

# MAINE STATE LEGISLATURE

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10/16/15

L.D. 188

DATE: 5/16/15

(Filing No. H-371)

AGRICULTURE, CONSERVATION AND FORESTRY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 139, L.D. 188, Bill, "An Act To Promote the Uniform Implementation of the Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas"

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Sec. 1. 12 MRSA §685-A, sub-§12, as enacted by PL 2003, c. 335, §1, is repealed and the following enacted in its place:

12. Timber harvesting activities in areas adjacent to rivers, streams, ponds, wetlands and tidal waters. Rules adopted by the Commissioner of Conservation pursuant to section 8867-B for the purpose of regulating timber harvesting and timber harvesting activities in areas adjacent to rivers, streams, ponds, wetlands and tidal waters become effective for the unorganized and deorganized areas on the date established under Title 38, section. 438-B, subsection 5.

The Director of the Bureau of Forestry within the Department of Conservation shall administer and enforce the regulation of timber harvesting and timber harvesting activities in these areas. For the purposes of this subsection, "timber harvesting" and "timber harvesting activities" have the same meanings as in section 8868, subsections 4 and 5.

Sec. 2. 38 MRSA §438-A, 2nd ¶, as enacted by PL 2003, c. 335, §4, is amended to read:

COMMITTEE AMENDMENT

Notwithstanding other provisions of this article, beginning January-1,--2006 the regulation of timber harvesting and timber harvesting activities in shoreland areas must be in accordance with section 438-B and rules adopted by the Commissioner of Conservation pursuant to Title 12, section 8867-B.

**Sec. 3. 38 MRSA §438-B, first ¶**, as enacted by PL 2003, c. 335, §5, is amended to read:

Except as provided in subsection 4, beginning January-1, 2006 on the effective date established under subsection 5, rules adopted by the Commissioner of Conservation under Title 12, section 8867-B apply statewide for the purpose of regulating timber harvesting and timber harvesting activities in shoreland areas.

**Sec. 4. 38 MRSA §438-B, sub-§§2, 3 and 4**, as enacted by PL 2003, c. 335, §5, are amended to read:

**2. Municipal acceptance of statewide standards.** A municipality may choose to have the statewide standards apply to timber harvesting and timber harvesting activities in that municipality by repealing authorizing the repeal of all provisions within the municipal shoreland zoning ordinance that regulate timber harvesting and timber harvesting activities in shoreland areas and notifying the director of the repeal. The authorization must specify a repeal date consistent with the effective date established under subsection 5. When a municipality accepts the statewide standards in accordance with this subsection, the director shall administer and enforce the statewide standards within that municipality beginning on the effective date established under subsection 5.

**3. Municipal adoption of ordinance identical to statewide standards.** A municipality may adopt an ordinance to regulate timber harvesting and timber harvesting activities that is identical to the statewide standards. A municipality that adopts an ordinance under this subsection may request the director to administer and enforce the ordinance or to participate in joint administration and enforcement of the ordinance with the municipality beginning on the effective date established under subsection 5. When a municipality requests joint responsibilities, the director and the municipality shall enter into an agreement that delineates the administrative and enforcement duties of each. To continue to receive administrative and enforcement assistance from the director under this subsection, a municipality must amend its ordinance as necessary to maintain identical provisions with the statewide standards.

2           **4. Municipal ordinances that are not identical to statewide**  
3 **standards.** A municipal ordinance regulating timber harvesting  
4 and timber harvesting activities that is in effect and consistent  
5 with state laws and rules in effect on December 31, 2005  
6 continues in effect unless action is taken in accordance with  
7 subsection 2 or 3. A municipality that retains an ordinance with  
8 provisions that differ from the statewide standards shall  
9 administer and enforce that ordinance. A municipality may not  
10 amend a municipal ordinance regulating timber harvesting and  
11 timber harvesting activities unless the process established in  
12 Title 12, section 8869, subsection 8 is followed. Beginning on  
13 January 1, 2006 the effective date established under subsection  
14 5, a municipality may not amend an ordinance regulating timber  
15 harvesting and timber harvesting activities in a manner that  
16 results in standards that are less stringent than or otherwise  
17 conflict with the statewide standards.

18           **Sec. 5. 38 MRSA §438-B, sub-§5 is enacted to read:**

19           **5. Effective date for statewide standards.** Except as  
20 provided in subsection 4, rules adopted by the Commissioner of  
21 Conservation under Title 12, section 8867-B apply statewide  
22 beginning on the first day of January of the 2nd year following  
23 the year in which the Commissioner of Conservation determines  
24 that at least 252 of the 336 municipalities identified by the  
25 Commissioner of Conservation as the municipalities with the  
26 highest acreage of timber harvesting activity on an annual basis  
27 for the period 1999-2003 have either accepted the statewide  
28 standards in accordance with subsection 2 or have adopted an  
29 ordinance identical to the statewide standards in accordance with  
30 subsection 3. Within 30 days of making the determination that  
31 the 251-municipality threshold has been met, the Commissioner of  
32 Conservation shall notify the Secretary of State in writing and  
33 advise the secretary of the effective date for the statewide  
34 standards.

35           **Sec. 6. PL 2003, c. 335, §§7 and 8 are amended to read:**

36           **Sec. 7. Review of rules pertaining to timber harvesting in shoreland**  
37 **areas within unorganized and deorganized areas.** ~~No later than~~  
38 ~~October 1, 2005, the~~ The Maine Land Use Regulation Commission, in  
39 consultation with the Director of the Bureau of Forestry within  
40 the Department of Conservation, shall review the commission's  
41 rules pertaining to timber harvesting and timber harvesting  
42 activities in shoreland areas and provide for the repeal or  
43 amendment of rules that duplicate or conflict with the rules  
44 adopted by the Commissioner of Conservation pursuant to the Maine  
45 Revised Statutes, Title 12, section 8867-B. The commission shall  
46 ensure that any necessary changes in rule become effective

January 1, 2006 on the date established pursuant to Title 38, section 438-B, subsection 5.

**Sec. 8. Review of rules pertaining to timber harvesting in shoreland areas.** ~~No later than October 1, 2005, the~~ The Commissioner of Environmental Protection, in consultation with the Director of the Bureau of Forestry within the Department of Conservation, shall review rules adopted by the commissioner or the Board of Environmental Protection pertaining to timber harvesting and timber harvesting activities in shoreland areas and provide for the repeal or amendment of rules that duplicate or conflict with the rules adopted by the Commissioner of Conservation pursuant to the Maine Revised Statutes, Title 12, section 8867-B. The Commissioner of Environmental Protection and the board shall ensure that any necessary changes become effective January 1, 2006 on the date established pursuant to Title 38, section 438-B, subsection 5.

**Sec. 7. Commissioner of Conservation directed to submit legislation.** The Commissioner of Conservation, in consultation with the Commissioner of Environmental Protection, shall prepare legislation to make statutory revisions necessary to implement a statewide standard for timber harvesting and timber harvesting activities in shoreland areas and to further clarify as necessary the responsibilities of the Department of Conservation, Bureau of Forestry in administering and enforcing the standard. The Commissioner of Conservation shall submit the legislation for introduction in the legislative session prior to the effective date for rules adopted pursuant to the Maine Revised Statutes, Title 12, section 8867-B as determined by Title 38, section 438-B, subsection 5.'

### SUMMARY

This amendment replaces the bill. It makes the effective date for rules regulating timber harvesting activities in shoreland areas contingent on acceptance of the statewide standards by 252 municipalities on a list of 336 municipalities. It requires the Commissioner of Conservation to notify the Secretary of State when the 251-municipality threshold has been reached and to submit legislation to make any necessary statutory revisions prior to the effective date for the statewide standards.

**FISCAL NOTE REQUIRED**  
(See attached)



# 122nd MAINE LEGISLATURE

LD 188

LR 1428(02)

**An Act To Promote the Uniform Implementation of the Statewide Standards for Timber Harvesting  
and Related Activities in Shoreland Areas**

**Fiscal Note for Bill as Amended by Committee Amendment "A"**

**Committee: Agriculture, Conservation and Forestry**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund