

MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "**B**" to H.P. 315, L.D. 429, Bill, "An Act Regarding State Forest Practice Laws"

Amend the bill by striking out all of the title and inserting in its place the following:

'An Act to Implement Sound Forest Practices'

Further amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

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

Sec. 1. 12 MRSA §5101, 2nd and 3rd ¶¶, as enacted by PL 1985, c. 488, §4, are amended to read:

The Legislature further finds that the forests of Maine are subject to increased demand for all of its products and that it has been subject to significantly increased natural mortality losses in the past-decade 1970's and 1980's.

The Legislature also finds that the vast majority of the forest resource in Maine is under private ownership and that the State's role should be to serve as a catalyst to encourage and promote sustained yield management and use of the forest and its related resources. This role is best realized if state actions in the forestry sector manifest a consistent and comprehensive perspective of how the forest resources can best serve the continuous need of the people of Maine.

The Legislature further finds that the forest land resource is being subjected to increasing pressure for conversion and development. These changes affect overall timber production, public recreation and wildlife habitat.

1 **Sec. 2. 12 MRSA §5101-A, sub-§1**, as enacted by PL 1985, c.
2 488, §5, is amended to read:

3 1. **Current status.** Assess the current status of forest
4 resources, including, but not limited to, timber, forest land
5 base, fiber, recreation, water, wildlife and soil;

6 **Sec. 3. 12 MRSA §5101-A, sub-§5**, as enacted by PL 1985, c.
7 488. §5, is amended to read:

8 5. **Recommendations.** Recommend to the Governor and the
9 Legislature the administrative and legislative policies or
10 actions needed to refine or redirect state agency programs and to
11 stimulate or remove obstacles to private sector action in a
12 manner that contributes to an adequate supply of natural
13 resources.

14 The Commissioner of Conservation shall establish and consult with
15 a technical working group composed of members of the existing
16 staff of the department and other persons knowledgeable in the
17 areas referenced in subsection 1 and related fields to carry out
18 the purposes of this chapter. The working group shall have
19 expertise in forest management, forest utilization, recreation
20 management, land use regulation, wildlife and fisheries
21 management, watershed management and other areas as appropriate.

22 The Commissioner of Conservation shall coordinate the efforts of
23 this program fully with ongoing departmental and federal forestry
24 program planning, policy and research efforts.

25 **Sec. 4. 12 MRSA §5103, sub-§1, ¶A**, as repealed and replaced by
26 PL 1985, c. 737, Pt. A, §26, is amended to read:

27 A. Based on these projections, the assessment shall
28 include goals for the supply of forest resources,
29 including, but not limited to, timber, fiber, forest
30 lands, recreation, water and wildlife.

31 **Sec. 5. 12 MRSA §5103, sub-§4** is enacted to read:

32 4. Voluntary incentive program. A study of the structure,
33 costs and implementation of a voluntary incentive program,
34 designed to encourage forest landowners with both large and small
35 holdings, to safeguard wildlife habitat, preserve traditional
36 recreation uses and access, promote management for high-value
37 timber species and prevent conversion of forest land. The
38 program shall be designed to encourage landowners to manage
39 forest land to maintain or restore the natural distribution of
40 forest types, limiting selective cutting of high-value stands and
41 conversions of mixed stands to coniferous plantations, promoting
42 spatial and age-class diversity. The report shall be completed
43 by January 1, 1991. Recommendations shall include:

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A. An analysis of incentives to encourage participation; and

B. Criteria and procedures for landowners to participate in the program.

Sec. 6. 12 MRSA §5107 is enacted to read:

§5107. Enhance education in economics

The commissioner may work with representatives from the College of Forest Resources and the College of Business Administration in the University of Maine System, representatives from the forest industry and representatives from the business and finance community to develop curricula for a joint Master of Business Administration and Master of Science in Forestry degree program and to develop initiatives for forest products marketing, including continuing education courses for foresters in marketing and finance and a faculty position in forest products marketing.

Sec. 7. 12 MRSA §8003, sub-§3, ¶P is enacted to read:

P. The director shall act as a liaison with the Department of Environmental Protection, the Maine Land Use Regulation Commission, the Department of Inland Fisheries and Wildlife, the Office of Comprehensive Land Use Planning and the Cooperative Extension Service on forestry issues.

Sec. 8. 12 MRSA c. 805, sub-c. I, as amended, is repealed.

Sec. 9. 12 MRSA c. 805, sub-c. I-A is enacted to read:

SUBCHAPTER I-A

TECHNICAL ASSISTANCE

§8611. Bureau of Forestry advisory programs

The bureau shall undertake the following programs to provide information and educational services for forest management in this State.

1. Forest management information. The bureau shall provide a forest management information clearinghouse service with a statewide toll-free number. The information and referral service shall include, but not be limited to:

A. Reporting, notification and management requirements pursuant to this chapter;

B. Timber and forest management options;

- 1 C. Soil conservation practices;
- 3 D. Insect and disease management practices;
- 5 E. Recreation management options; and
- 7 F. Wildlife management options.

9 2. Natural resource educator. The director shall employ a
11 natural resource educator to develop and coordinate natural
13 resource education, workshops and training opportunities for
school-age children, forest landowners, forest products
harvesters and forest managers. Specifically, this person shall:

15 A. Work with the Department of Educational and Cultural
17 Services and organizations to integrate forestry and forest
science programs into the science curricula in public
19 schools; and

21 B. Establish a program for continuing education courses in
timber harvesting equipment operation, safety and basic
23 forest management skills.

25 §8612. Field foresters

27 The bureau shall employ at least 28 field foresters to be
located in field offices.

29 1. Duties. These foresters shall provide outreach services
31 and referrals to small woodland owners and wood processors for
harvesting, marketing and utilization of wood products. The
33 foresters shall assist landowners and processors in:

35 A. Obtaining and explaining required forms for harvest
notification and reporting;

37 B. Obtaining information to comply with the performance
39 standards under this chapter;

41 C. Following up with landowners after harvest notification;

43 D. Reviewing landowner forest management plans;

45 E. Obtaining information to comply with environmental
standards;

47 F. Explaining forest management options;

49 G. Promoting involvement in grants and incentive programs;

51 H. Disseminating educational material; and

1 1. Other duties as the director prescribes.

3 2. Limitations. Field foresters are limited to 3 site
5 visits per landowner over a 5-year period, except as necessary to
7 administer federal programs related to forestry or to determine
9 compliance with provisions of this Title.

11 3. Comprehensive plans. The foresters may provide
13 technical assistance on forestry issues to municipalities in
15 developing their comprehensive plans.

17 4. Reporting requirements. The commissioner shall report
19 biannually beginning in 1991, to the joint standing committee of
21 the Legislature having jurisdiction over energy and natural
23 resources on activities under the field forester program. This
25 report, to be completed by February 1st, shall include a
27 description of the types of assistance given to landowners and
29 wood processors, a description of the activities of the field
31 foresters and any recommendations for changes in the program.

33 Sec. 10. 12 MRSA c. 805, sub-c. III, art. 3 is repealed.

35 Sec. 11. 12 MRSA c. 805, sub-c. III-A is enacted to read:

37 SUBCHAPTER III-A

39 FOREST PRACTICES

41 §8867. Rulemaking

43 By September 1, 1990, the commissioner shall promulgate
45 rules in accordance with Title 5, chapter 375, to implement this
47 subchapter.

49 1. Prior to rulemaking. Prior to developing rules, the
51 commissioner shall hold public meetings or hearings throughout
the State to solicit public input. Before promulgating rules,
the commissioner shall:

A. Seek advice from the Citizens' Forestry Advisory Council
and ad hoc advisory boards formed pursuant to Title 5,
section 12008, on forest management issues that vary from
region to region, including regeneration and clear-cutting
rules;

B. Consult with the Commissioner of Environmental
Protection and the Commissioner of Inland Fisheries and
Wildlife to ensure consistency between the departments'
rules and the consideration of wildlife habitat and
environmental protection; and

1 C. Consult with the director of the Office of Comprehensive
2 Land Use Planning to ensure that municipalities can
3 integrate any rules into their comprehensive planning
4 process;

5
6 2. Report. The commissioner shall report to the
7 Legislature by January 15, 1991, on the rules promulgated under
8 this subchapter.

9
10 §8868. Definitions

11 As used in this subchapter, unless the context otherwise
12 indicates, the following terms have the following meanings.

13
14 1. Clear-cut. "Clear-cut" means any timber harvesting on a
15 forested site greater than 5 acres in size which over a 10-year
16 period results in an average residual basal area of trees over 6
17 inches in diameter measured at 4½ feet above the ground of less
18 than 30 square feet per acre, unless one or both of the following
19 conditions exist:

20
21 A. If, after harvesting, the average residual basal area of
22 trees over 1 inch in diameter measured at 4½ feet above the
23 ground is 30 square feet per acre or more, a clear-cut does
24 not occur until the average residual basal area of trees 6
25 inches or larger measured at 4½ feet above the ground is
26 less than 10 square feet per acre; or

27
28 B. After harvesting, the site has a well-distributed stand
29 of trees of at least 5 feet in height that meets the
30 regeneration standards defined under section 8869,
31 subsection 1.

32
33 2. Forest management plan. "Forest management plan" means
34 a site-specific document signed by a professional forester
35 outlining proposed activities to ensure compliance with
36 performance standards and regeneration requirements established
37 pursuant to this subchapter.

38
39 3. Professional forester. "Professional forester" means a
40 person licensed pursuant to Title 32, chapter 75.

41
42 4. Timber harvesting. "Timber harvesting" means the
43 cutting or removal of at least 50 cords of timber for the primary
44 purpose of selling or processing forest products.

45
46 §8869. Forest harvest regulations

47
48 To promote a healthy and sustainable forest that contains a
49 balance of age classes necessary for a sustainable timber supply
50 and spatial and compositional diversity, forest harvesting shall
51 be regulated pursuant to this subchapter.

1

1. Standards for regeneration after harvests. The commissioner shall adopt rules to ensure adequate regeneration of commercial tree species on a site within 5 years of completion of any timber harvest. Rules to implement this requirement shall include identification of commercial tree species, minimum stocking standards and methods to mitigate inadequate regeneration. In developing regeneration standards, the commissioner shall take into consideration regional differences in forest types, tree species and physiographic conditions.

11

2. Performance standards for clear-cuts. The commissioner shall establish, by rule, performance standards for clear-cuts, including limitations on size. These standards shall protect water quality, minimize soil erosion, ensure adequate regeneration, address adverse impacts on wildlife habitat and provide for a healthy and sustainable forest. The commissioner shall incorporate regional variations in developing performance standards that consider growing conditions, tree species and site quality.

21

3. Plans for clear-cuts over 50 acres. For clear-cuts of 50 acres or more, the landowner, or agent of the landowner, shall develop, prior to harvest, a forest management plan signed by a professional forester that conforms to the standards set forth in subsections 1 and 2. This plan must be kept on file by the landowner or agent of the landowner and be available for inspection by the bureau until adequate regeneration in accordance with the standards set forth in subsection 1 is established.

31

4. Exemption for natural disaster. If the regeneration on a harvested clear-cut, or portion thereof, is destroyed by fire, disease, insect infestation or other natural disaster, the regeneration requirement does not apply. Vegetative cover sufficient to prevent accelerated erosion must be established on the site.

37

5. Variance. The commissioner shall establish, by rule, standards to permit activities that exceed the standards set forth under subsection 2. In developing standards, the commissioner shall consider the unique characteristics of a site and any related economic hardship which would result from noncompliance with these standards.

45

6. Transfer or sale of property. Upon sale or other transfer of ownership of land that has been harvested, the transferee becomes responsible for the regeneration requirements on the site. The transferor shall disclose in writing to the transferee the regeneration requirements of this section at, or prior to, the time of sale or transfer. Failure of the transferor to comply with the disclosure requirement shall result

51

1 in the transferor being responsible for compliance with the
2 regeneration requirements of subsection 1.

3
4 7. Application. This section shall apply to all forest
5 lands within the State, including land in municipal and state
6 ownership. Only state-owned or operated research forests or
7 industrially owned research forests certified by the commissioner
8 are exempt from these requirements.

9
10 8. Relationship to municipal rules and regulations.
11 Nothing in this subchapter may be construed to preempt or
12 otherwise limit the existing authority of municipalities to
13 regulate harvesting, except that municipalities regulating timber
14 harvesting shall adopt definitions for forestry terms used in
15 their ordinances that are consistent with forestry terms adopted
16 by the commissioner pursuant to this subchapter. Municipalities
17 considering the adoption of ordinances regulating timber
18 harvesting shall develop ordinances in consultation with the
19 department.

20 9. Centralized listing of municipal ordinances. The bureau
21 shall maintain for informational purposes a statewide centralized
22 listing of municipal ordinances that specifically apply to forest
23 practices.

24
25 A. The clerk of any municipality which, on the effective
26 date of this section, has an ordinance to be listed under
27 this subsection, shall file a copy of that ordinance with
28 the bureau by December 31, 1989.

29
30 B. The clerk of the municipality shall provide the bureau
31 with notice and a copy of any ordinance to be listed under
32 this subsection at least 30 days prior to the meeting of the
33 legislative body or the public hearing at which adoption of
34 the ordinance shall be considered. The clerk shall notify
35 the bureau within 30 days after adoption of the ordinance.

36
37 10. Right of enforcement. Enforcement of this subchapter
38 shall be by any state, county or municipal law enforcement
39 officer, including forest rangers of the bureau and wardens of
40 the Department of Inland Fisheries and Wildlife.

41
42 11. Right of entry. Agents of the bureau shall have rights
43 of access to all lands within the State to carry out the duties
44 they are authorized by law to administer and enforce. Entry into
45 private property under this subsection is not a trespass. This
46 subsection does not authorize entry into any building or
47 structure.

48
49 **Sec. 12. 12 MRSA c. 805, sub-c. IV is repealed.**

50
51 **Sec. 13. 12 MRSA c. 805, sub-c. V is enacted to read:**

SUBCHAPTER V

FOREST LANDOWNER AND WOOD PROCESSOR REPORTING REQUIREMENTS

§8881. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. All-weather road. "All-weather road" means a public or private road that may be traversed during all seasons of the year.

2. Designated agent. "Designated agent" means a person, firm, company, corporation or other legal entity representing the landowner in timber sales or land management.

3. Forest products. "Forest products" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass fuel wood, fuel wood or other products commonly known as forest products, but does not include Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material, cones or other seed crops.

4. Harvester. "Harvester" means a person, firm, company, corporation or other legal entity which harvests or contracts to harvest a forest product.

5. Harvest operation. "Harvest operation" means a harvest of forest products on land in a single municipality or township. Land harvested need not be contiguous and more than one harvester may work a harvest operation.

6. Lump-sum sale. "Lump-sum sale" means a sale in which the owner of standing timber sells the timber for one price and that price is not broken down by species or product.

7. Precommercial silvicultural activities. "Precommercial silvicultural activities" means chemical or mechanical thinning operations, planting, stand conversion or timber stand improvement activities where no forest products are sold.

8. Residue. "Residue" means by-products of a processed log, including, but not limited to bark, woodchips or sawdust.

9. Roundwood. "Roundwood" means logs, bolts and other round sections of wood as they are cut from a tree.

10. Roundwood processing operation. "Roundwood processing operation" means sawmills; bolter mills; shingle mills; veneer mills; fence pole and piling making operations; pulp and paper mills; wafer board, particle board and plywood mills; whole tree

1 chippers; commercial fuel wood processors; and custom processing
2 mills of these products.

3
4 11. Stumpage. "Stumpage" means standing timber.

5
6 §8882. Forms

7
8 Forms required under this subchapter shall be provided by
9 the bureau and shall be written in an easily understandable
10 format.

11
12 §8883. Notification

13
14 Prior to commencing harvesting operations, the landowner or
15 designated agent shall notify the bureau of the harvest operation.

16
17 1. Notification prior to harvest. Notification shall be
18 on forms supplied by the bureau and shall include the following
19 information:

20
21 A. The name, address and phone number of the landowner, any
22 designated agent, and, if known, any harvester or harvesters;

23
24 B. The name and address of any licensed professional
25 forester consulting the landowner on forest management or
26 harvesting practices;

27
28 C. The municipality or township and county of harvest;

29
30 D. The name of the nearest public or private all-weather
31 road;

32
33 E. The approximate dates the harvest will begin and finish;

34
35 F. The anticipated acreage to be harvested;

36
37 G. Whether the land is being harvested to convert to
38 another use within 2 years and, if so, what that use is to
39 be;

40
41 H. The signatures of the landowner or designated agent;

42
43 I. A map locating the harvest site in relation to known or
44 easily identifiable terrain features, such as a road
45 junction or a stream and road junction. If the map is
46 hand-drawn, a north arrow shall be included; and

47
48 J. The date of notification.

49
50 2. Harvest reporting forms. Upon receipt by the bureau of
51 the form required under subsection 1, the bureau shall mail forms

1 to the landowner or designated agent for reporting harvest
2 information pursuant to this subchapter.

3
4 3. Notification form on file. The landowner or designated
5 agent shall retain a copy of the notification form and produce it
6 upon request of agents as specified in section 8888.

7
8 4. Duration. A notification shall remain valid for 2 years
9 from the date of issue or upon completion of the harvest,
10 whichever occurs first. If the harvest extends beyond 2 years, a
11 new notice under this section must be filed.

12
13 5. Notification exemption. The following activities are
14 exempt from the notification requirement under this section:

15
16 A. Activities where forest products are harvested for an
17 owner's own use and are not sold or offered for sale or used
18 in the owner's primary wood-using plants; and

19
20 B. Precommercial silvicultural forestry activities.

21 §8884. Annual wood processing reports

22
23 1. Wood processor reports. Owners or operators of all
24 roundwood processing operations shall submit an annual report to
25 the director of the bureau during the month of January for the
26 roundwood used or processed by the operation during the preceding
27 year. The report shall specify the amount of roundwood processed
28 by species and county where cut from the stump.

29
30 2. Imports and exports. Persons, firms, corporations or
31 companies selling roundwood out of the State or buying roundwood
32 to bring into the State shall submit during the month of January
33 information required under subsection 1, including information on
34 residue. The report shall also identify the origin of imported
35 roundwood by state or country and the destination of exported
36 roundwood by state or country.

37
38 3. Confidentiality. Volume information contained in these
39 reports is confidential and shall not be made public except that
40 summary reports may be published that use aggregated data which
41 do not reveal the activities of an individual person or firm.

42 §8885. Reports by forest landowners

43
44 1. Harvest report. Any owner of forest land who sells
45 forest products or harvests forest products for that owner's
46 commercial use shall submit a report to the director stating the
47 species, volume and stumpage price per unit of measure for each
48 transaction, the municipality or township where the stumpage was
49 located, the estimated acreage of the harvest, the harvest method
50 employed and the extent of whole-tree harvesting of both solid
51 and

1 and chipped wood. For lump-sum sales, the purchaser shall be
2 responsible for submitting the report.

3
4 2. Precommercial silvicultural practices report. Owners of
5 forest land on which precommercial silvicultural practices have
6 been performed on more than 10 acres in any year shall report
7 these practices to the director.

8
9 3. Reports. Reports required under this section shall be
10 due during the month of January. If the period of cutting under
11 subsections 1 or 2 extends beyond December 31st of any calendar
12 year, a report shall be submitted during the month of January for
13 the preceding year.

14
15 4. Confidentiality. Information contained in reports filed
16 under this section shall not be made public, except that summary
17 reports may be published that use aggregated data which do not
18 reveal the activities of an individual person or firm. Forms
19 submitted pursuant to this section shall be available for the use
20 of the State Tax Assessor pursuant to Title 36, chapter 105,
21 subchapter II-A.

22
23 5. Disclosure. Nothing in this section may be construed to
24 prevent the disclosure of information to duly authorized officers
25 of the United States and of other states, districts and
26 territories of the United States and of the provinces and
27 Dominion of Canada. The information shall be given only on the
28 written request of the duly authorized officer when that
29 officer's government permits the exchange of similar information
30 with the taxing officials of this State and when that officer
31 agrees that the information shall be used only for tax collection
32 purposes.

33 §8886. Reports

34 The director shall produce the following reports.

35
36
37 1. Harvesting practices. Utilizing a sample of forest
38 landowner reports and any other appropriate survey methods, the
39 director shall tabulate an annual survey of the methods of
40 harvesting and the harvest practices employed. The information
41 on harvesting shall include, but not be limited to, the
42 silvicultural prescriptions employed, the estimated acreage of
43 various harvest methods, including clear-cutting, and the extent
44 of whole-tree harvesting of both solid and chipped wood.

45
46
47 2. Semiannual price reports. The bureau shall publish,
48 semiannually, a report on prices as specified below. These
49 reports shall be reported by zones as determined by the director
50 and shall include a statewide average of all zones.

1 A. The reports shall include stumpage prices paid for
2 forest tree species of the State as reported pursuant to
3 section 8884. Prices for other forest products may be
4 collected using acceptable survey techniques.

5 B. The reports shall include mill delivered prices paid by
6 primary processors, wood wholesalers and wood brokers of the
7 State.

8
9 §8887. Penalties

10 1. Notification. Failure to notify the bureau pursuant to
11 section 8883, of a harvest operation of 50 cords or less
12 constitutes a civil violation for which a forfeiture not to
13 exceed \$50 may be assessed. Failure to notify the bureau
14 pursuant to section 8883, of a commercial harvest operation of
15 more than 50 cords constitutes a civil violation for which a
16 forfeiture not to exceed \$1,000 for each occurrence may be
17 assessed and for which immediate cessation of the operation may
18 be ordered by the court. Continued operation after receiving an
19 order to cease operation constitutes a civil violation for which
20 a forfeiture not to exceed \$1,000 for each day the operation
21 continues may be assessed. Each day of failure to notify shall
22 be considered a separate offense.

23 2. Reports. Failure to submit reports pursuant to sections
24 8884 or 8885 constitutes a civil violation for which a forfeiture
25 not to exceed \$1,000 for each failure may be assessed.

26 §8888. Enforcement

27 Enforcement of this subchapter shall be by any state, county
28 or municipal law enforcement officer, including forest rangers of
29 the Bureau of Forestry and wardens of the Department of Inland
30 Fisheries and Wildlife.

31 Sec. 14. 14 MRSA §7552, as repealed and replaced by PL 1983,
32 c. 816, Pt. A, §5, is amended to read:

33 §7552. Injury to lands or property

34 Whoever cuts down, destroys, injures or carries away any
35 ornamental or fruit tree, Christmas tree, evergreen boughs,
36 agricultural product, timber, wood, underwood, stones, gravel,
37 ore, goods or property of any kind from land not his ~~his~~ that
38 person's own, without license of the owner, or injures or throws
39 down any fences, bars or gates, or leaves such gates open, or
40 breaks glass in any building is liable in damages to the owner in
41 a civil action. If such an act or such acts are committed
42 willfully or knowingly, the defendant is liable to the owner in
43 treble damages and, in addition, for the cost of any professional
44 services necessary for the determination of damages, for

1 attorney's fees, and for court costs. In addition, if the action
2 includes the destruction, cutting or injury of any commercial
3 forest trees, the defendant is responsible for regeneration of
4 the stand in accordance with Title 12, section 8869. For
5 purposes of this section, Christmas trees and evergreen boughs
6 are defined in Title 12, section 8841, and agricultural product
7 is defined in section 7551-A.

9 Sec. 15. 36 MRSA §573, sub-§3-A is enacted to read:

11 3-A. Forest management and harvest plan. "Forest
12 management and harvest plan" means a written document, prepared
13 by a licensed professional forester, outlining activities to
14 regenerate, improve and harvest a standing crop of timber. The
15 plan shall include the location of water bodies and wildlife
16 habitat identified by the Department of Inland Fisheries and
17 Wildlife. A plan may include, but not be limited to, schedules
18 and recommendations for timber stand improvement, harvesting
19 plans and recommendations for regeneration activities.

21 Sec. 16. 36 MRSA §574, as amended by PL 1981, c. 517, §4 and
22 c. 625, §2, is repealed.

23 Sec. 17. 36 MRSA §574-B is enacted to read:

25 §574-B. Applicability

27
28 An owner of a parcel containing forest land may apply at the
29 landowner's election by filing with the assessor the schedule
30 provided for in section 579; except that this subchapter shall
31 not apply to any parcel containing less than 10 acres of forest
32 land. For purposes of this subchapter, a parcel is deemed to
33 include a unit of real estate, notwithstanding that it is divided
34 by a road, way, railroad or pipeline, or by a municipal or county
35 line. The election to apply shall require the unanimous consent
36 of all owners of an interest in a parcel, except for the State,
37 which is not subject to taxation hereunder.

38 A parcel of land used primarily for growth of trees to be
39 harvested for commercial use shall be taxed according to this
40 subchapter, provided that the landowner complies with the
41 following requirements:

42
43 1. Forest management and harvest plan. A forest management
44 and harvest plan has been prepared for the parcel and updated
45 every 10 years. The landowner shall file a sworn statement with
46 the municipal assessor in a municipality or the State Tax
47 Assessor for parcels in the unorganized territory that a
48 management plan has been prepared for the parcel. A landowner
49 with a parcel taxed pursuant to this subchapter on the date of
50 enactment of this provision has until April 1, 1999 to comply
51 with this requirement and may, upon request, be subject to the

1 applicability provisions until April 1, 1999, under this section
2 as it existed on April 1, 1982;

3
4 2. Evidence of compliance with plan. The landowner must
5 comply with the plan developed under subsection 1, and must
6 submit, every 10 years to the municipal assessor in a
7 municipality or the State Tax Assessor for parcels in the
8 unorganized territory, a statement from a licensed professional
9 forester that the landowner is managing the parcel according to
10 schedules in the plan required under subsection 1; and

11
12 3. Transfer of ownership. If the land is transferred to a
13 new owner, a forest management and harvest plan must be prepared
14 for the landowner and a sworn statement to that effect submitted
15 within one year to the municipal assessor in a municipality or
16 the State Tax Assessor for the unorganized territory.

17 Parcels of land subject to section 573, subsection 3, paragraph B
18 or C, are exempt from the requirements under this section.

19
20 Sec. 18. 36 MRSA §579, first ¶, as amended by PL 1981, c. 706,
21 §9 is further amended to read:

22
23
24 The owner or owners of forest land subject to valuation
25 under this subchapter shall submit a signed schedule in
26 duplicate, on or before April 1st of the year in which that land
27 first becomes subject to valuation under this subchapter, to the
28 assessor upon a form to be prescribed by the State Tax Assessor,
29 identifying the land to be valued hereunder, listing the number
30 of acres of each forest type, showing the location of each forest
31 type and representing that the land is used primarily for the
32 growth of trees to be harvested for commercial use. Those
33 schedules may be required at such other times as the assessor may
34 designate upon 90-days' 120-days' written notice.

35
36 Sec. 19. 36 MRSA §581-E is enacted to read:

37
38 §581-E. Report to the Bureau of Forestry

39
40 The municipal assessor or chief assessor of a primary
41 assessing area shall report to the Bureau of Forestry by November
42 1, 1990, or 30 days following the tax commitment date, whichever
43 is sooner, and annually thereafter, on forms provided by the
44 bureau, the following information relating to land taxed
45 according to this subchapter:

46
47 1. The names and addresses of landowners;

48
49 2. The total acres taxed pursuant to this subchapter,
50 including a forest type breakdown by softwood, mixed wood
51 and hardwood; and

1 3. The year each parcel was accepted for taxation under
2 this subchapter.

3 Sec. 20. 36 MRSA §1112, as repealed and replaced by PL 1987,
4 c. 728, §9, is amended to read:

5 §1112. Recapture penalty

6 Any change in use disqualifying land for classification
7 under this subchapter shall cause a penalty to be assessed by the
8 assessors of the municipality in which the land is located, or by
9 the State Tax Assessor if the land is not within a municipality,
10 in addition to the annual tax in the year of disqualification
11 except when the change is occasioned by a transfer resulting from
12 the exercise or the threatened exercise of the power of eminent
13 domain.

14 For land classified as farmland under this subchapter for
15 less than 5 full years, the penalty shall be equal to 40% of its
16 assessed fair market value at the time the land is removed from
17 the program. For land that has been classified as farmland under
18 this subchapter for more than 5 full years but less than 10 full
19 years, the penalty shall be full recapture of the taxes that
20 would have been paid on the land for all the years it was in the
21 program, less all taxes that were paid during those years and
22 interest at the rate set by the town during those years on
23 delinquent taxes. For land that has been classified as farmland
24 under this subchapter for more than 10 full years, the penalty
25 shall be the recapture of the taxes that would have been paid on
26 the land for the past 5 years if it had not been classified under
27 this subchapter, less all taxes that were actually paid during
28 those 5 years and interest at the rate set by the town during
29 those 5 years on delinquent taxes.

30 No penalty may be assessed at the time of a change of use
31 from ~~one~~ the farmland classification of land subject to taxation
32 under this subchapter to ~~another~~ the open space classification of
33 land subject to taxation under this subchapter ~~nor may any.~~ No
34 penalty may be assessed upon the withdrawal of open space land
35 from taxation under this subchapter if the owner applies for and
36 is accepted for classification as timberland under subchapter
37 II-A, ~~provided that in.~~ There also is no penalty imposed when
38 land classified as timberland is accepted for classification as
39 open space land. In the event a penalty is later assessed under
40 subchapter II-A the period of time that the land was taxed as
41 farmland or as open space land under this subchapter shall be
42 included for purposes of establishing the amount of the penalty.

43 If land is withdrawn from classification under this
44 subchapter, any penalty assessed may be considered for abatement
45 pursuant to the procedures incorporated in subchapter VIII.

1 For land classified as open space under this subchapter, the
2 penalty shall be the same imposed on tree growth withdrawal in
3 section 581.

5 **Sec. 21. 36 MRSA §1760, sub-§67** is enacted to read:

7 67. Seedlings for commercial forestry use. Sales of tree
8 seedlings for use in commercial forestry. For purposes of this
9 subsection, commercial Christmas tree operations are not
10 considered commercial forestry. This subsection shall take
11 effect September 1, 1990.

13 **Sec. 22. 36 MRSA §2723-A, sub-§5**, as enacted by PL 1987, c.
14 362, §3, is repealed.

15 **Sec. 23. 36 MRSA §2723-A, sub-§5-A** is enacted to read:

17 5-A. Computing tax. This amount shall be multiplied by 45%
18 in 1992, 40% in 1993, 35% in 1994, 30% in 1995 and 25% in 1996
19 and the sum shall then be divided by the total number of adjusted
20 acres of commercial forest land, rounded to the nearest 1/10 of a
21 cent and multiplied by the number of adjusted acres of commercial
22 forest land owned by each taxpayer to determine the amount of tax
23 for which each owner of commercial forest land shall be liable.

25 **Sec. 24. 36 MRSA §5219-C** is enacted to read:

27 **§5219-C. Forest management planning income credits**

29 Once every 10 years, an individual is allowed a credit
30 against the tax otherwise due under this Part for the lesser of
31 \$200 or the individual's cost for having a forest management and
32 harvest plan, as defined in section 573, developed for a parcel
33 of forest land greater than 10 acres. For purposes of this
34 section, the licensed professional forester may not be in the
35 regular employ of the individual. In no case may this credit
36 reduce the state income tax to less than zero. Those taxpayers
37 claiming this credit must attach a statement from the forester
38 supporting the claim and swear that the credit has not been
39 claimed by them in the previous 10 years. Those taxpayers
40 deducting the cost of the forester as an expense under the
41 Internal Revenue Code must reduce the expense by the amount of
42 the credit.

45 **Sec. 25. Consistent standards.** The Citizens' Forestry Advisory
46 Council shall review all existing environmental protection
47 standards found in Titles 12, 36 and 38 and rules promulgated
48 under those Titles as they pertain to forest management
49 activities to identify regulatory inconsistencies. The council
50 shall report to the Governor and the Joint Standing Committee on
51 Energy and Natural Resources by September 1, 1990,

1 with findings and recommendations for legislative and regulatory
 3 changes.

5 **Sec. 26. Municipal ordinances.** The Department of Conservation
 7 shall report to the joint standing committee of the Legislature
 9 having jurisdiction over natural resources within 18 months of
 11 adopting rules pursuant to this Act on special problems with and
 13 the need for municipal ordinances regarding forest practices.

15 **Sec. 27. Appropriation.** The following funds are appropriated
 17 from the General Fund to carry out the purposes of this Act.

| | 1989-90 | 1990-91 |
|---|-----------------------------------|-------------|
| CONSERVATION, DEPARTMENT OF | | |
| Forest Management, Utilization and Marketing | | |
| 19 | | |
| 21 | (36) | (36) |
| 21 | \$721,316 | \$1,075,433 |
| 23 | 246,114 | 308,819 |
| 23 | 362,014 | |
| 25 | Provides funds for the | |
| 27 | implementation of 7 different | |
| 29 | segments of the proposed | |
| 31 | program. These segments | |
| 33 | are: Forestry Policy and | |
| 35 | Rulemaking, Forest Management | |
| 37 | Information, Enforcement | |
| 39 | Coordination, Field Foresters | |
| 41 | for Forest Management, Field | |
| 43 | Foresters for Enforcement, | |
| 45 | Natural Resource Education | |
| 47 | and a Voluntary Incentive | |
| 49 | Program Study. | |
| 39 | DEPARTMENT OF CONSERVATION | |
| 41 | TOTAL | |
| | \$1,329,444 | \$1,384,252 |

| | | |
|----|---|--|
| 41 | FINANCE, DEPARTMENT OF | |
| 43 | Bureau of Taxation | |
| 45 | | |
| 47 | \$5,000 | |
| 49 | Provides funds for a personal computer and work station. | |

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|------------------------------|--------------------|--------------------|
| DEPARTMENT OF FINANCE | | |
| TOTAL | <u> </u> | <u>\$5,000</u> |
| | | |
| TOTAL APPROPRIATION | <u> </u> | <u>\$1,384,252</u> |
| | <u>\$1,334,444</u> | |

FISCAL NOTE

Enactment of this legislation would result in a General Fund appropriation to the Department of Conservation, Forest Management, Utilization and Marketing, Account #01505.1, in the amount of \$1,622,588 in fiscal year 1989-90 and \$1,384,252 in fiscal year 1990-91. The bill also establishes a sales tax exemption for seedlings used in commercial forestry. This will result in a loss of General Fund revenue of \$36,667 in fiscal year 1990-91. The Commercial Forestry Excise Tax formula is changed beginning in fiscal year 1991-92, which will have a significant future impact on the General Fund when fully phased in. Also, a new income tax credit is established, resulting in an estimated loss of revenue to the General Fund of \$3,000 in fiscal year 1989-90 and \$6,000 in fiscal year 1990-91. Finally, funds are provided to the Bureau of Taxation for a computer.

The total impact of appropriations and revenue losses to the General Fund will be as follows:

| | | |
|--|-------------|-------------|
| | 1989-90 | 1990-91 |
| | \$1,337,444 | \$1,426,919 |

There also will be significant future costs.'

STATEMENT OF FACT

This amendment replaces the original bill. In order to allow landowners, resource managers and regulators to plan for and manage healthy, productive forest lands, the amendment directs the Maine Forests for the Future Program to track the forest land base; provides for technical assistance for forest landowners and wood processors; establishes regulation of forest harvesting practices; requires accurate reporting of forest management, harvesting and processing activities; and creates landowner incentives to protect the forest land base and to actively manage forest lands.

Sections 1 to 5 of the amendment require the Maine Forests for the Future Program to track changes to the forest land base

1 as part of their overall assessment of forest lands and
2 establishes a study to develop a voluntary incentives program for
3 exemplary forest management.

5 Section 6 of the amendment enables the Commissioner of
6 Conservation to work with the University of Maine System to
7 enhance the curriculum in forest products marketing and finance.

9 Section 9 of the amendment enacts a strong technical
10 assistance program for forest landowners and wood processors,
11 including a forest management information clearinghouse, a
12 natural resource educator and a strengthened field forester
13 program to provide outreach services and referrals.

15 Section 10 of the amendment requires the Commissioner of
16 Conservation to develop rules for regeneration requirements,
17 clear-cutting practices, forest management plans and a variance
18 procedure from these requirements. Opportunities for public
19 comment and input are incorporated throughout this process.
20 These rules will be designed to address environmental concerns
21 related to clear-cutting. In recognition of the variation of
22 forest lands and harvesting sites in Maine, this amendment
23 proposes a variance procedure from the clear-cutting performance
24 standards. These procedures are to be site-related and not tied
25 to economic hardships of any individuals or corporations.

27 Section 10 of the amendment also requires regeneration of
28 commercial tree species on a clear-cut site within 5 years of a
29 clear-cut, except when destroyed by a natural disaster. These
30 regeneration requirements must be disclosed upon sale of any
31 harvested forest land until regeneration on the parcel has
32 satisfied the requirements of this section. Timber trespass
33 restitution requirements are amended in section 14 of the
34 amendment to include regeneration. Forest management plans for
35 clear-cuts over 50 acres in size are required to assure that
36 environmental concerns are addressed in large harvests.

37
38 Finally, in recognition of the difficulty in having a
39 variety of municipal ordinances regulating timber harvesting in
40 Maine, section 10 of the amendment requires municipalities to use
41 consistent terms in their ordinances, file their ordinances with
42 the Bureau of Forestry and notify the Bureau of Forestry before
43 any new ordinances are adopted.

45 Sections 13, 14 and 15 of the amendment strengthen forest
46 landowner and wood processor reporting requirements. While much
47 of the proposed new subchapter is reallocated from existing law,
48 this amendment requires preliminary notification of timber
49 harvesting. This will allow the bureau to track harvesting
50 operations and to conduct landowner outreach. Penalty provisions
51 for notification and reporting under this subchapter are
strengthened.

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Section 17 of the bill changes the requirements for eligibility for tree growth tax consideration to require a forest management plan for the parcel. This requirement is paired with a \$200 income tax credit for forest management plans in section 23 of the amendment.

Section 20 removes a loophole created last year for the transfer of land from tree growth tax status to the open space program and returns the withdrawal penalty to the level of the tree growth tax program.

Section 21 enacts a sales tax exemption for commercial tree seedlings.

Section 23 phases down the commercial forestry excise tax to 25% of the program costs by 1996.

Section 24 provides an income tax credit to landowners that have forest management plans developed for their holdings. Maine needs to encourage small landowners to manage their forest lands well to get the highest yields off those lands. This also offsets the new applicability provisions of the tree growth tax laws.

The amendment also contains two reporting requirements. Section 25 requires the Citizens Forestry Advisory Council to review all environmental protection standards related to forestry with the goal of recommending consistency. Section 26 requires the Commissioner of Conservation to review municipal ordinances and the need for them within 18 months of promulgating rules for forest practices.

This amendment also places an appropriation and a fiscal note on the bill.

Reported by the Committee on Taxation
Reproduced and distributed under the direction of the Clerk of the House
6/19/89

(Filing No. H-635)