

MAINE STATE LEGISLATURE

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AGRICULTURE, CONSERVATION AND FORESTRY

Reported by: Senator CASSIDY of Washington for the Committee.

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**STATE OF MAINE
SENATE
117TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 665, L.D. 1725, Bill, "An Act to Clarify and Improve the Governor's Authority to Ban Out-of-door Fires and Restrict Human Activity during Periods of High Fire Danger"

Amend the bill by striking out all of section 1 and inserting in its place the following:

'Sec. 1. 12 MRSA §9001, sub-§§1 and 2, as enacted by PL 1979, c. 545, §3, are amended to read:

1. Determination by director. ~~Whenever--the~~ The director ~~shall inform the Governor when the director~~ determines that:

A. A high degree of forest fire danger exists in any part of the State; and

B. Human activity ~~in connection with hunting or fishing~~ is likely to pose a forest fire menace, ~~--the director--shall communicate such determination to the Governor.~~

2. Proclamation. The Governor may, by proclamation, suspend the open season for hunting or fishing or prohibit out-of-door smoking or building or using out-of-door fires or prohibit any other human activity likely to be a menace to the forests for such time and in such ~~sections~~ areas of the State as considered necessary. The type and manner of hunting and fishing or other human activity that is prohibited shall must be designated in the proclamation.'

Further amend the bill by striking out all of section 3.

Further amend the bill by inserting after section 3 the following:

Sec. 4. 12 MRSA §§9001-A and 9001-B are enacted to read:

9001-A. Definitions

As used in this subchapter, the following terms have the following meanings.

1. Licensed camping facility. "Licensed camping facility" means a recreational camp or camping area licensed under Title 22, chapter 562.

§9001-B. Exemptions

1. General. The Governor may, in a proclamation issued under section 9001, exempt from the prohibitions specified in the proclamation human activities or out-of-door fires that the Governor determines are not a significant menace to the forests.

2. Certain public campsites. The Governor may, in a proclamation issued under section 9001, exempt from the prohibitions specified in the proclamation out-of-door fires and the use of charcoal and gas grills at campsites under the jurisdiction of the Department of Conservation or the Baxter State Park Authority, as long as the campsite and the use of out-of-door fires and charcoal and gas grills at the campsite comply with rules adopted under subsection 4.

3. Licensed camping facilities. The Governor may, in a proclamation issued under section 9001, exempt from the prohibitions specified in the proclamation out-of-door fires and the use of charcoal and gas grills at a licensed camping facility if:

A. The facility and the use of out-of-door fires and charcoal and gas grills at the facility comply with rules adopted under subsection 4;

B. The owner or operator of the facility notifies the director in writing that the facility complies with rules adopted pursuant to subsection 4; and

C. The director provides the owner or operator of the facility written confirmation of receipt of notification required under paragraph B. Confirmation of receipt does not imply a determination that the facility complies with the rules adopted pursuant to subsection 4.

4. Rules. The director shall adopt rules that establish standards of design, construction and use under which the use of an out-of-door fire or a charcoal or gas grill at a public

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2 campsite or licensed camping facility may be exempted pursuant to
subsections 2 and 3.

4 Rules adopted pursuant to this subsection are major substantive
rules as defined in the Maine Administrative Procedure Act, Title
 6 5, chapter 375, subchapter II-A.

8 5. Inspection. The director may at any time inspect a
licensed camping facility to determine whether that facility
 10 complies with rules adopted under subsection 4. If the director
determines that a facility fails to comply with the rules, the
 12 facility is not exempt. A facility that fails an inspection may
not be granted a future exemption unless the director inspects
 14 the facility and determines that it complies with the rules. The
 16 director may delegate authority to conduct inspections to a state
or municipal employee.

18 6. Notification. The owner or operator of a licensed
camping facility and the supervisor of a campsite under the
 20 jurisdiction of the Department of Conservation or the Baxter
State Park Authority shall post a notice of a proclamation issued
 22 under section 9001 and any standards of use to be met under rules
adopted pursuant to subsection 4.'

24 Further amend the bill in section 4 in the first line (page
 26 1, line 25 in L.D.) by striking out the following: "~~§§9002 to~~
~~9004~~" and inserting in its place the following: '~~§§9002 and 9003~~'

28 Further amend the bill in section 4 in that part designated
 30 "~~§9003.~~" by striking out all of the headnote (page 1, line 41 in
 32 L.D.) and inserting in its place the following: '~~§9003. Repeal;~~
~~amend~~'

34 Further amend the bill in section 4 in that part designated
 36 "~~§9003.~~" in the first paragraph in the 4th line (page 1, line 46
 in L.D.) by adding after the following: "annul" the following:
 38 '~~amend, repeal or replace~~'

40 Further amend the bill in section 4 by striking out all of
 42 that part designated "~~§9004.~~" (page 2, lines 2 to 8 in L.D.)

44 Further amend the bill by adding after section 4 and before
 the statement of fact the following:

46 'Sec. 5. 12 MRSA §9004, as enacted by PL 1979, c. 545, §3, is
 48 repealed and the following enacted in its place:

§9004. Penalty

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2 a jail sentence is imposed, the additional costs to the counties
are estimated to be \$83.70 per day per prisoner. These costs are
4 not reimbursed by the State. The number of prosecutions that may
result in a jail sentence and the resulting costs to the county
jail system are expected to be insignificant.

6
8 The additional workload and administrative costs associated
with the minimal number of new cases filed in the court system
can be absorbed within the budgeted resources of the Judicial
10 Department. The collection of additional fines may increase
General Fund revenue by minor amounts.

12
14 The Department of Conservation will incur some minor
additional costs to adopt certain rules pertaining to out-of-door
fires. These costs can be absorbed within the department's
16 existing budgeted resources.'

18
20 **STATEMENT OF FACT**

22 The amendment establishes a process and conditions under
which out-of-door fires and the use of charcoal or gas grills at
private licensed camping facilities and certain public camping
24 facilities may be exempt from a fire ban proclamation issued by
the Governor. The public camping facilities are those under the
26 jurisdiction of the Department of Conservation and the Baxter
State Park Authority. The amendment also establishes penalties
28 for people who violate the conditions at exempt facilities.

30 The amendment provides the Governor the authority to exempt
from a fire ban human activities and out-of-door fires that do
32 not create a significant forest fire threat.

34 The amendment also adds a fiscal note to the bill.