

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 657

H.P. 477

House of Representatives, March 7, 1989

Reference to the Committee on Agriculture suggested and ordered printed.

*Ed Pert*

EDWIN H. PERT, Clerk

Presented by Representative TARDY of Palmyra.

Cosponsored by Senator PERKINS of Hancock, Representative TAMMARO of Baileyville and Representative HUSSEY of Milo.

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STATE OF MAINE

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

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An Act to Discourage the Theft of Blueberries.

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

3 Sec. 1. 36 MRSA §4302, sub-§§1-B, 1-C, 1-D, 1-E and 5 are enacted  
to read:

5 1-B. Crew leader. "Crew leader" means a person designated  
7 by an owner to supervise an organized crew.

9 1-C. Organized crew. "Organized crew" means a group of  
11 people working together under the supervision of a crew leader  
13 to harvest, pick, rake, possess or remove blueberries from the  
15 land of an owner.

17 1-D. Owner. "Owner" includes a landowner or leaseholder of  
19 land on which blueberries are grown and harvested for profit, or  
21 the landowner's or leaseholder's authorized agent, and includes a  
23 receiver of blueberries grown in Canada and purchased from  
25 Canadian sellers.

27 1-E. Permanent record. "Permanent record" means a written  
29 record which is kept and maintained for not less than 6 years.

31 5. Transportation permit. "Transportation permit" means an  
33 official permit on forms duly adopted and furnished by the Maine  
35 Blueberry Commission to owners.

37 Sec. 2. 36 MRSA §§4314 to 4317 are enacted to read:

39 §4314. Permit required

41 1. Possession or removal unlawful. It shall be unlawful  
43 for any person to harvest, pick, rake, possess or remove  
45 blueberries from the land of an owner without first securing  
47 written permission from the owner or the owner's authorized  
49 agent. This section shall not apply to members of an organized  
51 crew, provided the crew leader has first secured the written  
permission of the owner. Any person authorized to make  
inspections under this chapter may require any person on the land  
of an owner who has possession of blueberries or is found  
harvesting, raking, picking or removing blueberries to show a  
current written permit.

2. Limitations. No permit is required under this section  
when the person on the land of an owner has possession of not  
more than 5 pounds of blueberries.

3. No effect on other laws. Nothing in this section may be  
construed:

A. To relieve any person of any obligation to obtain  
permission to enter upon the land or premises of another; or

1           B. To affect any criminal or civil liability which may  
3           exist for unauthorized entry, trespass, theft or conversion.

5           4. Violation. Any violation of this section is a Class E  
7           crime.

7           §4315. Transportation of blueberries

9           1. Transportation of blueberries without permit. It is  
11           unlawful for any person to transport blueberries in quantities  
13           exceeding 5 pounds without first obtaining a transportation  
15           permit on an official form to be furnished by the Maine Blueberry  
17           Commission. The Maine Blueberry Commission shall issue official  
19           transportation permit forms to owners who may issue the  
21           transportation permits to individuals. Each permit issued shall  
23           bear a different number and shall expire at the end of the  
            calendar year. When an owner issues a transportation permit, the  
            owner shall immediately send a copy to the Maine Blueberry  
            Commission. The commission shall keep a permanent record of all  
            permits issued. The commission may promulgate rules establishing  
            the form and content of transportation permits and governing the  
            means of their issuance and establishing the record-keeping  
            functions of the commission and the owners.

25           2. Permits subject to forgery laws. Every permit specified  
27           under this section is deemed to be a written instrument subject  
            to the laws of forgery.

29           3. Out-of-state delivery. No transportation permit is  
31           required of any person transporting blueberries harvested in  
33           Canada or in another state through this State if blueberries will  
            not be delivered to any person within this State.

35           4. Proof of ownership or lawful custody. Nothing in this  
37           section may apply to persons transporting blueberries when that  
            person can procure a bill of sale, sales receipt or other proof  
            of ownership or lawful custody of the blueberries.

39           5. Violation. Violation of this section is a Class D crime.

41           §4316. Receivers of blueberries

43           1. Record keeping required. Any person who receives  
45           blueberries must keep a permanent record of each lot or load of  
47           blueberries received. The record shall include the name of the  
49           driver of the vehicle used to deliver the blueberries, the date  
            of delivery, the delivery point, the number of the transportation  
            permit, the driver's license number and the total pounds of  
            blueberries delivered.

51           2. Inspection of permit required. It shall be unlawful for  
            any person to receive or accept delivery of any blueberries in

1 lots of greater than 5 pounds without first inspecting the  
2 transportation permit of the driver of the vehicle used to  
3 deliver the blueberries and recording the transportation permit  
4 number in accordance with subsection 1 of this section.

5  
6 3. Violations. Any violation of this section shall  
7 constitute a Class D crime.

8  
9 4. Audits. The Maine Blueberry Commission may request the  
10 Department of Agriculture, Food and Rural Resources to conduct,  
11 through its staff, audits of the records kept pursuant to this  
12 section for the purpose of ascertaining compliance with this  
13 section. Any documents inspected or taken by the department in  
14 furtherance of the audit functions or any other information  
15 collected by the department pursuant to the audits shall be kept  
16 confidential notwithstanding anything to the contrary contained  
17 in Title 1, chapter 13, subchapter I. The confidential status  
18 shall not apply to any documents, records or information which  
19 become evidence in any criminal proceeding to enforce any law  
20 under this chapter or any other criminal law.

21 §4317. Authorized law enforcement

22  
23 State police, county sheriffs and their deputies, municipal  
24 enforcement officers, state forest rangers and game wardens are  
25 authorized to make inspections, conduct investigations, make  
26 arrests and otherwise enforce this chapter.

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28  
29  
30 **STATEMENT OF FACT**

31  
32 The purpose of this bill is to reduce the theft of  
33 blueberries during harvest of the crop. This bill would make it  
34 a crime for any person to harvest, pick, rake, possess or remove  
35 blueberries on the land of another without first securing written  
36 permission of the owner of the land or authorized  
37 representative. It will also make it a crime to transport  
38 blueberries without a formal, numbered permit containing  
39 pertinent additional information. Finally, this bill would make  
40 it a crime to receive blueberries without inspecting the  
41 transportation permit and recording pertinent information from  
42 the permit to provide documentation as to the source of the  
43 blueberries and the identity of the driver.

44 Administration of this law will be the responsibility of the  
45 Maine Blueberry Commission, which may enlist the assistance of  
46 the Department of Agriculture, Food and Rural Resources for  
47 compliance efforts. Potentially sensitive business information  
48 which is subject to audit is afforded confidential status.  
49