### MAINE STATE LEGISLATURE

The following document is provided by the

LAW AND LEGISLATIVE DIGITAL LIBRARY

at the Maine State Law and Legislative Reference Library

http://legislature.maine.gov/lawlib



Reproduced from scanned originals with text recognition applied (searchable text may contain some errors and/or omissions)

			າ	5

1.5. 1725
DATE: March 21, 1996 (Filing No. S- 504)
AGRICULTURE, CONSERVATION AND FORESTRY
Reported by: Senator CASSIDY of Washington for the Committee.
Reproduced and distributed under the direction of the Secretary of the Senate.
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. Wheneverthe <u>The</u> 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 <u>prohibit any</u> other human activity likely to be a menace to the forests for
such time and in such seetiens 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:

Page 1-LR2562(2)

#### COMMITTEE AMENDMENT "A" to S.P. 665, L.D. 1725

'Sec. 4.	12 MRSA	889001-A	and 9001-B	are	enacted	to	read

9001-A.	<u>Definitions</u>
<b>3</b> -	
	used in this subchapter, the following terms have the ng meanings.
TOTIONI	ng meanings.
1.	Licensed camping facility. "Licensed camping facility"
	a recreational camp or camping area licensed under Title
	pter 562.
\$9001-B	s. Exemptions
1.	General. The Governor may, in a proclamation issued
	ection 9001, exempt from the prohibitions specified in the
	ation human activities or out-of-door fires that the
_	r determines are not a significant menace to the forests.
	Certain public campsites. The Governor may, in a
	ation issued under section 9001, exempt from the
<u>prohibi</u>	tions specified in the proclamation out-of-door fires and
the us	e of charcoal and gas grills at campsites under the
	ction of the Department of Conservation or the Baxter
State 1	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.
	Licensed camping facilities. The Governor may, in a
	ation issued under section 9001, exempt from the
	tions specified in the proclamation out-of-door fires and
	of charcoal and gas grills at a licensed camping facility
if:	
λ	The facility and the use of out of door fires and
	The facility and the use of out-of-door fires and arcoal and gas grills at the facility comply with rules
	opted under subsection 4;
<u>au</u>	Opeca ander subsection 1/
В.	The owner or operator of the facility notifies the
	rector in writing that the facility complies with rules
	opted pursuant to subsection 4; and
<u></u>	TE TO TE TO TO TO TO TO TO THE TENTO THE TENTO TO THE TENTO THE TENTO TO THE TENTO TO THE TENTO TO THE TENTO THE T
<u>C.</u>	The director provides the owner or operator of the
	cility written confirmation of receipt of notification
	quired under paragraph B. Confirmation of receipt does
	t imply a determination that the facility complies with
	e rules adopted pursuant to subsection 4.
Δ	Rules. The director shall adopt rules that actablish
	Rules. The director shall adopt rules that establish
standar	Rules. The director shall adopt rules that establish ds of design, construction and use under which the use of -of-door fire or a charcoal or gas grill at a public

Page 2-LR2562(2)

### K. 4 6.

#### COMMITTEE AMENDMENT "A" to S.P. 665, L.D. 1725

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 director may delegate authority to conduct inspections to a state
16	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	
30	Further amend the bill in section 4 in that part designated "\\$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:
3,8	'amend, repeal or replace'
40	Further amend the bill in section 4 by stiking out all of that part designated "§9004." (page 2, lines 2 to 8 in L.D.)
42	Further amend the bill by adding after section 4 and before
44	the statement of fact the following:
46	'Sec. 5. 12 MRSA $\S9004$ , as enacted by PL 1979, c. 545, $\S3$ , is repealed and the following enacted in its place:

§9004. Penalty

48

Page 3-LR2562(2)

2	1. Violation of proclamation. Notwithstanding section
	9701, any person who in fact violates the provisions of a
4	proclamation issued under section 9001 commits a Class E crime.
6	2. Violation at licensed camping facility. Notwithstanding subsection 1 and section 9701, a person who is an occupant or
8	customer of a licensed camping facility commits a Class E crime if that person:
10	<u> </u>
	A. Is notified of a proclamation in accordance with section
12	9001-B, subsection 6 and violates a proclamation issued under section 9001.
14	under Beetron 50011
11	3. Violation at exempt licensed camping facility.
16	Notwithstanding subsection 1 and section 9701, a person who is an
10	
10	occupant or customer of a licensed camping facility provided an
18	exemption under section 9001-B, subsection 3 commits a Class E crime if that person:
20	
	A. Is notified of an exemption and standard of use in
22	accordance with section 9001-B, subsection 6 and burns an
	out-of-door fire or utilizes a charcoal or gas grill in
24	violation of a rule adopted under section 9001-B, subsection
	4.
26	
20	A Violation by some on accepton of linearly coming
2.0	4. Violation by owner or operator of licensed camping
28	facility. Notwithstanding section 9701, an owner or operator of
2.0	a licensed camping facility commits a Class E crime if the owner
30	or operator:
2.2	A Paile to maticular manage in formation (1) and the
32	A. Fails to notify a person in accordance with section
2.4	9001-B, subsection 6;
34	
	B. Allows a person to violate a proclamation issued under
36	section 9001; or
38	C. Operates a facility that is exempt pursuant to 9001-B
	that does not comply with rules adopted under section
40	9001-B, subsection 4.'
42	Further amend the bill by relettering or renumbering any
	nonconsecutive Part letter or section number to read
44	consecutively.
44	consecutively.
4.6	<del></del>
46	Further amend the bill by inserting at the end before the
	statement of fact the following:
48	
50	'FISCAL NOTE
52	This bill may increase prosecutions for Class E crimes. If

Page 4-LR2562(2)



#### COMMITTEE AMENDMENT "A" to S.P. 665, L.D. 1725

a jail sentence is imposed, the additional costs to the counties are estimated to be \$83.70 per day per prisoner. These costs are 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.

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 Department. The collection of additional fines may increase General Fund revenue by minor amounts.

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 existing budgeted resources.'

#### STATEMENT OF FACT

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 facilities may be exempt from a fire ban proclamation issued by the Governor. The public camping facilities are those under the jurisdiction of the Department of Conservation and the Baxter State Park Authority. The amendment also establishes penalties for people who violate the conditions at exempt facilities.

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

The amendment also adds a fiscal note to the bill.

Page 5-LR2562(2)