

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1990

Legislative Document

No. 2

H.P. 2

House of Representatives, December 4, 1990

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

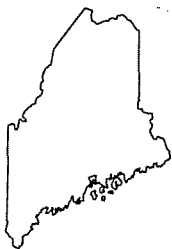
Presented by Representative MICHAUD of East Millinocket.
Cosponsored by Senator KANY of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act Concerning Open Burning Regulations.

(EMERGENCY)



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

4
6 Whereas, the Maine Revised Statutes, Title 38, section 599,
was inadvertently repealed by Public Law 1989, chapter 890; and

8 Whereas, lacking the authority to burn items in the open
causes a hardship for the people of the State; and

10
12 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
14 necessary for the preservation of the public peace, health and
safety; now, therefore,

16
18 **Be it enacted by the People of the State of Maine as follows:**

20 **38 MRSA §599-A** is enacted to read:

22 §599-A. Open burning

24 1. Scope. This section:

26 A. Is applicable in all ambient air quality regions in this
State; and

28 B. May not interfere with or supersede any local law or
ordinance that is more stringent.

30
32 2. Prohibitions. The following prohibitions apply to open
burning.

34 A. Open burning of tires, rubber products, asphalt
shingles, industrial leather scraps and wire insulation is
prohibited.

38 B. Open burning of solid waste materials, other than brush
and demolition debris, at a municipal solid waste disposal
site serving 1,000 or more persons is prohibited.

42 C. Residential open burning of rubbish, refuse, garbage,
human and animal remains and by-product waste such as tar,
44 paints, solvents and sludge is prohibited.

46 D. The residential open burning of highly combustible
domestic, household trash, such as paper, cardboard cartons
48 and wood boxes, is prohibited where a trash collection
service supported by municipal property tax is available and
50 accepts those materials.

2 E. The residential open burning of leaves, brush, deadwood
4 and tree cuttings accrued from normal property maintenance
6 by the land or home owner or lessee is prohibited where
 expressly prohibited by the municipality through an
 ordinance.

8 F. A person, firm, corporation, association, municipal or
10 state agency may not engage in any open burning except in
 conformity with subsections 3 and 4.

12 3. Permissible open burning with permit. When not
14 prohibited by local ordinances, the following types of burning
16 are permissible if a permit has been obtained from the fire
18 warden, forest ranger or local fire prevention official having
 jurisdiction over the location where the fire is to be set, so
 long as the burning is conducted according to the terms and
 conditions of the permit and provided that no nuisance is created:

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

22 B. Fires in conjunction with holiday and festive
24 celebrations;

26 C. Burning of solid or liquid fuels and structures for the
28 purpose of research or bona fide instruction and training of
30 municipal, volunteer and industrial firefighters in methods
 of fighting fires when conducted under the direct control
 and supervision of qualified instructors;

32 D. Burning for agricultural purposes including, but not
34 limited to, open burning of blueberry fields, potato tops,
 hayfields and prescribed burning for timberland management;

36 E. Residential open burning of highly combustible domestic,
38 household trash, such as paper, cardboard cartons and wood
40 boxes, where no trash collection service supported by
 municipal property tax is available or accepts those
 materials;

42 F. Residential open burning of leaves, brush, deadwood and
44 tree cuttings accrued from normal property maintenance by
 the land or home owner or lessee unless expressly prohibited
46 by the municipality through an ordinance;

2 G. Burning for the disposal of materials, other than those
4 prohibited in subsection 2, paragraph A, generated from the
6 clearing of any land or erection, modification, maintenance,
8 demolition or construction of any highway, railroad, power
line, communication line, pipeline, building or development,
either on site, or at any municipal solid waste disposal
facility where open burning of that material is not
expressly prohibited;

10 H. Burning for hazardous abatement purposes such as, but
12 not limited to, the burning of grass fields;

14 I. Burning for the containment or control of spills of
16 gasoline, kerosene, heating oil or similar petroleum
18 product; and

20 J. The burning of brush and demolition debris at municipal
22 solid waste disposal facilities.

24 4. Permissible open burning without permit. When not
26 prohibited by local ordinances, the following types of burning
28 are permissible without permit so long as no nuisance is created:

30 A. Residential use of outdoor grills and fireplaces for
32 recreational purposes such as preparing food; and

34 B. Recreational campfires kindled when the ground is
36 covered with snow.

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

STATEMENT OF FACT

This bill reestablishes the open burning laws which were repealed in 1989.