

MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "A" to H.P. 1327, L.D. 1829, Bill, "An Act to Prohibit the Use of Herbicides in the Allagash Wilderness Waterway"

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

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the herbicide spraying season will begin before legislation by the Second Regular Session of the 114th Legislature becomes effective; and

Whereas, a moratorium on the use of herbicides during this growing season will give the State an opportunity to reassess herbicide use within the Allagash Wilderness Waterway; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 12 MRSA §662, sub-§4-A is enacted to read:

4-A. Herbicide. "Herbicide" means a substance or mixture of substances used to destroy, dessicate, defoliate or prevent the growth of unwanted vegetation.

Sec. 2. 12 MRSA §670, sub-§§1 and 2, as repealed and replaced by PL 1983, c. 754, §3, are amended to read:

1. Restricted zone. Timber-harvesting operations shall are not be permitted within the restricted zone, except:

2 A. By direction of the bureau for the purpose of
maintaining healthy forest conditions; or

4 B. By direction of the bureau for the purpose of correcting
6 situations arising from natural disasters.

8 Herbicides spraying is prohibited within the restricted zone.

10 **2. Waterway outside restricted zone.** No A person may not
commence a timber-harvesting ~~operations~~ operation in the waterway
12 outside of the restricted zone without consultation with or, when
required under paragraph B, approval from the bureau. Prior to
14 December 1, 1990, a person may not apply herbicides in the
waterway outside the restricted zone.

16 A. Before a timber-harvesting operation is commenced in the
waterway outside the restricted zone, a management plan
18 shall must be submitted to the bureau. The plan shall must
contain:

- 20 (1) A plan of the proposed timber-harvesting
22 operation, setting forth the type of cutting proposed;
- 24 (2) The amount of timber proposed to be removed;
- 26 (3) The time of year of cutting and removal;
- 28 (4) The location of principal haul road and crossings
in the waterway to be used in connection with the
30 proposed timber-harvesting operation;
- 32 (5) The plan for reforestation;
- 34 (6) A stand table indicating species composition, size
class and health of the original and residual stands;
- 36 (7) Expected date of reentry;
- 38 (8) Pesticide or other chemical treatment planned,
40 excluding the use of herbicides before December 1,
1990; and
- 42 (9) Proposed plans to mitigate evidence of harvesting.

44 When an application for approval is not required under
46 paragraph B, the bureau shall seek cooperation from those
submitting the management plan in addressing any concerns of
48 the bureau.

50 B. When the bureau determines that the timber-harvesting
operation is proposed for an area in the waterway outside of
52 the restricted zone and visible from the watercourse, the
timber-harvesting operation may commence only with approval

2 from the bureau. Application forms for approval, provided
3 by the bureau, shall must be completed and signed by the
4 applicant. This paragraph shall may not be construed to
5 excuse the applicant from requirements for other permits
6 required by law.

7
8 C. The bureau shall, within 30 days of receipt of an
9 application for approval, either approve the proposed
10 timber-harvesting operation, upon such terms and conditions
11 as are appropriate and reasonable, or disapprove the
12 proposed timber-harvesting operation setting forth in
13 writing the reasons therefor. If a decision is not made
14 within the 30 days, the timber-harvesting operation shall ~~be~~
15 is considered approved under the provisions of the
16 management plan submitted.

17 D. The bureau shall approve an application for a
18 timber-harvesting operation when it finds that the
19 management plan provides for the silvicultural alternative
20 which:

21 (1) Produces the least adverse impact upon the natural
22 character of the area in the waterway outside the
23 restricted zone and visible from the watercourse for
24 which the timber-harvesting operation is proposed; and

25 (2) Is economically feasible, except that an applicant
26 may waive the requirement of a finding of economic
27 feasibility.

28 E. Notwithstanding the provisions of paragraph D, the
29 bureau shall may not deny an application for the removal of
30 trees that are dead, dying or damaged by natural causes.

31 F. Before disapproving an application or imposing terms and
32 conditions under paragraph C, the bureau shall have the
33 application and management plan reviewed by an experienced
34 professional forester.

35 **Sec. 3. 12 MRSA §674, 4th ¶.** as repealed and replaced by PL
36 1983, c. 754, §4, is amended to read:

37
38 A person who violates any provision of section 670, except
39 as otherwise provided in this paragraph, rules promulgated or
40 permits issued under ~~it~~ that section, commits a civil violation
41 for which a forfeiture of up to, but not more than, \$1,000 for
42 each day of the violation may be adjudged. A person who willfully
43 or knowingly falsifies any statement contained in a management
44 plan or application under section 670 commits a civil violation
45 for which a forfeiture of up to, but not more than \$1,000 may be

2 adjudged. A person who violates the herbicide provisions of
3 section 670 is subject to the penalties of Title 22, section
4 1471-J.

5 **Sec. 4. 36 MRSA §574-B, sub-§1**, as enacted by PL 1989, c. 555,
6 §16, is amended to read:

7 **1. Forest management and harvest plan.** A forest management
8 and harvest plan has been prepared for the parcel and updated
9 every 10 years. The landowner shall file a sworn statement with
10 the municipal assessor in a municipality or the State Tax
11 Assessor for parcels in the unorganized territory that a
12 management plan has been prepared for the parcel. A landowner
13 with a parcel taxed pursuant to this subchapter on ~~the date of~~
14 ~~enactment of this provision~~ September 30, 1989 has until April 1,
15 1999, to comply with this requirement and ~~may, upon request~~ until
16 the plan is prepared or April 1, 1999, whichever is earlier, will
17 be subject to the applicability provisions ~~until April 1, 1999,~~
18 under this section as it existed on April 1, 1982;

19 **Emergency clause.** In view of the emergency cited in the
20 preamble, this Act takes effect when approved.'

21 STATEMENT OF FACT

22 This amendment revises the original bill to define the term
23 herbicide, fix technical errors and clarify that violations of a
24 ban on herbicide use will be subject to penalty provisions of the
25 Pesticides Control Board. A restriction for spraying herbicides
26 within the restricted zone is added. The amendment also sunsets
27 the prohibition of herbicide use outside the restricted zone on
28 December 1, 1990, to allow the State time to reevaluate the use
29 of herbicides within the waterway.

30 Finally, the amendment deletes a requirement for forest
31 landowners to request continued treatment under the Tree Growth
32 Tax Law for their lands before a forest management plan is
33 completed.

34
35
36 Reported by the Committee on Energy and Natural Resources
37 Reproduced and distributed under the direction of the Clerk of the
38 House
2/8/90 (Filing No. H-768)