

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1347

H.P. 958

House of Representatives, April 18, 1995

An Act to Require a Silvicultural Basis for Harvesting That Produces Understocked Stands.

Received by the Clerk of the House on April 13, 1995. Referred to the Committee on Agriculture, Conservation and Forestry and ordered printed pursuant to Joint Rule 14.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative SHIAH of Bowdoinham.
Cosponsored by Representatives: BENEDIKT of Brunswick, BUNKER of Kossuth Township, CHARTRAND of Rockland, HEESCHEN of Wilton, KONTOS of Windham, MERES of Norridgewock, VOLENIK of Sedgwick, Senators: BENOIT of Franklin, MICHAUD of Penobscot, PARADIS of Aroostook, RUHLIN of Penobscot.

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

2 **Sec. 1. 12 MRSA §8868**, as enacted by PL 1989, c. 555, §10, is
4 repealed.

6 **Sec. 2. 12 MRSA §8868-A** is enacted to read:

8 **§8868-A. Definitions**

10 As used in this subchapter, unless the context otherwise
12 indicates, the following terms have the following meanings.

14 **1. Basal area.** "Basal area" means the cross-sectional area
16 of the stem of a tree measured 4.5 feet above ground level
18 outside the bark.

20 **2. Clearcut or understocked.** "Clearcut" or "understocked"
22 means any forest stand greater than 5 acres in area in which,
24 after harvest:

26 **A.** The total residual basal area in square feet per acre of
28 all trees greater than 4.5 inches in diameter 4.5 feet above
30 the ground is less than:

32 (1) Forty-five square feet where the preharvest stand
34 was a hardwood stand;

36 (2) Sixty-five square feet where the preharvest stand
38 was a mixed wood stand; or

40 (3) Eighty square feet where the preharvest stand was
42 a softwood stand; or

44 **B.** Fewer than 70% of an adequate sample of milacre plots
46 well distributed in the stand area contain at least one
48 free-to-grow tree of the species indicated in subparagraphs
50 (1) to (3) between 0.5 and 4.5 inches in diameter 4.5 feet
above the ground:

(1) Any commercial species where the preharvest stand
was a hardwood stand;

(2) At least 25% commercial softwood species where the
preharvest stand was a mixed wood stand; or

(3) At least 75% commercial softwood species where the
preharvest stand was a softwood stand.

3. Commercial hardwood species or commercial softwood
species. "Commercial hardwood species" or "commercial softwood

2 species" means broadleaved or coniferous species on the list of
3 commercial species contained in forest regeneration and
4 clearcutting standards in rules adopted by the Maine Forest
5 Service.

6 **4. Forest management plan.** "Forest management plan" means
7 a site-specific document signed by a professional forester
8 outlining proposed activities to ensure compliance with
9 performance standards and regeneration requirements established
10 pursuant to this subchapter.

12 **5. Hardwood stand.** "Hardwood stand" means a forest stand
13 in which the basal area of all trees greater than 4.5 inches in
14 diameter 4.5 feet above ground before harvest is comprised of 75%
15 or more of commercial hardwood species, singly or in combination.

16 **6. Mixed wood stand.** "Mixed wood stand" means a forest
17 stand in which the basal area of all trees greater than 4.5
18 inches in diameter 4.5 feet above the ground before harvest is
19 comprised of between 25% and 75% commercial hardwood species,
20 singly or in combination.

22 **7. Professional forester.** "Professional forester" means a
23 person licensed pursuant to Title 32, chapter 75.

26 **8. Short-lived or intolerant species.** "Short-lived or
27 intolerant species" means tree species that ordinarily live fewer
28 than 150 years or species that are recognized by silvicultural
29 authorities to not tolerate shade. Specifically, these species
30 include: paper birch, grey birch, poplar, red maple, balsam fir
31 and larch.

32 **9. Softwood stand.** "Softwood stand" means a forest stand
33 in which the basal area of all trees greater than 4.5 inches in
34 diameter 4.5 feet above ground before harvest is comprised of 75%
35 or more of commercial softwood species, singly or in combination.

38 **10. Stand.** "Stand" means a forested area of land forming a
39 silvicultural or management entity containing trees that are
40 sufficiently uniform in species composition, construction, size
41 or age class, spatial arrangement or condition to be
42 distinguishable from an adjacent land area of different
43 character, with inclusions of minor areas with different
44 characteristics that are less than 5 acres in size.

46 **11. Timber harvesting.** "Timber harvesting" means the
47 cutting or removal of at least 50 cords of timber for the primary
48 purpose of selling or processing forest products.

2 **Sec. 3. 12 MRSA §8869, sub-§1**, as enacted by PL 1989, c. 555,
§10, is amended to read:

4 **1. Standards for regeneration after harvests.** The
commissioner shall adopt rules to ensure adequate regeneration of
6 commercial tree species on a site within 5 years of completion of
any timber harvest. Rules to implement this requirement shall
8 must include identification of commercial tree species, minimum
stocking standards and methods to mitigate inadequate
10 regeneration. In developing regeneration standards, the
commissioner shall take into consideration regional differences
12 in forest types, tree species and physiographic conditions and
ensure that high future value and productivity will be
14 sustained. Rules adopted under this subchapter apply to all
timber harvesting that produces clearcut or understocked stands.

16 **Sec. 4. 12 MRSA §8869, sub-§2-A** is enacted to read:

18 **2-A. Harvesting that produces clearcut or understocked**
20 **stands.** Harvesting that produces clearcut or understocked stands
is governed by the following.

22 A. Harvesting that produces clearcut or understocked stands
24 is permitted as a forest management practice only when,
after considering alternative harvesting methods, it is
26 silviculturally necessary. It is the intent of this
legislation that harvesting that produces clearcut or
28 understocked stands is the harvesting method of last resort
and be used to the least possible extent. By January 1,
30 1996, the commissioner shall define by rule those forest
conditions in which harvesting that produces clearcut or
32 understocked stands is silviculturally necessary.

34 Until those forest conditions in which harvesting that
produces clearcut or understocked stands is silviculturally
36 necessary have been defined by rule, harvesting that
produces clearcut or understocked stands is limited to the
38 removal of the short-lived or intolerant species in the
stand.

40 B. When harvesting that produces clearcut or understocked
42 stands is planned, a state licensed professional forester
must determine prior to harvesting, after considering
44 alternative harvesting methods, that clearcutting or
understocking is silviculturally necessary and prepare a
46 management plan setting forth the silvicultural reasons for
the harvest on a stand-by-stand basis.

48 C. Notwithstanding paragraphs A and B, harvesting that
50 produces a clearcut or understocked stand is permitted to

2 prepare a site for the establishment of a fully stocked
3 plantation. Plantations must be established within 2 years
4 after harvesting.

5 **Sec. 5. 12 MRSA §8869, sub-§5**, as enacted by PL 1989, c. 555,
6 §10, is amended to read:

7 **5. Variance.** The commissioner shall establish, by rule,
8 standards to permit activities that exceed the standards set
9 forth under ~~subsection~~ subsections 2 and 2-A. In developing
10 standards, the commissioner shall consider the unique
11 characteristics of a site and any related economic hardship ~~which~~
12 that would result from noncompliance with these standards.

13 **Sec. 6. Revision of rules.** The Commissioner of Conservation
14 shall revise the Maine Forest Service rules entitled Forest
15 Regeneration and Clearcutting Standards, chapter 20 by January 1,
16 1996 to conform with the intent of this Act.
17

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19 **STATEMENT OF FACT**

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21 This bill extends existing forest regeneration and
22 clearcutting standards to forest harvesting that produces
23 understocked forest stands. The bill defines "clearcut" or
24 "understocked" stands using criteria set forth in recognized
25 silvicultural guides for the Northeast. This bill limits
26 harvesting that produces clearcut or understocked stands to those
27 circumstances where it is scientifically necessary.
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