

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 397

S.P. 118

In Senate, January 23, 1997

An Act to Change the Burden of Proof for Timber Trespass and Timber Theft Violations.

Submitted by the Department of Conservation pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator LONGLEY of Waldo.
Cosponsored by Senators: BENOIT of Franklin, MICHAUD of Penobscot, Representatives:
NASS of Acton, PLOWMAN of Hampden, WATSON of Farmingdale.

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

2
3 **Sec. 1. 17 MRSA §2510, sub-§1**, as amended by PL 1987, c. 141,
4 Pt. B, §14, is further amended to read:

6 **1. Unlawful cutting.** Any person who intentionally,
7 ~~knowingly,--recklessly-or-negligently~~ in fact cuts down or fells
8 any tree without the consent of the owner of the property on
9 which the tree stands commits a civil violation for which the
10 forfeitures provided in this section may be adjudged, ~~except that~~
11 the . Proof of a culpable state of mind is not required. The
12 cutting down or felling of any tree by the following are exempt
13 from this section:

14 A. The Department of Transportation in the performance of
15 activities under Title 23, section 701;

18 B. Public utilities in maintaining adequate facilities in
19 emergencies in compliance with Title 35-A, section 301; and

20 C. ~~Licensed arborists under contract with a municipality or~~
21 ~~private individual or municipal~~ Municipal employees, persons
22 contracting with a municipality or other legitimate agents
23 of a municipality acting within the course and scope of
24 their employment, ~~in~~ or performing volunteer work for the
25 municipality removing street trees ~~or property line trees~~
26 ~~under ordinary circumstances~~ or blown down trees or in
27 emergencies; ~~and.~~

30 D. ~~An abutter, personally or by his agent, involved in a~~
31 ~~boundary dispute with another abutter.~~

32 **Sec. 2. 17 MRSA §2510, sub-§2**, as amended by PL 1995, c. 450,
33 §5, is further amended to read:

36 **2. Forfeitures.** The following forfeitures may be adjudged
37 for each tree over 2 inches in diameter that has been cut or
38 felled:

40 A. If the tree is no more than 6 inches in diameter, a
41 forfeiture of \$25;

42 B. If the tree is over 6 inches and up to 10 inches in
43 diameter, a forfeiture of \$50;

46 C. If the tree is over 10 inches and up to 14 inches in
47 diameter, a forfeiture of \$75;

48 D. If the tree is over 14 inches and up to 18 inches in
49 diameter, a forfeiture of \$100;

2 E. If the tree is over 18 inches and up to 22 inches in
diameter, a forfeiture of \$125; and

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6 F. If the tree is greater than 22 inches in diameter, a
forfeiture of \$150.

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SUMMARY

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14 Current law does not place enough responsibility on the
16 person cutting or felling trees to ensure that that person indeed
owns the trees. In addition, there is a burden on the State to
18 prove the state of mind of the person cutting the trees in order
to have a successful prosecution. This bill clarifies that
20 boundary disputes are not a basis for being exempt from cutting
down another person's trees. The bill also removes the State's
burden of proving the state of mind of the person cutting the
trees.

22

24 The law also makes changes in the exemptions for licensed
arborists and adds some exemptions for unique types of situations
within a municipality. Current law exempts licensed arborists
26 from prosecution, even if they are working for a private
individual. This bill exempts them only if they are cutting
trees for a municipality under certain conditions. Otherwise,
28 they would need to ensure that they get the landowner's
permission to cut trees as would anyone else.