

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1543

H.P. 1110

House of Representatives, May 8, 1989

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative COLES of Harpswell.

Cosponsored by Representative TARDY of Palmyra, Representative LORD of Waterboro and Senator ANDREWS of Cumberland.

STATE OF MAINE

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

An Act to Amend the Open Space Laws.



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

3 **Sec. 1. 36 MRSA §1109, sub-§5, as amended by PL 1977, c. 467,**
5 **§10, is further amended to read:**

7 5. **Owner obligation.** If the owner or owners of any parcel
9 of land subject to taxation under this subchapter fail to submit
11 the schedules under the foregoing provisions of this section, or
13 fail to respond, within 60 days of receipt, to written questions
15 or interrogatories of the assessor, or fail within 60 days of
receipt of notice as provided in this section, to appear before
the assessor to respond to questions or interrogatories, or fail
to provide information after notice duly received as provided
under this section, such owner or owners shall be deemed to have
waived all rights of appeal.

17 It shall be the obligation of the owner or owners to report to
19 the assessor any change of use or change of classification of
land subject to taxation hereunder and to file annually by April
21 1st with the assessor a determination of the gross income
realized the previous year from acreage classified as "farmland."

23 If the owner or owners fail to report to the assessor as required
25 by the foregoing paragraph, the assessor may collect such taxes
as should have been paid, shall collect the penalty provided in
27 section 1112 and shall assess an additional penalty of 25% of the
foregoing penalty amount. The assessor may waive the additional
penalty for cause.

29 Any parcel of land designated as open space under this subchapter
31 shall be open during daylight hours to the public for
33 low-intensity, nonmotorized recreational use, including, but not
35 limited to, walking, bird watching and access to the shore, if
any. Timber harvesting in this area shall be subject to the
restriction imposed in Title 38, section 439-A, subsection 5,
paragraph A.

37 **Sec. 2. 36 MRSA §1112, as repealed and replaced by PL 1987,**
39 **c. 728, §9, is amended to read:**

41 **§1112. Recapture penalty**

43 Any change in use disqualifying land for classification
45 under this subchapter shall cause a penalty to be assessed by the
assessors of the municipality in which the land is located, or by
47 the State Tax Assessor if the land is not within a municipality,
in addition to the annual tax in the year of disqualification
49 except when the change is occasioned by a transfer resulting from
the exercise or the threatened exercise of the power of eminent
51 domain.

1 For land classified as farmland under this subchapter for
2 less than 5 full years, the penalty shall be equal to 40% of its
3 assessed fair market value at the time the land is removed from
4 the program. For land that has been classified as farmland under
5 this subchapter for more than 5 full years but less than 10 full
6 years, the penalty shall be full recapture of the taxes that
7 would have been paid on the land for all the years it was in the
8 program, less all taxes that were paid during those years and
9 interest at the rate set by the town during those years on
10 delinquent taxes. For land that has been classified as farmland
11 under this subchapter for more than 10 full years, the penalty
12 shall be the recapture of the taxes that would have been paid on
13 the land for the past 5 years if it had not been classified under
14 this subchapter, less all taxes that were actually paid during
15 those 5 years and interest at the rate set by the town during
16 those 5 years on delinquent taxes.

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

20
21 No penalty may be assessed at the time of a change of use
22 from ~~one~~ the farmland classification of land subject to taxation
23 under this subchapter to ~~another~~ the open space classification of
24 land subject to taxation under this subchapter ~~nor may any~~. No
25 penalty may be assessed upon the withdrawal of open space land
26 from taxation under this subchapter if the owner applies for and
27 is accepted for classification as timberland under subchapter
28 II-A, ~~provided that in~~. There also is no penalty imposed when
29 land classified as timberland is accepted for classification as
30 open space land. In the event a penalty is later assessed under
31 subchapter II-A, the period of time that the land was taxed as
32 farmland or as open space land under this subchapter shall be
33 included for purposes of establishing the amount of the penalty.

34
35 If land is withdrawn from classification under this
36 subchapter, any penalty assessed may be considered for abatement
37 pursuant to the procedures incorporated in subchapter VIII.

38 39 40 41 STATEMENT OF FACT

42
43 When the recapture penalties for farmland were reduced last
44 year, the penalties for open space land classification were
45 inadvertently reduced. Since the law allows a change from tree
46 growth classification to open space classification without
47 penalty, this reduction also provided reduced penalties for
48 removal of land from the tree growth classification. This bill
49 corrects the unintentional change by making the open space
50 penalty again equal to the tree growth penalty provision.
51 Farmland penalties remain unchanged.

- 1 Due to the potential for abuse of the open space designation, this bill also mandates that open space land be
- 3 available for limited public use during daylight hours and restricts timber harvesting on open space land.