

MAINE STATE LEGISLATURE

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L.D. 123

(Filing No. H-135)

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

COMMITTEE AMENDMENT "6" 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, ~~FFF~~ 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, ~~HH~~ 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.

1
3 3. Form requirements. The form must include a statement
4 that signing the citation does not constitute an admission of
5 guilt and that refusal to sign the form after having been ordered
6 by a law enforcement officer to do so constitutes a separate
7 offense which is a Class E crime.

8
9 4. Disposition; prohibited act. The director is
10 responsible for the disposition of all Maine Forest Service
11 citation forms. Except in accordance with law and as provided
12 for in an applicable official policy or procedure of the Maine
13 Forest Service, no ranger or other public employee may dispose of
14 an official citation form.

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

19
20 A. The form is duly sworn to and otherwise satisfies the
21 requirements of the general laws of this State, in respect
22 to the form of a complaint; and

23
24 B. The form charges an offense.

25
26 6. Lawful summons. A Maine Forest Service citation, when
27 served upon a person by a law enforcement officer, functions as a
28 summons to appear in court. Any person who fails to appear in
29 court after having been served with a summons is guilty of a
30 Class E crime.

31
32 7. Refusal to sign; prohibited act. Any person who refuses
33 to sign a citation after having been ordered to do so by a law
34 enforcement officer is guilty of a Class E crime.

35
36 Sec. 4. 12 MRSA §9301, as enacted by PL 1979, c. 545, §3, is
37 amended to read:

38 §9301. Hazard clearance

39
40 Any municipal or private dump within the State established
41 and maintained for the disposal of solid waste, ~~or rubbish or debris~~
42 ~~of any nature as defined in Title 38, section 1303,~~ which might
43 facilitate either the origin or spread of forest fires shall be
44 operated under the following preventive measures: A strip 10 feet
45 wide cleared to mineral soil shall be constructed on all sides of
46 the dump; a water supply, the suitability of which shall be
47 determined by the forest ranger and town forest fire warden, may
48 be substituted for the cleared strip along any portion of the
49 perimeter; and all grass, weeds, slash, brush and debris and
50 other inflammable material shall be removed for a distance of 100
51

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1 feet in all directions outside the cleared mineral soil strip.
2 Live trees need not be removed, except that green branches of
3 conifers and dead branches of all trees shall be pruned to a
4 height of 10 feet above the ground. Dead snags of all trees
5 shall be removed. During periods of high forest fire hazard if a
6 municipal dump is burning, municipal officers shall maintain a
7 watchman ~~watchkeeper~~ at such dumps and owners and operators of
8 private dumps shall do the same.

9
10 Sec. 5. 12 MRSA §9321, sub-§6, as enacted by PL 1979, c. 545,
11 §3, is repealed and the following enacted in its place:

12 6. Penalty. Notwithstanding section 9701, any person who
13 engages in out-of-door burning in violation of subchapter IV,
14 article II, or who fails to comply with any stated permit
15 condition or restriction, commits a Class E Crime. In addition,
16 if the State proves that while in violation, that person's
17 out-of-door fire resulted in fire suppression costs to municipal
18 or State Government, the court, as part of any sentence imposed,
19 may order restitution up to \$2,000, pursuant to Title 17-A,
20 chapter 54, to be paid to the government entities incurring the
21 suppression costs.

22
23 Sec. 6. 12 MRSA §9322, sub-§2, as amended by PL 1981, c. 698,
24 §81, is further amended to read:

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

31
32 Sec. 7. 12 MRSA §9601, as enacted by PL 1979, c. 545, §3, is
33 repealed and the following enacted in its place:

34 §9601. Spark arresters

35
36 1. Illegal operation. A person is guilty of illegal
37 operation of power-driven equipment if that person knowingly:

38
39 A. Operates power-driven equipment in, through or near
40 forest lands without an approved spark arrester;

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

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

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1 Notwithstanding section 9701, any person who violates this
3 subsection commits a Class E crime. In addition, if the State
5 proves that while in violation of this section, fires resulting
7 from that person's power-driven equipment resulted in fire
9 suppression costs to municipal or State Government, the court, as
11 part of any sentence imposed, may order restitution up to \$2,000,
13 pursuant to Title 17-A, chapter 54, to be paid to the government
15 entities incurring the suppression costs.

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

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

21 §9601-A. Prohibition on sale of equipment without spark arresters

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

33 Sec. 9. 12 MRSA §9706, 2nd ¶, as enacted by PL 1979, c. 545,
35 §3, is repealed.

37 Sec. 10. 38 MRSA §599, sub-§3, ¶¶H and I, as repealed and
39 replaced by PL 1983, c. 504, §7, are amended to read:

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

45 I. Burning for the containment or control of spills of
47 gasoline, kerosene, heating oil or similar petroleum
49 product; and

Sec. 11. 38 MRSA §599, sub-§3, ¶J is enacted to read:

43 J. The burning of brush and demolition debris at municipal
45 solid waste disposal facilities.

47 Sec. 12. 38 MRSA §599, sub-§4, ¶A, as repealed and replaced by
49 PL 1983, c. 504, §7, is amended to read:

A. Residential use of outdoor grills and fireplaces for

1 recreational purposes such as preparing food; and

3 Sec. 13. 38 MRSA §599, sub-§4, ¶B, as repealed and replaced by
PL 1983, c. 504, §7, is repealed.

5

FISCAL NOTE

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9 It is anticipated that any additional costs resulting from
this bill will be absorbed by the Department of Conservation
utilizing existing resources.'

11

13

STATEMENT OF FACT

15 This amendment clarifies statutory language related to the
enforcement of forest fire laws by forest rangers of the Maine
Forest Service.

17

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

27

29 Section 3 replaces language in the original bill with more
concise language describing the format, use and function of the
uniform citation form. It also clarifies that failure to respond
31 to a summons is a Class E crime.

33

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

37

39 Section 5 clarifies penalties for outdoor burning.

41

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

47

49 Section 7 clarifies that operating power-driven equipment,
requiring a person to operate power-driven equipment or allowing
persons to operate power-driven equipment that is not fitted with
an approved spark arrester is a Class E crime. It also allows
51 the courts to order a person in violation of this section to pay

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1 up to \$2000 for any fire suppression costs incurred as a result
of improper equipment.

3

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

7

9 Section 9 repeals a section allowing forest rangers to
accept fees in the field from alleged violators to guarantee
their appearance in court.

11

13 Section 11 requires that a permit be obtained for the
burning of brush and demolition debris at municipal solid waste
disposal facilities, reducing the risk of this forest fire hazard.

15

17 Section 13 repeals the Maine Revised Statutes, Title 38,
section 599, subsection 4, paragraph B, to revoke the
authorization to burn at municipal dumps, by removing the
enabling language from the section that authorizes burning
19 without a permit.

Reported by the Committee on Energy and Natural Resources
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