

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1518

H.P. 1110

House of Representatives, April 2, 2003

An Act To Improve Harvest Standards for Lands Purchased and Harvested within an 8-year Period

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative McKEE of Wayne.
Cosponsored by Senator EDMONDS of Cumberland and
Representatives: DUPLESSIE of Westbrook, EDER of Portland, JACKSON of Fort Kent,
PINEAU of Jay, PIOTTI of Unity, WATSON of Bath, Senator: TREAT of Kennebec.

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

4 Sec. 1. 12 MRSA c. 805, sub-c. 2-A is enacted to read:

6 **SUBCHAPTER 2-A**

8 **HARVESTING STANDARDS FOR SHORT-TERM OWNERSHIP**

10 **§8711. Definitions**

12 As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

14 1. Harvest plan. "Harvest plan" means a site-specific document signed by a professional forester outlining proposed harvesting activities to ensure compliance with this subchapter.

18 2. Heavy cut. "Heavy cut" means a harvest that exceeds 20 acres in size and results in a residual basal area of less than 60 square feet per acre of acceptable growing stock of trees over 4.5 inches in diameter measured at 4 1/2 feet above the ground and that is not a clear-cut as defined in section 8868, subsection 1.

24 3. 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.

34 4. Parcel. "Parcel" means a contiguous tract of forest land.

38 5. Short-term ownership. "Short-term ownership" means a period of less than 8 years between the date that a landowner acquires a parcel of land or the timber on a parcel of land and the date that landowner conducts a harvest on that parcel.

42 **§8712. Applicability**

44 This subchapter applies to a parcel of forest land 20 acres or greater in size that is purchased or on which the timber rights are purchased after July 1, 2003.

48 **§8713. Prohibition on heavy cuts**

50

2 Except as provided in sections 8714 and 8715, a landowner
3 may not harvest or cause a parcel to be harvested within 8 years
4 of acquiring the parcel or timber rights on the parcel in a
5 manner that creates a heavy cut.

6 **§8714. Heavy cut allowed with harvest plan**

7 A landowner may harvest or cause a parcel to be harvested in
8 a manner that creates a heavy cut if a harvest plan is prepared
9 prior to the harvest and the conditions of this section are met.
10 A harvest plan must be prepared for each parcel 20 acres or
11 greater in area prior to harvesting on that parcel.

12 **1. Map.** A harvest plan must include a map indicating:

13 A. The total area of the parcel; and

14 B. All areas proposed for harvesting and the forest stand
15 type for each area proposed for harvest.

16 **2. Silvicultural justification.** A harvest plan must
17 include a statement signed by a professional forester stating the
18 reason for the heavy cut. The accepted justifications for a
19 heavy cut are limited to:

20 A. The removal of poor quality, intolerant, understocked,
21 short-lived or mature overstories where the retention of the
22 overstory trees is not justified for further increase in
23 value, as a source of seed or for protection of the new
24 stand;

25 B. Ecologically appropriate improvement or creation of
26 wildlife habitat;

27 C. Harvest of timber stands that if less heavily harvested
28 are at high risk for windthrow due to factors such as soils,
29 rooting depth, crown ratio or stem quality; or

30 D. Harvesting of an existing plantation or other forest
31 stands established by or previously treated with
32 precommercial silvicultural activities as defined in section
33 8881.

34 **3. Environmental protection.** A harvest plan must include
35 provisions that address protection of soil, water quality and
36 wildlife habitat.

37 **4. Changes to plan; harvest completion.** When a change is
38 made to a harvest plan required under this section, the landowner
39 shall keep a record of the change and the reason for the change.
40

2 5. Plan available for inspection. A landowner must keep a
4 copy of the harvest plan, a written description of any changes to
6 the plan prior to harvest and a written description of any
8 deviation from the plan during the harvest for a minimum of 10
10 years from the date the parcel or timber on the parcel was
12 acquired. The harvest plan and descriptions must be available to
14 the Director of the Bureau of Forestry or the director's designee
16 upon request. A harvest plan provided in accordance with this
18 subsection is confidential and is not a public record as defined
20 in Title 1, section 402, subsection 3.

22 **§8715. Change in use exemption**

24 A landowner is exempt from the prohibition under section
26 8713 for a parcel or a portion of the parcel that is being
28 harvested for conversion to another use within 2 years. The use
30 must be indicated on the harvest notification form required under
32 section 8883. If the change in use is for residential dwellings,
34 the exemption is limited to the total area of the lots or 5 acres
36 per dwelling, whichever is less.

38 **§8716. Variance**

40 The Commissioner of Conservation may grant a variance from
42 the requirements under section 8714 for financial hardship. The
44 Commissioner of Conservation shall establish criteria for
46 determining financial hardships under which a variance may be
48 issued.

50 **§8717. Enforcement**

The Director of the Bureau of Forestry is responsible for
 enforcing this subchapter. Agents of the bureau have the right
 to access land to administer and enforce this subchapter.

1. Civil violation. A violation of this subchapter is a
 civil violation. In accordance with subsection 2, fines imposed
 for a violation of this chapter are based on the length of time
 the land was held and the parcel-wide basal area.

2. Schedule of fines. Fines for violations under this
 subchapter are as provided in this subsection.

A. When the basal area after harvest is less than 60 but
 more than 30 square feet of acceptable growing stock per
 acre and:

(1) The land has been held for 24 months or less, the
 fine is \$800 per acre of area harvested;

2 (2) The land has been held for 25 to 48 months or
4 less, the fine is \$500 per acre of area harvested;

6 (3) The land has been held for 49 to 72 months or
8 less, the fine is \$400 per acre of area harvested; and

10 (4) The land has been held for 73 to 96 months or
12 less, the fine is \$200 per acre of area harvested; and

14 B. When the basal area after harvest is less than 30 square
16 feet of acceptable growing stock per acre and:

18 (1) The land has been held for 24 months or less, the
20 fine is \$1,000 per acre of area harvested;

22 (2) The land has been held for 25 to 48 months or
24 less, the fine is \$800 per acre of area harvested;

26 (3) The land has been held for 49 to 72 months or
28 less, the fine is \$600 per acre of area harvested; and

30 (4) The land has been held for 73 to 96 months or
32 less, the fine is \$400 per acre of area harvested.

34 3. Fines deposited in dedicated account. All fines
36 collected under this section must be deposited in a dedicated
38 account and used for the bureau's education and enforcement
40 activities.

42 **§8718. Rulemaking**

44 The Director of the Bureau of Forestry shall adopt rules in
46 accordance with Title 5, chapter 375 to implement this
48 subchapter. Rules adopted pursuant to this subchapter are major
 substantive rules as defined in Title 5, chapter 375, subchapter
 2-A and must be submitted to the Legislature for review.

Sec. 2. 12 MRSA §8883, sub-§1, ¶F-1, as enacted by PL 2001, c.
 603, §2, is amended to read:

 F-1. An indication whether the land being harvested is
 taxed under the Maine Tree Growth Tax Law. If the land
 being harvested is taxed under the Maine Tree Growth Tax
 Law, the notification must include a statement, signed by
 the landowner, indicating that the harvest is consistent
 with the forest management and harvest plan and sound
 silvicultural practices as required by Title 36, section
 574-B, subsection 1. A licensed professional forester who

2 has a fiduciary responsibility to the landowner may sign the
statement required in this paragraph.

4 Failure to indicate that the harvest is consistent with the
6 forest management and harvest plan constitutes a withdrawal
8 from taxation under the Maine Tree Growth Tax Law of the
10 land being harvested in a manner that is not consistent with
12 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;

14 **Sec. 3. 12 MRSA §8883, sub-§1, ¶I,** as amended by PL 1997, c.
16 648, §5, is further amended to read:

18 I. A map locating the harvest site in relation to known or
20 easily identifiable terrain features, such as a road
junction or a stream and road junction. The map must be a
22 copy of a 7.5 or 15 minute series topographical map produced
by the United States Geological Survey or a map of
equivalent or superior detail in the location of roads; and

24 **Sec. 4. 12 MRSA §8883, sub-§1, ¶J,** as enacted by PL 1989, c.
26 555, §12 and affected by c. 600, Pt. B, §11, is amended to read:

28 J. The date of notification; and

30 **Sec. 5. 12 MRSA §8883, sub-§1, ¶K** is enacted to read:

32 K. For land or timber purchased after July 1, 2003, when
34 the land is to be harvested within 8 years of the purchase,
the landowner must indicate the date of purchase of the land
36 or timber on the land.

38 SUMMARY

40 This bill establishes harvesting standards for land
42 harvested within 8 years of purchase or purchase of the timber
rights. It requires the landowner to have a harvest plan
44 prepared prior to harvest and also requires that a minimum basal
area of trees of certain size and quality remain after harvest,
unless one the specified conditions exists.