

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND SPECIAL SESSION-2004

Legislative Document

No. 1858

S.P. 705

In Senate, February 18, 2004

An Act To Change the Point System for Clearing Vegetation Adjacent to Protected Natural Resources

Reported by Senator MARTIN of Aroostook for the Joint Standing Committee on Natural Resources pursuant to Joint Order 2004, S.P. 684.

Reference to the Committee on Natural Resources suggested and ordered printed under Joint Rule 218.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

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

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Sec. 1. 38 MRSA §480-Q, sub-§23, as enacted by PL 2001, c. 618, §5, is amended to read:

23. Cutting or clearing subject to mandatory shoreland zoning laws. Cutting or clearing of upland vegetation adjacent to those protected natural resources listed in section 480-C, subsection 1, paragraph A or B for a purpose other than forest management as long as:

A. The cutting or clearing is subject to the jurisdiction of a municipality pursuant to chapter 3, subchapter ~~1~~ 1, article 2-B; or

B. If the cutting or clearing is not subject to the jurisdiction of a municipality pursuant to chapter 3, subchapter ~~1~~ 1, article 2-B, vegetation within the adjacent area is maintained as follows:

(1) There is no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown, except that a footpath may be ~~constructed~~ established for the purpose of access to water if it does not exceed 6 feet in width as measured between tree trunks and has at least one bend in its path to divert channelized runoff;

(2) Any selective cutting of trees within the buffer strip leaves a well-distributed stand of trees and other natural vegetation.

(a) For the purposes of this subparagraph, a "well-distributed stand of trees ~~and other natural vegetation~~" is defined as maintaining a rating score of 8 or more points in a 25-foot by ~~25-foot~~ 50-foot rectangular area as determined by the following rating system.

(i) A tree with a diameter at 4 1/2 feet above ground level of ~~2-to-4~~ 2.0 to less than 4.0 inches has a point value of one.

(ii) A tree with a diameter at 4 1/2 feet above ground level of ~~more than 4 inches and up to and including 12~~ 4.0 inches to less than 8.0 inches has a point value of 2.

(iii) A tree with a diameter at 4 1/2 feet above ground level of ~~more than 12~~ 8.0 inches

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to less than 12.0 inches has a point value of 4.

(iv) A tree with a diameter at 4 1/2 feet above ground level of 12.0 or more inches has a point value of 8.

A landowner or lessee may not for any purpose, including the purpose of prohibiting the growth and recruitment of young trees into the class of trees that have a diameter at 4 1/2 feet above ground level of 2.0 inches, aggressively eliminate all woody vegetation that exceeds 3 feet in height.

(b) In applying this point system:

(i) The 25-foot by ~~25-foot~~--square 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

(ii) Each successive plot must be adjacent to, but may not overlap, a previous plot;

(iii) Any plot not containing the required points may have no vegetation removed except as otherwise allowed by this subsection; and

(iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this subsection;

(3) In addition to the requirements of subparagraph (2), no more than 40% of the total volume of trees 4 4.0 inches or more in diameter, measured 4 1/2 feet above ground level, is selectively cut in any 10-year period;

(4) In order to protect water quality and wildlife habitat, existing vegetation under 3 feet in height and other ground cover is are not removed except for ~~construction~~ establishment of a footpath as provided in subparagraph (1);

(5) Tree branches are not pruned except on the bottom 1/3 of the tree as long as tree vitality will not be adversely affected; and

2 (6) In order to maintain a buffer strip of vegetation,
when the removal of storm-damaged, diseased, unsafe or
4 dead trees results in the creation of cleared openings
in excess of 250 square feet, these openings are
6 replanted with native tree species unless there is
existing new tree growth.

8 ~~Cleared openings legally in existence on September 1,
2002 may be maintained but may not be enlarged.~~

10 Cleared openings legally in existence on September 1, 2002 may be
12 maintained but may not be enlarged.

14 This subsection applies to an area with vegetation composed
primarily of shrubs, trees or other woody vegetation without
16 regard to whether the area was previously cut or cleared;

18 **SUMMARY**

20 This bill amends the point system for clearing vegetation
adjacent to protected natural resources pursuant to Joint Order
22 2004, S.P. 684. It changes the definition of "well-distributed
stand of trees" by increasing the area from a 25-foot by 25-foot
24 square area to a 25-foot by 50-foot rectangular area and by
changing the rating system. The bill also prohibits a landowner
26 or lessee from aggressively eliminating all woody vegetation that
exceeds 3 feet in height.