

MAINE STATE LEGISLATURE

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 2, L.D. 2, Bill, "An Act Concerning Open Burning Regulations"

Amend the bill by striking out the title and substituting the following:

'An Act Concerning Open Burning'

Further 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Whereas, the Maine Revised Statutes, Title 38, section 599, was inadvertently repealed by Public Law 1989, chapter 890; and

Whereas, this bill restores the authority and responsibility of the Maine Forest Service to enforce open-burning restrictions and to issue permits; 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:

2 Sec. 1. 12 MRSA §9321, sub-§1, ¶D, as repealed and replaced by
PL 1983, c. 504, §1, is amended to read:

4 D. The matter, and type of burning proposed, giving due
6 consideration to prohibitions and permissible open-burning
regulations rules of the Department of Environmental
Protection under ~~Title-38,--section-599;~~

8 Sec. 2. 12 MRSA §9321, sub-§4, as repealed and replaced by PL
10 1983, c. 504, §3, is amended to read:

12 4. **Conditions.** The director may issue a permit with stated
14 conditions or restrictions to insure adequate control of
permitted fires in accordance with criteria of subsection 1 and
16 conformity to regulations rules of the Department of
Environmental Protection under ~~Title-38,--section-599.~~

18 Sec. 3. 12 MRSA §9324, sub-§5, as enacted by PL 1983, c. 504,
20 §4, is amended to read:

22 5. **Permit required.** No person, firm or corporation may
burn out of doors without a permit from a ~~municipal-fire-chief,~~
24 town forest fire warden or forest ranger, except as provided in
sections 9322 and 9324 and ~~Title-38,--section-599~~ 9325.

26 Sec. 4. 12 MRSA §9325 is enacted to read:

28 §9325. Open burning

30 1. Permissible open burning with permit. When not
32 prohibited by statute, rule of any state agency or local
ordinance, the types of burning described in this subsection are
34 allowed provided that a permit has been obtained from the town
forest fire warden or from the forest ranger having jurisdiction
36 over the location where the fire is to be set. The burning must
be conducted according to the terms and conditions of the permit
and may not create a nuisance. A permit is required for:

38 A. Recreational campfires kindled when the ground is not
40 covered by snow;

42 B. Fires in conjunction with holiday and festive
44 celebrations;

46 C. Burning of solid or liquid fuels and structures for
research or bona fide instruction and training of municipal,
48 volunteer and industrial firefighters when conducted under
the direct control and supervision of qualified instructors;

50 D. Burning for agricultural purposes including, but not
limited to, open burning of blueberry fields, potato tops

2 and hayfields and prescribed burning for timberland
3 management;

4 E. Residential open burning of highly combustible household
5 trash such as paper, cardboard cartons and wooden boxes
6 where a trash collection service supported by municipal
7 property taxes is not available or does not accept those
8 materials;

10 F. Residential open burning of leaves, brush, deadwood and
11 tree cuttings accrued from normal property maintenance by
12 the individual landowner or lessee of the land unless
13 expressly prohibited by municipal ordinance;

14 G. Burning on site for the disposal of materials generated
15 from the clearing of any land or by the erection,
16 modification, maintenance, demolition or construction of any
17 highway, railroad, power line, communication line, pipeline,
18 building or development;

20 H. Burning for hazard reduction purposes such as, but not
21 limited to, the burning of grass fields;

24 I. Burning for the containment or control of spills of
25 gasoline, kerosene, heating oil or similar petroleum
26 products; and

28 J. The burning of brush and demolition debris at municipal
29 solid waste disposal facilities.

30 2. Permissible open burning without permit. When not
31 prohibited by state rule, local ordinance or water utility
32 regulation, the following types of burning are permissible
33 without a permit if no nuisance is created:

36 A. Recreational campfires kindled when the ground is
37 covered by snow or on frozen bodies of water;

38 B. Residential use of outdoor grills and fireplaces for
39 recreational purposes such as preparing food; and

42 C. Use of outdoor grills and fireplaces for recreational
43 purposes such as preparing food at commercial campgrounds in
44 organized towns as long as the commercial campgrounds are
45 licensed by the health engineering division of the
46 Department of Human Services.

48 Emergency clause. In view of the emergency cited in the
49 preamble, this Act takes effect when approved.'

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