

# 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)

R. of S.

L.D. 1920

DATE: March 22, 2002 (Filing No. S-488)

AGRICULTURE, CONSERVATION AND FORESTRY

Reported by:

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE SENATE 120TH LEGISLATURE SECOND REGULAR SESSION

COMMITTEE AMENDMENT " " to S.P. 718, L.D. 1920, Bill, "An Act to Address Liquidation Harvesting"

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

Sec. 1. 12 MRSA §8881, sub-§5-A is enacted to read:

5-A. Landowner. "Landowner" means a person, company or other entity that holds title to land, including joint owners or tenants in common. If the ownership of the timber located on the land is different from the fee ownership of the land, the owner of the timber is deemed to be a landowner and is jointly and severally responsible with the fee landowner for compliance with this subchapter. If a corporate landowner is a wholly owned subsidiary of another corporation, both parent and subsidiary are deemed to be the same landowner.

Sec. 2. 12 MRSA §8883, sub-§1, as amended by PL 1999, c. 361, §5, is further amended to read:

1. Notification prior to harvest. Unless an alternate form or method of reporting is provided in rule, notification must be on forms supplied by the bureau and 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;

COMMITTEE AMENDMENT "A" to S.P. 718, L.D. 1920

- 2 B. The name and address of any licensed professional  
forester consulting the landowner on forest management or  
harvesting practices;
- 4
- 6 C. The municipality or township and county of harvest;
- 8 D. The name of the nearest public or private all-weather  
road;
- 10 E. The approximate dates the harvest will begin and finish;
- 12 F. The anticipated acreage to be harvested;

14 F-1. An indication whether the land being harvested is  
 16 taxed under the Maine Tree Growth Tax Law. If the land  
 18 being harvested is taxed under the Maine Tree Growth Tax  
 20 Law, the notification must include a statement, signed by  
 22 the landowner, indicating that the harvest is consistent  
 24 with the forest management and harvest plan required by  
Title 36, section 574-B, subsection 1. A licensed  
professional forester who has a fiduciary responsibility to  
the landowner may sign the statement required in this  
paragraph.

26 Failure to indicate that the harvest is consistent with the  
 28 forest management and harvest plan constitutes a withdrawal  
 30 from taxation under the Maine Tree Growth Tax Law of the  
 32 land being harvested in a manner that is not consistent with  
 34 the forest management and harvest plan. When such failure  
is indicated, the director shall notify the assessor for the  
jurisdiction in which the parcel is located that the land or  
a portion of the land no longer meets the requirements of  
Title 36, chapter 105, subchapter 2-A and must be withdrawn  
in accordance with Title 36, section 581;

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

40 If the land being converted to another use is taxed under  
 42 the Maine Tree Growth Tax Law, notification of a change of  
 44 land use under this subsection constitutes a withdrawal from  
 46 taxation under the Maine Tree Growth Tax Law of that portion  
 48 of land being converted to another use. When a change in  
land use is indicated, the director shall notify the  
assessor for the jurisdiction in which the parcel is located  
that the land or the portion of land no longer meets the  
requirements of Title 36, chapter 105, subchapter 2-A and  
must be withdrawn in accordance with Title 36, section 581;

50

## COMMITTEE AMENDMENT "A" to S.P. 718, L.D. 1920

2 H. The signatures of the harvester when listed on the form  
 in accordance with paragraph A and the licensed professional  
 forester when listed on the form in accordance with  
 4 paragraph B;

6 H-1. The signature of the landowner and the signature of  
 the designated agent when a designated agent is listed in  
 8 accordance with paragraph A. If the designated agent is a  
 licensed professional forester who has a fiduciary  
 10 responsibility to the landowner, the signature of the  
 landowner is not required;

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. The map must be a  
 16 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 **Sec. 3. 12 MRSA §8887, sub-§1**, as enacted by PL 1989, c. 555,  
 §12 and affected by c. 600, Pt. B, §11, is amended to read:

24 **1. Notification.** Failure to notify the bureau pursuant to  
 26 section 8883, of a harvest operation of 50 cords or less  
 constitutes a civil violation for which a forfeiture not to  
 28 exceed \$50 may be assessed. Failure to notify the bureau  
 pursuant to section 8883, of a commercial harvest operation of  
 30 more than 50 cords constitutes a civil violation for which a  
 forfeiture not to exceed \$1,000 for each occurrence may be  
 32 assessed and for which immediate cessation of the operation may  
 be ordered by the court. Continued operation after receiving an  
 34 order to cease operation constitutes a civil violation for which  
 a forfeiture not to exceed \$1,000 for each day the operation  
 36 continues may be assessed. Each day of failure to notify shall  
 be is considered a separate offense.

38 Providing inaccurate information on a notification form for a  
 40 harvest operation of 50 cords or less constitutes a civil  
 42 violation for which a forfeiture not to exceed \$50 may be  
 44 assessed. Providing inaccurate information on a notification  
form for a commercial harvest operation of more than 50 cords  
constitutes a civil violation for which a forfeiture not to  
exceed \$1,000 for each occurrence may be assessed.

46 **Sec. 4. 36 MRSA §574-B, sub-§3**, as enacted by PL 1989, c. 555,  
 48 §16, is repealed and the following enacted in its place:

3. Transfer of ownership. When land taxed under this subchapter is transferred to a new owner, within one year of the date of transfer, the new landowner must file with the municipal assessor or the State Tax Assessor for land in the unorganized territory one of the following:

A. A sworn statement indicating that a new forest management and harvest plan has been prepared; or

B. A statement from a licensed professional forester that the land is being managed in accordance with the plan prepared for the previous landowner.

The new landowner may not harvest or authorize the harvest of forest products for commercial use until a statement described in paragraph A or B is filed with the assessor. A person owning timber rights on land taxed under this subchapter may not harvest or authorize the harvest of forest products for commercial use until a statement described in paragraph A or B is filed with the assessor.

Parcels of land subject to section 573, subsection 3, paragraph B or C are exempt from the requirements under this section.

For the purposes of this subsection, "transferred to a new owner" means the transfer of the controlling interest in the fee ownership of the land or the controlling interest in the timber rights on the land.

Sec. 5. 36 MRSA §575-A is enacted to read:

**§575-A. Assistance in determining compliance with forest management and harvest plan.**

Upon request of a municipal assessor or the State Tax Assessor and in accordance with section 579, the Director of the Bureau of Forestry within the Department of Conservation may provide assistance in evaluating a forest management and harvest plan to determine whether the plan meets the definition of a forest management and harvest plan in section 573, subsection 3-A. Upon request of a municipal assessor or the State Tax Assessor, the Director of the Bureau of Forestry may provide assistance in determining whether a harvest or other silvicultural activity conducted on land enrolled under this subchapter complies with the forest management and harvest plan prepared for that parcel of land. When assistance is requested under this section and section 579, the Director of the Bureau of Forestry or the director's designee may enter and examine forest land for the purpose of determining compliance with the forest management and harvest plan.

2           **Sec. 6. 36 MRSA §579, 4th ¶**, as repealed and replaced by PL  
4           1979, c. 666, §16, is amended to read:

6           The assessor or the assessor's duly authorized  
8           representative may enter and examine the forest lands under this  
10          subchapter and may examine ~~into~~ any information submitted by the  
12          owner or owners. A copy of the forest management and harvest  
14          plan required under section 574-B must be available to the  
16          assessor upon request and to the Director of the Bureau of  
18          Forestry within the Department of Conservation or the director's  
20          designee when the assessor seeks assistance in accordance with  
22          section 575-A. A forest management and harvest plan provided in  
24          accordance with this section is confidential and is not a public  
26          record as defined in Title 1, section 402, subsection 3.

28           **Sec. 7. Reports.** The Director of the Bureau of Forestry  
30          within the Department of Conservation shall continue to include  
32          information on liquidation harvesting in the biennial report on  
34          the state of the State's forests required under the Maine Revised  
36          Statutes, Title 12, section 8879. The report must include an  
38          estimate of the number of harvests and total acres harvested that  
40          meet the definition of liquidation harvesting. Information must  
42          be collected and reported in a manner that facilitates comparison  
44          from one report period to another. The report must include a  
46          summary of the requests for assistance received from assessors  
48          under Title 36, section 575-A and the response of the Director of  
            the Bureau of Forestry to those requests. The Director of the  
            Bureau of Forestry shall provide copies of the 2003 biennial  
            report on the state of the State's forests to the joint standing  
            committee of the Legislature having jurisdiction over tax matters  
            upon publishing the report.

            For purposes of this section, "liquidation harvesting" means  
            the purchase of timberland followed by a harvest that removes  
            most or all commercial value in standing timber without regard  
            for long-term forest management principles and the subsequent  
            sale or attempted resale of the harvested land within 5 years.  
            As more information is gathered on this practice, the Director of  
            the Bureau of Forestry shall advise the joint standing committee  
            of the Legislature having jurisdiction over forestry matters on  
            recommended revisions to this definition to better describe and  
            quantify practices that threaten timber supply and warrant policy  
            consideration.'

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

FISCAL NOTE

2

The Maine Forest Service within the Department of Conservation will incur some minor additional costs to make certain required notifications, to provide certain assistance to municipal assessors and the State Tax Assessor and to provide certain information in required reports to the Legislature. These costs can be absorbed within the agency's existing budgeted resources.

10

The additional costs associated with certain changes to the Maine Tree Growth Tax Law can be absorbed by the Bureau of Revenue Services utilizing existing budgeted resources.

14

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.'

20

22

SUMMARY

24

This amendment does the following.

26

1. It requires the Department of Conservation, Bureau of Forestry to notify tax assessors of actions requiring changes in status under the Maine Tree Growth Tax Law.

28

30

2. It makes it a civil violation to provide inaccurate information on a harvest notification form.

32

3. It removes provisions in the original bill relating to evidence of 3rd-party certification in place of a management plan.

34

36

4. It clarifies the duties of a new landowner and allows a new owner to continue managing in accordance with the previous owner's plan.

38

40

5. It authorizes the Bureau of Forestry to provide assistance to a municipal assessor or the State Tax Assessor in evaluating management plans and determining compliance with a plan.

42

44

6. It specifically states that, upon request, a landowner must allow a tax assessor to see a copy of a forest management and harvest plan prepared for land enrolled under the Maine Tree Growth Tax Law and states that the plan is confidential and not a public record. When the assessor requests assistance of the

46

48

COMMITTEE AMENDMENT "A" to S.P. 718, L.D. 1920

2 Bureau of Forestry, the plan must also be available to the  
Director of the Bureau of Forestry or the director's designee.

4 7. It directs the Bureau of Forestry to provide information  
6 on the practice of liquidation harvesting in its biennial report  
8 to the joint standing committee of the Legislature having  
jurisdiction over forestry matters and to provide the joint  
standing committee of the Legislature having jurisdiction over  
10 tax matters with copies of the 2003 report on the state of the  
State's forests.

12 8. It adds a fiscal note to the bill.