranger's right of access
3 to enter private property in the line of duty. This amendment
4 modifies language in the original bill to clarify that entry is
5 allowed only to carry out the duties a forest ranger is
6 authorized by law to administer and enforce, that entry into any
7 building or structure is not authorized under this provision and
8 that entry into private property for the purposes of this
9 provision is not considered a trespass.

11 Section 3 replaces language in the original bill with more
12 concise language describing the format, use and function of the
13 uniform citation form.

15 Section 4 modifies current language in the forest fire
16 control statutes to refer to solid waste and cross references the
17 general definition for solid waste used by other enforcement
18 agencies.

19 Section 5 clarifies penalties for outdoor burning.

21 Section 6 exempts residential recreational use of outdoor
22 grills and fireplaces in the unorganized territory from fire
23 permitting requirements; makes fire control laws consistent with
24 Department of Environmental Protection laws; and ensures equal
25 treatment of residential properties in both the organized and
26 unorganized territories.

29 Section 7 clarifies that operating power-driven equipment,
30 requiring a person to operate power-driven equipment or allowing
31 persons to operate power-driven equipment that is not fitted with
32 an approved spark arrester is a Class E crime.

33 Section 8 includes all-terrain vehicle dealers among those
34 prohibited from selling equipment without spark arresters.

37 Section 9 increases the maximum fee required for personal
38 recognizance bonds from \$100 to \$250.

39 Sections 10 to 12 facilitate prosecution of forest arsonists.

41 Section 14 requires that a permit be obtained for the
42 burning of brush and demolition debris at municipal solid waste
43 disposal facilities, reducing the risk of this forest fire hazard.

45 Section 16 repeals the Maine Revised Statutes, Title 38,
46 section 599, subsection 4, paragraph B, to revoke the
47 authorization to burn at municipal dumps, by removing the
48 enabling language from the section that authorizes burning
49 without a permit.