

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 192

H.P. 143

House of Representatives, January 13, 2005

### An Act To Establish the Pine Tree Recreation Zone

(EMERGENCY)

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Reference to the Committee on Taxation suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative MOODY of Manchester.  
Cosponsored by Senator DAVIS of Piscataquis and  
Representatives: GERZOFKY of Brunswick, HOTHAM of Dixfield, LERMAN of Augusta,  
MILLS of Farmington, PINEAU of Jay, SAVIELLO of Wilton, Senators: MITCHELL of  
Kennebec, WOODCOCK of Franklin.



2           **5. Department.**    "Department" means the Department of  
Economic and Community Development.

4           **6. Pine Tree Recreation Zone.**   "Pine Tree Recreation Zone"  
or "zone" includes the portion of this State that extends from  
6           the Androscoggin River to the northern or eastern border of the  
State.

8           **7. Pine Tree Recreation Zone benefits.**   "Pine Tree  
10           Recreation Zone benefits" means:

12           A. The exclusion from the limitations established under  
14           section 5223, subsection 3 of tax increment financing  
districts included within the Pine Tree Recreation Zone;

16           B. Expanded employment tax increment financing benefits  
18           under Title 36, chapter 917;

20           C. The sales tax exemptions under Title 36, section 1760,  
subsections 88 and 89; and

22           D. The Pine Tree Recreation Zone tax credits provided by  
24           Title 36, section 5219-Y.

26           **8. Qualified Pine Tree Recreation Zone business.**   "Qualified  
Pine Tree Recreation Zone business" or "qualified recreation  
28           business" means any for-profit business in this State engaged in  
an outdoor recreational business, including, but not limited to,  
30           providing services or merchandise relating to guiding, hunting,  
fishing, skiing, snowboarding, snowmobiling or water sports, that  
32           adds qualified Pine Tree Recreation Zone employees above its base  
level of employment in this State and that meets the following  
criteria:

34           A. It demonstrates that the establishment or expansion of  
36           operations within the Pine Tree Recreation Zone would not  
occur within the State absent the availability of the Pine  
38           Tree Recreation Zone benefits. The department shall  
investigate whether the business has met the requirements of  
40           this paragraph and provide an advisory opinion to the  
Executive Director of the Bureau of Revenue Services in the  
42           Department of Administrative and Financial Services, who  
shall make the final determination; and

44           B. It has received a certificate as a qualified recreation  
46           business pursuant to section 5250-S.

48           **9. Qualified Pine Tree Recreation Zone employees.**   "Qualified Pine Tree Recreation Zone employees" means new,  
50           full-time employees hired in this State by a qualified Pine Tree

2 Recreation Zone business for work directly in one or more  
4 qualified business activities, for whom a retirement program  
6 subject to the Employee Retirement Income Security Act of 1974,  
8 29 United States Code, Sections 101 to 1461 (2003) and group  
10 health insurance are provided and whose wages derived from  
12 employment within the Pine Tree Recreation Zone are greater than  
14 the average annual per capita wages in the local labor market  
16 area in the county in which the qualified employees are  
18 employed. Qualified Pine Tree Recreation Zone employees must be  
20 residents of this State.

22 **10. Qualified recreation business activity.** "Qualified  
24 recreation business activity" means a business activity that is  
26 conducted within the Pine Tree Recreation Zone that involves  
28 outdoor recreation, including, but not limited to, providing  
30 services or merchandise relating to guiding, hunting, fishing,  
32 skiing, snowboarding, snowmobiling or water sports, and for which  
34 the business receives a certificate from the commissioner  
36 pursuant to section 5250-S.

38 **§5250-R. Program administration; rules**

40 The commissioner shall administer this subchapter. The  
42 commissioner shall adopt rules pursuant to the Maine  
44 Administrative Procedure Act for implementation of the Pine Tree  
46 Recreation Zone. Rules adopted under this section are routine  
48 technical rules as defined in Title 5, chapter 375, subchapter  
50 2-A.

**§5250-S. Certification of qualified recreation business**

A business may apply to the commissioner for certification  
as a qualified Pine Tree Recreation Zone business. Upon review  
and determination by the commissioner that a business qualifies  
as a qualified Pine Tree Recreation Zone business, the  
commissioner shall issue a certificate of qualification to the  
business that includes a description of the qualified recreation  
business activity for which the certificate is being issued.

Sec. 2. 36 MRSA §1760. sub-§§88 and 89 are enacted to read:

**88. Construction contracts with qualified Pine Tree**  
**Recreation Zone businesses.** Beginning July 1, 2005, sales to a  
construction contractor of tangible personal property that is to  
be physically incorporated in, and become a permanent part of,  
real property that is owned by or for sale to a qualified Pine  
Tree Recreation Zone business, as defined in Title 30-A, section  
5250-Q, subsection 8, which real property will be used in the  
qualified recreation business activity, as defined in Title 30-A,  
section 5250-Q, subsection 10, of the qualified Pine Tree

2 Recreation Zone business in the Pine Tree Recreation Zone, as  
3 defined in Title 30-A, section 5250-Q, subsection 6. The  
4 exemption provided by this subsection is limited to sales to a  
5 construction contractor occurring within a period of 10 years  
6 from the date the qualified Pine Tree Recreation Zone business  
7 receiving the property is certified pursuant to Title 30-A,  
8 section 5250-S or until December 31, 2018, whichever occurs first.

9  
10 89. Sales of tangible personal property to qualified Pine  
11 Tree Recreation Zone businesses. Beginning July 1, 2005, sales  
12 of tangible personal property to a qualified Pine Tree Recreation  
13 Zone business, as defined in Title 30-A, section 5250-Q,  
14 subsection 8, for use directly and primarily in one or more  
15 qualified recreation business activities, as defined in Title  
16 30-A, section 5250-Q, subsection 10. The exemption provided by  
17 this subsection is limited for each qualified Pine Tree  
18 Recreation Zone business to sales occurring within a period of 10  
19 years from the date the business is certified pursuant to Title  
20 30-A, section 5250-S or until December 31, 2018, whichever occurs  
21 first.

22 **Sec. 3. 36 MRSA §5219-Y is enacted to read:**

23 **§5219-Y. Pine Tree Recreation Zone tax credit**

24  
25 1. Credit allowed. Except as provided by subsection 2, a  
26 taxpayer that is a qualified Pine Tree Recreation Zone business  
27 as defined in Title 30-A, section 5250-Q, subsection 8 is allowed  
28 a credit in the amount of:

29  
30 A. One hundred percent of the tax that would otherwise be  
31 due under this Part for each of the first 5 taxable years  
32 that the taxpayer is required to file a return pursuant to  
33 this Part beginning after the taxpayer commences its  
34 qualified recreation business activity, as defined in Title  
35 30-A, section 5250-Q, subsection 10; and

36  
37 B. Fifty percent of the tax that would otherwise be due  
38 under this Part for each of the taxable years beginning with  
39 the 6th taxable year and ending with the 10th taxable year  
40 that the taxpayer is required to file a return pursuant to  
41 this Part after the taxpayer commences its qualified  
42 recreation business activity, as defined in Title 30-A,  
43 section 5250-Q, subsection 10.

44  
45 2. Apportioned credit in certain circumstances. In the  
46 case of a qualified Pine Tree Recreation Zone business, as  
47 defined in Title 30-A, section 5250-Q, subsection 8, that has a  
48 business presence in the State other than that conducted within  
49 the Pine Tree Recreation Zone, as defined by Title 30-A, section  
50 5250-Q, subsection 8, the tax liability of the business shall be

2 5250-Q, subsection 6, including, but not limited to, a qualified  
4 Pine Tree Recreation Zone business that is required to file a  
6 combined report pursuant to section 5220, subsection 5, the Maine  
8 income tax liability of the qualified Pine Tree Recreation Zone  
10 business, and the affiliated members of its unitary group, if  
12 any, upon which the credit provided for in this section must be  
14 calculated based upon a pro forma determination. The pro forma  
16 determination must be based on the assumptions that all of the  
18 business activities conducted by the qualified Pine Tree  
20 Recreation Zone business and the affiliated members of its  
22 unitary group, if any, within this State constitute a unitary  
24 business and that only the qualified business activity conducted  
in the Pine Tree Recreation Zone is subject to tax imposed by  
this chapter. The portion of the tax liability of the qualified  
Pine Tree Recreation Zone business and the affiliated members of  
its unitary group, if any, related to the business activity  
conducted in the Pine Tree Recreation Zone must be determined by  
use of a percentage, the numerator of which is the property value  
and the payroll for the taxable year directly attributed to the  
qualified recreation business activity of the business and the  
denominator of which is the statewide property value and payroll  
for the taxable year of the qualified recreation business and the  
members of its unitary group.

26 **3. Sole proprietors and owners of pass-through entities.**

28 In the case of a sole proprietor or the owner of a partnership,  
30 limited liability company, S corporation, trust or other entity  
32 that is treated as a pass-through entity for income tax purposes  
34 under the Code, the amount of the credit allowed under subsection  
1 is the amount of tax otherwise due under this Part that relates  
to taxable income received by the sole proprietor or owner from  
the qualified Pine Tree Recreation Zone business, as defined in  
Title 30-A, section 5250-Q, subsection 8, as apportioned.

36 **4. Limitation.** The credit provided by this section may not  
be claimed for tax years beginning on or after January 1, 2019.

38 **Emergency clause.** In view of the emergency cited in the  
40 preamble, this Act takes effect when approved.

42 **SUMMARY**

44 This bill establishes the Pine Tree Recreation Zone as the  
46 area of the State north and east of the Androscoggin River.  
48 Businesses that establish or expand within the Pine Tree  
Recreation Zone operations involving outdoor recreation, such as  
providing services or merchandise relating to guiding, hunting,  
fishing, skiing, snowboarding, snowmobiling or water sports,

2 would be eligible for tax benefits equal to those offered to  
3 businesses under the Pine Tree Development Zone program. These  
4 benefits include sales tax exemptions for certain building  
5 materials and tangible personal property, exclusion from the  
6 calculation of a municipality's tax increment financing district  
7 within the Pine Tree Recreation Zone, employment tax increment  
8 financing for a fixed period of years and state income tax  
credits for a fixed number of years.