

MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "**A**" to H.P. 1628, L.D. 2255, Bill, "An Act to Exempt Forestry Activities in Forested Wetlands from Regulation Under the Natural Resources Protection Laws"

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 current exemption for forestry activities in the natural resources protection laws is confusing and difficult to implement; and

Whereas, this Act clarifies the intent of this exemption; and

Whereas, this change should be effective as soon as possible to allow the forest products industry to operate within the parameters of this exemption; 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. 38 MRSA §436-A, sub-§5-A is enacted to read:

5-A. Forested wetland. "Forested wetland" means a freshwater wetland dominated by woody vegetation that is 6 meters tall or taller.

2 **Sec. 2. 38 MRSA §439-A, sub-§5**, as amended by PL 1989, c. 403,
3 §8, is further amended to read:

4
5 **5. Timber harvesting.** Municipal ordinances shall must
6 regulate timber harvesting within the shoreland area, except
7 surrounding existing forested wetlands or harvested forested
8 wetlands that are not zoned for resource protection.
9 Notwithstanding any provision ~~in-a-provision~~ in a local ordinance
10 to the contrary, standards for timber harvesting activities shall
11 may not be ~~no~~ less restrictive than the following:

12 A. Selective cutting of no more than 40% of the trees 4
13 inches or more in diameter, measured at 4 1/2 feet above
14 ground level, in any 10-year period, provided that a
15 well-distributed stand of trees and other natural vegetation
16 remains; and

17 B. Within a shoreland area zoned for resource protection
18 abutting a great pond there shall may be no timber
19 harvesting within the strip of land extending 75 feet inland
20 from the normal high-water line except to remove safety
21 hazards.

22 The board may adopt more restrictive guidelines consistent with
23 the purposes of this subchapter, which shall must then be
24 incorporated into local ordinances.

25 **Sec. 3. 38 MRSA §480-B, sub-§§2-B and 2-C** are enacted to read:

26 2-B. Forest management activities. "Forest management
27 activities" means timber stand improvement, timber harvesting,
28 forest products harvesting and regeneration of forest stands.

29 2-C. Forested wetland. "Forested wetland" means a
30 freshwater wetland dominated by woody vegetation that is 6 meters
31 tall, or taller.

32 **Sec. 4. 38 MRSA §480-C, sub-§3**, as amended by PL 1989, c. 430,
33 §4, is further amended to read:

34 **3. Application.** This section applies to all protected
35 natural resources statewide without regard to whether they have
36 been mapped pursuant to section 480-I, ~~except that significant~~
37 Significant wildlife habitat that is not within any other
38 protected natural resource must be mapped before this section
39 applies.

40 **Sec. 5. 38 MRSA, §480-Q, sub-§7**, as amended by PL 1989, c.
41 430, §7, is repealed.

42 **Sec. 6. 38 MRSA §480-Q, sub-§7-A** is enacted to read:

2 7-A. Forestry. Forest management activities, including
3 associated road construction or maintenance, in or adjacent to an
4 existing forested wetland, or a harvested forested wetland, as
5 long as:

6 A. The activity results in a forest stand that meets the
7 minimum stocking requirements in rules adopted pursuant to
8 Title 12, section 8869. This requirement takes effect when
9 those rules are adopted;

10 B. The activity meets permit by rule standards in rules
11 adopted pursuant to this article, for any road crossing of a
12 river, stream or brook, or for any soil disturbance adjacent
13 to a great pond, river, stream or brook and the commissioner
14 is notified before the forest management activity commences;

15 C. The forested wetland is not mapped as a significant
16 wildlife habitat under section 480-I; and

17 D. Any road construction is not used to access development
18 but is used primarily for forest management activities,
19 unless the road is removed and the site restored to its
20 prior natural condition. Roads must be the minimum feasible
21 width and total length consistent with forest management
22 activities. This exemption does not apply to roads that
23 provide access to development in a subdivision as defined in
24 Title 30-A, section 4401, subsection 4, for the organized
25 portions of the State, or Title 12, section 682, subsection
26 2, including divisions of land exempted by Title 12, section
27 682, subsection 2, paragraph A, for portions of the State
28 under the jurisdiction of the Maine Land Use Regulation
29 Commission.

30 **Emergency clause.** In view of the emergency cited in the
31 preamble, this Act takes effect when approved, except as
32 otherwise indicated.

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38 **FISCAL NOTE**

39 This bill:

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42 1. Removes the rule-making provision and associated costs
43 contained in the original bill; and

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45 2. Results in a reduction of dedicated revenue to the Maine
46 Environmental Protection Fund in an undetermined amount due

2 to an unknown number of proposals which would now be exempt from
the permitting requirements of the natural resources protection
4 laws. The Department of Environmental Protection has indicated
that the reduction in revenue is expected to be negligible.'

6
8 **STATEMENT OF FACT**

10 This amendment exempts timber harvesting around forested
wetlands from shoreland zoning restrictions. This amendment also
12 allows the Department of Environmental Protection to review
proposed activities in protected natural resource areas for their
14 impacts on wildlife habitats before maps of these habitats are
adopted by rule. This change does not extend the jurisdiction of
the natural resources protection laws to additional areas.

16
18 Finally, the amendment exempts forestry activities in
forested wetlands from the permitting requirements of the natural
resources protection laws under certain conditions. The
20 exemption for road construction is limited to those roads that
service forest management activities.

Reported by the Committee on Energy and Natural Resources
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