

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 877

H.P. 646

House of Representatives, March 12, 1993

**An Act to Improve Forest Management for Small Owner-managed
Woodlots.**

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

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative TREAT of Gardiner.
Cosponsored by Representative GOULD of Greenville, Senator PEARSON of Penobscot and
Representatives: COLES of Harpswell, MITCHELL of Freeport.

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

4 **Sec. 1. 12 MRSA §8882-A is enacted to read:**

6 **§8882-A. Model contract**

8 After January 1, 1994, each harvester that harvests wood on
10 a parcel of fewer than 50 acres that the harvester does not own
12 must provide the landowner with a model contract provided by the
14 Maine Forest Service before the harvesting operation may
16 commence. This contract must address and contain information on
18 the prices paid for timber, slash and brush disposal, harvesting
20 setbacks, liability, stumpage prices, how much timber will be
22 left standing on the site, the regeneration requirement under
24 section 8869 and other applicable information or requirements.

26 **Sec. 2. 32 MRSA §5018, as amended by PL 1987, c. 395, Pt. A,**
28 **§190, is repealed.**

30 **Sec. 3. 32 MRSA §5018-A is enacted to read:**

32 **§5018-A. Revocation; suspension; refusal to renew; reissuance**
34 **of licenses**

36 1. Revocation; suspension. The board may, pursuant to
38 Title 5, section 1004, revoke or suspend the license of a
40 professional forester. In addition, the board may refuse to
42 issue or renew the license, or the Administrative Court may,
44 pursuant to Title 4, chapter 25, revoke, suspend or refuse to
46 renew the license of a professional forester who has been found
48 guilty of any deceit, misconduct, misrepresentation, fraud,
 incompetence or negligence in that forester's practice, has been
 guilty of any fraud or deceit in obtaining a professional
 forester license, or aids or abets any person in the violation of
 any provisions of this chapter, has failed in any material
 respect to comply with the provisions of this chapter or
 repeatedly is found to have been in violation of subsection 2.

2. Penalty. The board may levy a financial penalty on a
 person holding a license under this chapter for failure to fully
 inform any client of the responsibilities under Title 12, chapter
 805, subchapters III-A and V or conduct or performance not
 befitting a licensed professional forester. Any penalty assessed
 under this section may not exceed \$100. Any person receiving a
 penalty under this subsection 3 or more times is subject to
 license revocation by the board under subsection 1.

3. Complaints Any person may register a complaint of
 conduct or performance not befitting a licensed professional

2 forester, fraud, deceit, negligence, incompetency or misconduct
3 against any licensee. These complaints must be in writing, sworn
4 to by the person making them and filed with the board.

6 4. Investigators. The board may designate a person or
7 persons to investigate and report to it upon any complaint made
8 under subsection 3. That person or those persons are entitled to
9 reimbursement for expenses in the same manner as prescribed for
10 the board in section 5010.

12 5. Appeals. Any person aggrieved by final board action may
13 appeal that action to the Superior Court as provided in Title 5,
14 chapter 375, subchapter VII.

16 6. License reissue. The board may reissue a license to a
17 licensee whose license has been revoked, provided 4 or more
18 members of the board vote in favor of that reissuance. A new
19 license to replace any license revoked, lost, destroyed or
20 mutilated may be reissued, subject to a fee and the rules of the
21 board.

22 **Sec. 4. Development of model contract.** By January 1, 1994, the
23 Maine Forest Service shall develop and have available for
24 distribution, a model contract for wood harvesting operations
25 less than 50 acres in size. This model contract must address the
26 criteria listed in the Maine Revised Statutes, Title 12, section
27 8882-A.

28 **Sec. 5. Timber harvesting professional.** By January 1, 1994, the
29 Maine Forest Service shall review and make recommendations to the
30 Joint Standing Committee on Energy and Natural Resources on the
31 issue of a method or program to cost-effectively train and
32 certify logging professionals. Methods for training and
33 certification of logging professionals for the Maine Forest
34 Service to receive are courses through the Cooperative Extension
35 Service, adult education programs or private industry. In
36 developing recommendations, the Maine Forest Service shall
37 consider the plight of small-scale logging professionals who may
38 not be able to afford expensive educational programs or to recoup
39 expenses through insurance incentives.

42 STATEMENT OF FACT

44 This bill requires a timber harvester to provide a landowner
45 with a model contract outlining some of the details of the
46 harvest before cutting may commence. The Maine Forest Service is
47 required to develop this contract before the end 1993.

50 This bill also allows the Maine State Board of Licensure for
Professional Foresters to levy a financial penalty of up to \$100

2 on a licensed professional forester for conduct or performance
not befitting a licensed professional forester. After 3
4 penalties, the board may revoke that person's license. The
standard for license revocation also is reduced from gross
6 negligence to negligence.

8 The Maine Forest Service is required to review methods to
institutionalize a program to train and certify logging
professionals.