

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1866

H.P. 1307

House of Representatives, March 16, 1999

An Act to Reform the Maine Tree Growth Tax Law.

Reference to the Committee on Taxation suggested and ordered printed.

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

JOSEPH W. MAYO, Clerk

Presented by Representative VOLENIK of Brooklin.

Cosponsored by Representatives: COWGER of Hallowell, DUDLEY of Portland, ETNIER of Harpswell, SKOGLUND of St. George.

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

4 **Sec. 1. 12 MRSA §8004 is enacted to read:**

6 **§8004. Tree growth tax audits**

8 **1. Periodic, random audits.** The Maine Forest Service shall
10 **perform periodic, random audits of cutting operations to**
determine the extent of compliance with management plans prepared
under Title 36, section 574-C.

12 **2. Content of audits.** The audits must examine, by region
14 **and landowner type:**

16 **A. Initial and post-harvest timber type;**

18 **B. Preharvest and post-harvest stocking;**

20 **C. Stand quality;**

22 **D. Residual damage to trees, regeneration and soils; and**

24 **E. Regeneration quality, if quality is low or no overstory**
stocking.

26 **3. Reports.** The Maine Forest Service shall make regular,
28 **periodic reports to the State Tax Assessor concerning the results**
of the audits required by this section.

30 **Sec. 2. 36 MRSA §573, sub-§3-A, as amended by PL 1995, c. 236,**
32 **§2, is further amended to read:**

34 **3-A. Forest management and harvest plan.** "Forest
36 management and harvest plan" means a written document that
38 outlines activities to regenerate, improve and harvest a standing
40 crop of timber ~~and that meets the requirements of section 574-C.~~
42 ~~The plan must include the location of water bodies and wildlife~~
44 ~~habitat identified by the Department of Inland Fisheries and~~
46 ~~Wildlife. A plan may include, but is not limited to, schedules~~
48 ~~and recommendations for timber stand improvement, harvesting~~
50 ~~plans and recommendations for regeneration activities. The plan~~
~~must be prepared by a licensed professional forester or a~~
~~landowner and be reviewed and certified by a licensed~~
~~professional forester as consistent with this subsection and with~~
~~sound silvicultural practices.~~

Sec. 3. 36 MRSA §574-C is enacted to read:

§574-C. Forest management and harvest plan

2 The forest management and harvest plan must meet the
3 requirements of this section.

4 1. Water bodies and wildlife habitat. The plan must
5 include the location of water bodies and wildlife habitat
6 identified by the Department of Inland Fisheries and Wildlife.

7 2. Maintenance or improvement, harvesting and
8 regeneration. The plan must include schedules and
9 recommendations for:

10 A. Timber stand maintenance or improvement. The plan must
11 include measures that ensure maintenance or improvement in
12 the quality of species and trees so that the value of the
13 future stand does not diminish and the tax value does not
14 decline;

15 B. Sustained yield. For an owner of more than 1,000 acres,
16 the plan must ensure that the volume cut in a land
17 management unit is less than growth. Growth rates are based
18 on either the county rates used in determining tree growth
19 tax or on the owner's own records. The Commissioner of
20 Conservation shall adopt rules to establish the size range
21 of a land management unit and the time period under which
22 growth and cut are to be compared;

23 C. A harvest plan. The plan must demonstrate:

24 (1) How the owner will leave adequate stocking for a
25 productive stand, allowing understocking or
26 clear-cutting only if there are no viable management
27 options for the overstory;

28 (2) How the owner will maintain or improve the quality
29 of trees and species so that the value of the future
30 stand does not diminish and the tax value does not
31 decline; and

32 (3) How the owner will minimize damage of soil,
33 residual trees and regeneration during logging.

34 The Commissioner of Conservation shall adopt rules to define
35 adequate stocking, to establish when understocking and
36 clear-cutting may be allowed, to establish guidelines for
37 standards and time periods for maintaining and improving the
38 quality of trees and species and to determine how much
39 damage to soil, residual trees and regeneration is
40 unacceptable during logging; and

2 D. Regeneration activities. If the understory is
4 understocked or clear-cut, the plan must ensure that the
6 stand has adequate vegetative cover to minimize nutrient
leaching within a year and that the stand is adequately
stocked with acceptable trees of commercial species within 5
years of the cut.

8 Rules adopted under this subsection are major substantive rules
10 pursuant to Title 5, chapter 375, subchapter II-A.

12 3. Chemical pesticide use. The plan must avoid activities
14 that create an increased likelihood of severe insect, disease or
16 brush problems. The plan must include a presumption against
chemical pesticide use pursuant to Title 22, section 1471-X,
which establishes a policy to minimize reliance on pesticides.

18 4. Forest management concerns. The plan must be consistent
20 with other minimum management standards, benchmarks or best
22 management practices established by a state-authorized board,
committee, council or agency concerning roads, trails, deer
yards, riparian zones, yards or other forest management concerns.

24 5. Certified. The plan must be prepared by a licensed
26 professional or a landowner and be reviewed and certified by a
licensed professional forester as consistent with this section
and with sound silvicultural practices.

28 6. Subdivision. If any land to which a forest management
30 and harvest plan applies is subdivided, a new plan that meets the
32 requirements of this section must be created for the separate
parcels within one year.

34 7. Reclassification. The tax assessor shall consider all
36 forest harvesting that does not meet the basic silvicultural
38 requirements as determined by the Maine Forest Service under
40 Title 12, section 8004 to be inconsistent with long-term forest
42 management and the intent of this chapter and shall follow the
procedures under section 581 to withdraw the parcel or portion of
the parcel from tree growth classification and assess penalties.
Land withdrawn from the program due to noncompliance will not
qualify for reentry into the program for at least 5 years.

44 SUMMARY

46 This bill establishes specific criteria for forest
48 management plans that are necessary to qualify for tree growth
50 classification under the Maine Tree Growth Tax Law. These
criteria are consistent with the purpose of the Maine Tree Growth
Tax Law of taxing all forest lands according to their

2 productivity and thereby encouraging their operation on a
sustained-yield basis. This bill requires the Maine Forest
Service to conduct periodic, random audits to determine
4 compliance with the plans and to report the results to the State
Tax Assessor. Noncompliance will result in withdrawal of the
6 land from tree growth classification and associated penalties.