

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

SECOND REGULAR SESSION-2002

Legislative Document

No. 1922

S.P. 720

In Senate, December 17, 2001

An Act Concerning Rules of the Bureau of Parks and Lands.

Submitted by the Department of Conservation pursuant to Joint Rule 204.
Received by the Secretary of the Senate on December 17, 2001. Referred to the Committee on Agriculture, Conservation and Forestry and ordered printed pursuant to Joint Rule 308.2

A handwritten signature in cursive script that reads "Pamela L. Cahill".

PAMELA L. CAHILL
Secretary of the Senate

Presented by Senator KILKELLY of Lincoln.
Cosponsored by Representative CARR of Lincoln and
Representative: GOOLEY of Farmington.

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

4 **Sec. 1. 12 MRSA §1803, sub-§6**, as enacted by PL 1997, c. 678,
§13, is amended to read:

6 **6. Rules.** ~~From~~ The bureau may from time to time shall
8 adopt, amend, repeal and enforce reasonable rules it determines
10 necessary to carry out the duties assigned to it, including, but
12 not limited to, rules:

14 A. For the protection and preservation of state parks,
16 historic sites, the Allagash Wilderness Waterway, public
18 boating facilities, submerged lands, public reserved lands
20 and nonreserved public lands;

22 B. For the protection and safety of the public; and

24 C. For observance of the conditions and restrictions,
26 expressed in deeds of trust or otherwise, of the state
28 parks, historic sites, the Allagash Wilderness Waterway,
30 public boating facilities, submerged lands, public reserved
32 lands and nonreserved public lands of the State and of
34 monuments thereon.

36 The rules must provide for proper observance of rules of
38 appropriate human behavior to preserve the natural beauty,
40 historic integrity and character of these lands.

42 All rules of the bureau must be adopted in accordance with the
44 procedures set forth in Title 5, chapter 375, subchapter II.
46 These rules, except those related to the conduct of public
48 hearings, may be enforced by any law enforcement officer.
50 ~~Violation of any such rules, except those related to the conduct~~
~~of public hearings, is a Class E crime.~~ Rules adopted by the
bureau under this subchapter have the effect of law. Violations
of the rules are civil violations subject to summonses and fines,
unless the offense is designated a Class E crime in this chapter.

Sec. 2. 12 MRSA §1806 is enacted to read:

§1806. Penalties

The following offenses, in addition to offenses specifically
mentioned in this chapter, are Class E crimes:

1. Removal of anything natural; historic. The removal,
molesting, injury or damage of anything natural, physical,
prehistoric or historic, except as allowed by rules relating to
hunting and trapping;

2 2. Disorderly conduct. Disorderly conduct, including
2 intoxication, profane language and indecent conduct;

4 3. Open fires. Unattended or open fires not in grills,
4 fireplaces or other sites designated by the bureau;

6 4. Discharging waste. Discharging wastes of any kind
6 except in receptacles designated for that purpose;

10 5. Discharging firearms. Discharging firearms or weapons
10 within 300 feet of any picnic area, camping area, campsite,
12 parking area, building, shelter, boat launching site, posted
12 trail or other developed area or a work area temporarily closed
14 to hunting by the bureau in the interest of public safety; and

16 6. Possession of loaded weapon. Possession of a loaded
16 weapon on a trail posted as closed to hunting.

18 7. Unauthorized access. Unauthorized access by motor
18 vehicle or aircraft.

20 8. Violation of requirements for permits. Violation of
20 requirements for trip leader permits.

22 **Sec. 3. 12 MRSA §1821**, as enacted by PL 1997, c. 678, §13, is
22 amended to read:

24 **§1821. Exercise police supervision**

26 The bureau may exercise police supervision over all state
26 parks and historic sites. Agents, officers or representatives of
28 the bureau authorized for that purpose by the director, ~~and any~~
28 are authorized to issue summonses to any person within the State
30 who is committing or has been seen by agents, officers or
30 representatives committing any violation of a bureau rule adopted
32 pursuant to section 1803. Any agent, officer, representative or
32 other law enforcement officer are is authorized and empowered to
34 arrest with or without warrant any person within the State who is
34 committing, or to detain until a warrant has been obtained any
36 person within the State who has been seen by agents, officers or
36 representatives committing, any offense against state laws or a
38 violation of any rule of the bureau within a state park or
38 historic site, but a dwelling house may not be searched for the
40 purpose of such an arrest without a warrant, and then only in
40 daytime.

42 A person who violates any rule on lands classified as state
42 parks or historic sites or any notice posted by the bureau or who
44 willfully mutilates, defaces or destroys any monument or marker
44 lawfully erected within the borders of a park or historic site is
46

1 guilty of a ~~Class E crime~~ civil violation unless the violation is
2 designated a Class E crime in this chapter.

4 **Sec. 4. 12 MRSA §1862, sub-§8**, as enacted by PL 1997, c. 678,
5 §13, is repealed.

6 **Sec. 5. 12 MRSA §1867, sub-§4**, as enacted by PL 1997, c. 678,
7 §13, is repealed.

8 **Sec. 6. 12 MRSA §1867, sub-§6**, as enacted by PL 2001, c. 391,
9 §3, is amended to read:

10 **6. Pulpwood salvage exemption.** A person who has been
11 granted a charter or other specific authorization by the
12 Legislature prior to June 30, 1998 to erect and maintain piers
13 and booms to collect and store pulpwood in waters over submerged
14 lands may salvage the pulpwood stored in compliance with that
15 charter and is exempt from subsections 3,--4 and 5 of this
16 section, as long as, prior to conducting a pulpwood salvage
17 operation, that person:
18

19 A. Provides documentation satisfactory to the bureau of the
20 legislative charter or approval specifically authorizing
21 pulpwood storage at the proposed salvage site;

22 B. Attests that the salvaged pulpwood is to be processed at
23 a mill owned by that person;

24 C. Obtains all applicable permits required by local, state
25 and federal agencies having jurisdiction over the salvage
26 activity; and

27 D. Provides a plan acceptable to the bureau that results in
28 substantial improvements or benefits to public trust rights
29 or uses on that or a related body of water.

30 Pulpwood salvaged under a plan approved and implemented in
31 accordance with the terms of this subsection is the property of
32 the person authorized to collect and store pulpwood at the
33 salvage site. A person who salvages pulpwood under this
34 subsection shall comply with the provisions of the approved plan
35 and with all applicable permitting requirements and other legal
36 requirements pertaining to the salvage activity. Pulpwood
37 salvaged under this section may be processed only at a mill owned
38 by the person authorized to collect and store pulpwood at the
39 salvage site.

40 **Sec. 7. 12 MRSA §1883**, as enacted by PL 1997, c. 678, §13, is
41 repealed.

2 **Sec. 8. 12 MRSA §1886**, as enacted by PL 1997, c. 678, §13, is
amended to read:

4 **§1886. Police supervision**

6 The bureau shall exercise police supervision over the
waterway. The agents, officers or representatives of the bureau
8 designated for that purpose by the director, ~~and any are~~
authorized to issue summonses to any person within the State who
10 is committing or has been seen by agents, officers or
representatives committing any violation of a bureau rule adopted
12 pursuant to Title 12, section 1803. Any agent, officer,
representative or other law enforcement officer, is are
14 authorized to arrest with or without warrant any person within
the State who is committing, or to detain until a warrant has
16 been obtained any person within the State who has been seen by
said agents, representatives or officers committing, any offense
18 against the state laws or any violation of any rule of the bureau
within the waterway.

20 ~~An authorized agent or representative of the bureau making
22 an arrest for any violation of this subchapter may accept the
personal recognizance of the prisoner in a sum not exceeding \$250
24 and a deposit in money to the amount of the recognizance for the
prisoner's appearance before the appropriate District Court or
26 Superior Court on a specified date. The authorized agent or
representative shall immediately report each recognizance and
28 forward each deposit to the court to which the recognizance is
returnable.~~

30 ~~If such a person fails to appear in court on the day
32 specified either in person or by counsel, the court shall order
the recognizance and money deposited forfeited and shall enter
34 that person's default and notify the bureau of the default and
forfeiture.~~

36 **Sec. 9. 12 MRSA §1887**, as enacted by PL 1997, c. 678, §13, is
38 repealed.

40 **Sec. 10. 12 MRSA §1895, sub-§2**, as enacted by PL 1997, c. 678,
§13, is repealed.

44 **SUMMARY**

46 This bill consolidates rule-making authority for facilities
and lands under the Department of Conservation, Bureau of Parks
48 and Lands' general authority and establishes that violations of
rules adopted by the bureau are civil violations, unless the
50 offense is designated in the Maine Revised Statutes, Title 12,

chapter 220 as a Class E crime. Currently, violation of any
2 bureau rule is a Class E crime.