

MAINE STATE LEGISLATURE

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R. of S.

L.D. 1405

DATE: 3-18-98

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AGRICULTURE, CONSERVATION AND FORESTRY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1013, L.D. 1405, Bill, "An Act to License Timber Harvesters and Deter Timber Trespassing"

Amend the bill by striking out the title and substituting the following:

'An Act to Strengthen Laws Regarding Timber Theft and Timber Harvesting'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 10 MRSA §2361-A, sub-§§5-A and 10-A are enacted to read:

5-A. Hauler. "Hauler" means the person, company or other entity that owns the truck on which a load of wood is transported.

10-A. Trip ticket. "Trip ticket" means the form used to identify the origin and destination of a truckload of wood.

Sec. 2. 10 MRSA §2364-B is enacted to read:

§2364-B. Transportation of wood

A person transporting wood for sale must comply with the provisions of this section.

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1. Trip ticket required. Except as provided in subsections 3 and 4, each truckload of wood transported for sale must be accompanied by a trip ticket containing the following information for that load of wood:

- A. The date the wood is hauled;
- B. The name of the landowner;
- C. The town of origin;
- D. For wood harvested in the State, the number on the harvest notification form filed with the Bureau of Forestry in accordance with Title 12, section 8883;
- E. The name of the contractor;
- F. The name or names of the cutting crew;
- G. The name of the hauler;
- H. The destination of the wood, both town and customer; and
- I. The signature of the truck driver.

2. Trip ticket part of record. Upon delivery of a truckload of wood requiring a trip ticket, the truck driver shall provide a copy of the trip ticket to the wood scaler or other person accepting delivery. When a tally sheet or other record of measurement is required under section 2364-A, subsection 2, the harvest notification number and other information contained on the trip ticket must be recorded on the record of measure or a copy of the trip ticket must be attached to the record of measure.

3. Wood transported after measurement. When wood is transported after its first measurement in accordance with section 2364-A, the information specified in subsection 1, paragraphs B, D and F is not required on the trip ticket and the harvest notification number is not required on subsequent records of measurement.

4. Consumer transactions of firewood excluded. The requirements of this section do not apply to the transportation of firewood in consumer transactions on the retail market as defined in rules adopted pursuant to section 2367.

5. Enforcement; violations. Upon request, a truck driver must present the trip ticket to any employee of the State charged

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with enforcing the provisions of this subchapter. Upon request, a wood scaler shall present the record of measurement including a copy of the trip ticket or information contained on the trip ticket to any employee of the State charged with enforcing the provisions of this subchapter. A person who fails to comply with the provisions of this section or misrepresents information on a trip ticket is subject to the penalties provided in section 2368.

Sec. 3. 12 MRSA §8882, as enacted by PL 1989, c. 555, §12 and affected by c. 600, Pt. B, §11, is amended to read:

§8882. Forms

Forms required under this subchapter shall ~~shall~~ must be provided by the bureau and shall ~~shall~~ must be written in an easily understandable format. In addition to the information required under section 8883, the bureau may request information regarding business practices and workers' compensation coverage.

Sec. 4. 12 MRSA §8883, first ¶, as enacted by PL 1989, c. 555, §12 and affected by c. 600, Pt. B, §11, is amended to read:

Prior to commencing harvesting operations, the landowner or designated agent shall notify the bureau of the harvest operation. When the harvest is occurring within a municipality, the bureau shall send a copy of the notification form to the municipal clerk.

Sec. 5. 12 MRSA §8883, sub-§1, as enacted by PL 1989, c. 555, §12 and affected by c. 600, Pt. B, §11, is amended to read:

1. Notification prior to harvest. Notification shall ~~shall~~ must be on forms supplied by the bureau and shall ~~shall~~ must include the following information:

A. The name, address and phone number of the landowner, any designated agent, and, if known, any harvester or harvesters;

B. The name and address of any licensed professional forester consulting the landowner on forest management or harvesting practices;

C. The municipality or township and county of harvest;

D. The name of the nearest public or private all-weather road;

E. The approximate dates the harvest will begin and finish;

F. The anticipated acreage to be harvested;

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2 G. Whether the land is being harvested to convert to
4 another use within 2 years and, if so, what that use is to
be;

6 H. The signatures of the landowner or designated agent and
8 the signature of the harvester when listed on the form in
10 accordance with paragraph A and the licensed professional
forester when listed on the form in accordance with
paragraph B;

12 I. A map locating the harvest site in relation to known or
14 easily identifiable terrain features, such as a road
junction or a stream and road junction. ~~If the map is~~
16 ~~hand-drawn, a north arrow shall be included~~ The map must be
a copy of a 7.5 or 15 minute series topographical map
produced by the United States Geological Survey or a map of
18 equivalent or superior detail in the location of roads; and

20 J. The date of notification.

22 When a landowner has a designated agent, the designated agent
must submit with the notification form a notarized statement of
24 agreement signed by the landowner and the designated agent or a
durable power of attorney.

26 **Sec. 6. 12 MRSA §8883, sub-§3**, as enacted by PL 1989, c. 555,
28 §12 and affected by c. 600, Pt. B, §11, is amended to read:

30 **3. Notification form on file; posted.** The landowner or
designated agent shall retain a copy of the notification form and
32 produce it upon request of agents as specified in section 8888.
The landowner or designated agent shall post a copy of the
34 notification form at the harvest site in a clearly visible
location.

36 **Sec. 7. Report on workers' compensation; Workers' Compensation**
38 **Board.** The Workers' Compensation Board, in consultation with the
Maine Forest Service, shall review workers' compensation laws
40 pertaining to the wood harvesting industry. The board and the
Maine Forest Service shall endeavor to determine the number of
42 wood harvesting operations that occur when the loggers have
neither workers' compensation insurance nor a predetermination of
44 independent contractor status. By January 15, 1999, the board, in
consultation with the Maine Forest Service, shall submit a
46 report with its findings and recommendations to the joint
standing committee of the Legislature having jurisdiction over
48 labor matters and the joint standing committee of the Legislature
having jurisdiction over forestry matters. Recommendations may

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include measures identified to ensure workers' compensation coverage or independent contractor status and to reduce the potential for landowner liability and may also include simplification of the process for predetermination of independent contractor status. The joint standing committee of the Legislature having jurisdiction over labor matters may report out legislation to the First Regular Session of the 119th Legislature regarding workers' compensation coverage in the wood harvesting industry.

Sec. 8. Report; impact of timber harvesting on nonpoint source pollution.

By January 15, 1999, the Maine Forest Service, in consultation with the Maine Land Use Regulation Commission and the Department of Environmental Protection, shall develop a report with recommendations for a set of statewide standards to minimize the impact of timber harvesting on nonpoint source pollution. This report must be submitted to the joint standing committee of the Legislature having jurisdiction over forestry matters by the Land and Water Resources Council after review by that council. In developing the recommendations, these agencies shall consider the existing standards of the Maine Land Use Regulation Commission as a basis for statewide standards. The report must also include the following:

1. An evaluation of the progress made by timber harvesting operations in implementing best management practices; and

2. A recommendation regarding the use of compliance with best management practices as a determinant of enforcement proceedings. In developing this recommendation, the group may study Vermont's approach to prosecuting water quality violations.

The joint standing committee of the Legislature having jurisdiction over forestry matters may report out legislation to the 119th Legislature regarding timber harvesting and nonpoint source pollution.'

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

The Workers' Compensation Board, the Department of Conservation, the Department of Environmental Protection and the member agencies of the Land and Water Resources Council will incur some minor additional costs to report to the Legislature. These costs can be absorbed within the agencies' existing budgeted resources.

The additional workload and administrative costs associated with the minimal number of new cases filed in the court system

2 can be absorbed within the budgeted resources of the Judicial
3 Department. The collection of additional fines may increase
4 General Fund revenue by minor amounts.'

6 **SUMMARY**

8 This bill amends provisions in current law regarding
9 harvesting notification forms. It requires that a trip ticket
10 containing certain specified information accompany all wood
11 hauled for sale. The amendment requires the Workers' Compensation
12 Board and the Maine Forest Service to study workers' compensation
13 laws relating to wood harvesting and to report to the 119th
14 Legislature. It directs the Maine Forest Service, the Maine Land
15 Use Regulation Commission and the Department of Environmental
16 Protection to develop a set of statewide standards to minimize
17 the impact of timber harvesting on nonpoint source pollution and
18 to report to the 119th Legislature on the use of best management
19 practices for wood harvesting operations.

20 The amendment also adds a fiscal note.
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