

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 123

H.P. 88

House of Representatives, February 9, 1989

Submitted by the Department of Conservation pursuant to Joint Rule 24.
Reference to the Committee on Energy and Natural Resources suggested and
ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative BEGLEY of Waldoboro.

Cosponsored by Senator DILLENBACK of Cumberland, Representative
JALBERT of Lisbon and Senator MATTHEWS of Kennebec.

STATE OF MAINE

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

**An Act to Clarify Laws Pertaining to the Enforcement of Forestry Fire
Control Laws.**



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

3 Sec. 1. 12 MRSA §8901, sub-§2, ¶¶F and G, as enacted by PL
5 1979, c. 545, §3, are amended to read:

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

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

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

17 H. Have rights of access to all lands within the State for
19 the purposes of making inspections, suppressing forest fires
21 and carrying out duties authorized by the director.

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

25 §8907. Uniform citations

27 1. Form. The director may establish Maine Forest Service
29 citation forms for use by the forest service. These forms, if
31 established, shall be uniform throughout the State and shall be
issued in books with citations in not less than quadruplicate.
When the form requires a signature by a person upon whom the
citation is served, 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. The form must be approved by the Chief Judge of
the District Court prior to its use.

33 2. Issuance and disposition. Responsibility for issuance
35 and disposition is as follows.

37 A. The director is responsible for all Maine Forest Service
citation forms.

39 B. The director may provide books to other law enforcement
41 agencies and officers for their use in the enforcement of
43 chapters 807 and 809. The director may not require other
agencies to use this form.

45 3. Illegal disposition; prohibited act. It is unlawful and
47 constitutes official misconduct for any ranger or other public
employee to dispose of an official citation form, except in
accordance with law and as provided for in any applicable
official policy or procedure of the Maine Forest Service.

49 4. Lawful complaint. If a Maine Forest Service citation is
51 duly sworn to and otherwise satisfies the requirements of the
general laws of this State, in respect to the form of a complaint

1 and charges an offense, it may be filed in a court having
3 jurisdiction and shall constitute a lawful complaint for the
5 purpose of the commencement of any criminal prosecution or civil
7 violation proceedings.

9 5. Lawful summons. A Maine Forest Service citation when
11 served upon a person by a law enforcement officer functions as a
13 summons to appear in court or, if a civil violation is charged,
15 to otherwise respond in accordance with law by the date specified
17 in the citation.

19 6. Refusal to sign; prohibited act. No person may refuse
21 to sign a citation after having been ordered to do so by a law
23 enforcement officer. Any person who fails to comply commits a
25 Class E crime in accordance with the provisions of Title 12,
27 section 9702.

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

33 **§9301. Hazard clearance**

35 Any municipal or private dump within the State established
37 and maintained for the disposal of waste, as defined in Title 38,
39 section 582, rubbish or debris of any nature which might
41 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 green branches of
conifers and dead branches of all trees shall be pruned to a
height of 10 feet above the ground ground. Dead snags of all trees
shall be removed. During periods of high forest fire hazard if a
municipal dump is burning, municipal officers shall maintain a
watchman watchkeeper at such dumps and owners and operators of
private dumps shall do the same.

43 Sec. 5. 12 MRSA §9321, sub-§6, as enacted by PL 1979, c. 545,
45 §3, is repealed and the following enacted in its place:

47 6. Penalty. Notwithstanding section 9701 and unless
49 otherwise stated, any person who fails to comply with the
51 conditions of the permit or violates any part of subchapter IV,
article II commits a Class E crime. In addition, suppression
costs of up to \$2,000 may be assessed against any person who
intentionally or negligently causes a fire which burns forest,
brush, grass or other lands. Suppression costs shall be

1 reimbursed to the State or town which aided in suppressing the
2 fire.

3
4 **Sec. 6. 12 MRSA §9322, sub-§2,** as amended by PL 1981, c. 698,
5 §81, is further amended to read:

6
7 2. Exemptions. This section shall does not apply to the use
8 of portable stoves which are fueled by propane gas, gasoline or
9 sterno, ~~or~~; to recreational fires kindled when the ground is
10 covered with snow; or to residential use of outdoor grills and
11 fireplaces for recreational purposes, such as preparing food.

12
13 **Sec. 7. 12 MRSA §9601,** as enacted by PL 1979, c. 545, §3, is
14 amended to read:

15 **§9601. Spark arresters**

16
17 No equipment for producing power shall be operated or caused
18 to be operated in, through or near forest lands unless it is
19 provided with a spark arrester approved by the director. Spark
20 arresters shall be approved if judged effective to prevent the
21 escape of sparks, carbon deposits or other substances likely to
22 cause fires. The director may permit the use of those spark
23 arresters certified by the United States Forest Service,
24 Department of Agriculture.

25
26 Notwithstanding section 9701, any person who violates this
27 section commits a Class E crime.

28
29 **Sec. 8. 12 MRSA §9601-A,** as enacted by PL 1983, c. 104, is
30 amended to read:

31
32 **§9601 A. Prohibition on sale of equipment without spark**
33 **arresters**

34
35 No person may sell or offer to sell any internal combustion
36 ATV, chain saw or skidder in this State that has not been
37 provided with a spark arresting device approved by the director.
38 This prohibition shall does not apply to casual sales as defined
39 in Title 36, section 1752.

40
41 **Sec. 9. 12 MRSA §9706, 2nd ¶,** as enacted by PL 1979, c. 545,
42 §3, is amended to read:

43
44 Any forest ranger making an arrest for any violation of this
45 chapter at a point more than 50 miles distant from the nearest
46 District Court may accept the personal recognizance of the
47 prisoner in a sum not exceeding \$100 \$250 for his the prisoner's
48 appearance before the court on a specified date and a deposit in
49 money to the amount of the recognizance. The forest ranger shall
50 forthwith immediately report all such recognizances

1 and forward such deposits to the court to which such recognizance
is returnable.

3

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

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

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

13

15 B. On ~~his~~ the person's own property or the property of
another

17 (1) with the intent to enable any person to collect
insurance proceeds for the loss caused by the fire or
19 explosion; or

21 (2) which recklessly endangers any person or the
property of another.

23

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

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

33

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

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

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

45

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

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

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

3 Sections 10 to 12 facilitate prosecution of forest arsonists.

5 Section 14 requires that a permit be obtained for the
7 burning of brush and demolition debris at municipal dumps,
reducing the risk of this forest fire hazard.

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