

# MAINE STATE LEGISLATURE

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Date: 4-1-08

(Filing No. S-542)

**AGRICULTURE, CONSERVATION AND FORESTRY**

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**STATE OF MAINE  
SENATE  
123RD LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 795, L.D. 2001, Bill, "An Act To Reduce Wild Blueberry Theft"

Amend the bill by inserting after the title and before the enacting clause the following:

**'Emergency preamble. Whereas,** acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the theft of wild blueberries presents a threat to the viability of commercial wild blueberry operations; and

**Whereas,** the harvesting of wild blueberries begins in July in some areas of the State; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Amend the bill by inserting after the enacting clause the following:

**'Sec. 1. 36 MRSA §191, sub-§2, ¶II,** as amended by PL 2007, c. 328, §3, is further amended to read:

II. The disclosure to an authorized representative of the Maine Milk Commission of information on the quantity of packaged milk handled in the State and subject to the milk handling fee established in section 4902 and other information obtained by the assessor in the administration of chapter 721; and

**Sec. 2. 36 MRSA §191, sub-§2, ¶JJ,** as enacted by PL 2007, c. 328, §4, is amended to read:

**COMMITTEE AMENDMENT**

R.O.S.

COMMITTEE AMENDMENT "A" to S.P. 795, L.D. 2001

- 1 JJ. The disclosure to the State Purchasing Agent of a person's sales tax standing as  
2 necessary to enforce Title 5, section 1825-B, subsection 14-; and
- 3 **Sec. 3. 36 MRSA §191, sub-§2, ¶KK** is enacted to read:
- 4 KK. The disclosure to an authorized representative of the Wild Blueberry  
5 Commission of Maine of any information required for or submitted to the assessor in  
6 connection with the administration of the tax imposed under chapter 701.'
- 7 Amend the bill in section 1 in subsection 1-F in the 2nd and 3rd lines (page 1, lines 4  
8 and 5 in L.D.) by striking out the following: "from which they" and inserting the  
9 following: 'where the berries'
- 10 Amend the bill in section 1 in subsection 1-F in the 3rd line (page 1, line 5 in L.D.)  
11 by striking out the following: "to a shipper or processor"
- 12 Amend the bill by striking out all of section 2.
- 13 Amend the bill in section 3 in §4305 in subsection 1 in the first line (page 1, line 15  
14 in L.D.) by striking out the following: "Every" and inserting the following: 'A'
- 15 Amend the bill in section 3 in §4305 by striking out all of subsection 2 and inserting  
16 the following:
- 17 **'2. Violation; failure to obtain certification.** A processor or shipper who fails to  
18 obtain certification under subsection 1 commits a civil violation for which a fine of not  
19 more than \$5,000 may be adjudged.'
- 20 Amend the bill in section 3 in §4305 in subsection 3 in paragraph A in the first line  
21 (page 1, line 27 in L.D.) by inserting after the following: "4303" the following: 'or 4303-  
22 A'
- 23 Amend the bill in section 3 in §4305 by striking out all of subsection 4 and inserting  
24 the following:
- 25 **'4. Mandatory suspension or revocation.** Upon notification by the Wild Blueberry  
26 Commission of Maine, a state agency or a state, county or local law enforcement agency,  
27 the assessor shall suspend or revoke certification of a processor or shipper who is  
28 convicted under section 4316, subsection 3-A. A person convicted under section 4316,  
29 subsection 3-A whose certification has been suspended under this subsection may not  
30 obtain a new certification from the assessor for 5 years from the date of the conviction. A  
31 firm, company, partnership, association or corporation that has one or more owners,  
32 officers or employees who have been convicted under section 4316, subsection 3-A may  
33 not obtain certification from the assessor for 5 years from the date of any such conviction.  
34 The assessor may determine that an owner, officer or employee has not been convicted  
35 under section 4316, subsection 3-A if an applicant for certification submits a notarized  
36 statement attesting that none of the applicant's owners, officers or employees has been  
37 convicted under section 4316, subsection 3-A in the prior 5 years.'
- 38 Amend the bill in section 4 in subsection 1 in the 6th line (page 2, line 13 in L.D.) by  
39 inserting after the following: "town" the following: ', township or plantation or to global  
40 positioning coordinates for the area where wild blueberries are managed'

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COMMITTEE AMENDMENT "A" to S.P. 795, L.D. 2001

1 Amend the bill in section 4 in subsection 1 in the 9th line (page 2, line 16 in L.D.) by  
2 striking out the following: "current" and inserting the following: 'current valid'

3 Amend the bill in section 6 by striking out all of subsection 4 and inserting the  
4 following:

5 '4. Violation; subsequent offenses. A person who violates subsection 1 when the  
6 person has 2 prior convictions for violation of subsection 1 commits a Class C crime.  
7 Title 17-A, section 9-A governs the use of prior convictions when determining a  
8 sentence.'

9 Amend the bill in section 7 in §4315 by striking out all of subsection 1 and inserting  
10 the following:

11 '1. Transportation of wild blueberries; permit required. A person may not  
12 transport wild blueberries in quantities exceeding 25 pounds without first obtaining a  
13 transportation permit on an official form to be furnished by the Wild Blueberry  
14 Commission of Maine. The Wild Blueberry Commission of Maine shall issue upon  
15 request official uniquely numbered transportation permit forms to shippers and processors  
16 certified under section 4305 owners. Shippers and processors may Owners shall issue the  
17 transportation permits to owners or owner's transportation agents with written  
18 authorization from owners first haulers or shippers who transport wild blueberries  
19 directly from the field from which the wild blueberries were harvested. Each  
20 transportation permit issued must bear a different number and expire at the end  
21 automatically expires on the 30th of September in the calendar year in which it was  
22 issued. This subsection does not apply to wild blueberries that have been received by a  
23 certified shipper or processor and have been weighed, logged into a permanent record-  
24 keeping system and reloaded onto a vehicle for shipping under a bill of lading.'

25 Amend the bill in section 7 in §4315 in subsection 1-A in the 6th and 7th lines (page  
26 3, lines 10 and 11 in L.D.) by striking out the following: ", shippers and processors" and  
27 inserting the following: 'shippers and processors owners'

28 Amend the bill in section 7 in §4315 by inserting after subsection 1-A the following:

29 '1-B. Restrictions on first haulers. A first hauler who is not certified as a shipper  
30 may not transport berries from the field to any entity other than a shipper or a processor  
31 holding a valid certification under section 4305.'

32 Amend the bill in section 7 in §4315 in subsection 3 by striking out all of paragraph  
33 A and inserting the following:

34 'A. A Except as provided in subsection 4, a person who transports wild blueberries  
35 in violation of this section commits a Class E crime. Violation of this paragraph is a  
36 strict liability crime as defined in Title 17-A, section 34, subsection 4-A.'

- 37 (1) A Class E crime; or  
38 (2) A Class C crime if the person has 2 or more prior convictions under this  
39 paragraph.

**COMMITTEE AMENDMENT**

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COMMITTEE AMENDMENT "A" to S.P. 795, L.D. 2001

1 A violation under this paragraph is a strict liability crime as defined in Title 17-A,  
2 section 34, subsection 4-A.'

3 Amend the bill in section 8 in §4316 in subsection 1 in the first line (page 4, line 8 in  
4 L.D.) by striking out the following: "person who" and inserting the following: 'person  
5 shipper or processor who transports or'

6 Amend the bill in section 8 §4316 in subsection 1 in the 2nd line (page 4, line 9 in  
7 L.D.) by striking out the following: "received" and inserting the following: 'received'

8 Amend the bill in section 8 in §4316 in subsection 2 in the first line (page 4, line 14  
9 in L.D.) by striking out the following: "person" and inserting the following: 'person  
10 shipper or processor'

11 Amend the bill in section 8 in §4316 in subsection 2 in the 2nd line (page 4, line 15 in  
12 L.D.) by striking out the following: "in lots of greater than 5 pounds" and inserting the  
13 following: 'in lots of greater than 5 pounds'

14 Amend the bill in section 8 in §4316 in subsection 3 in the first line (page 4, line 19  
15 in L.D.) by inserting after the following: "blueberries" the following: 'transported or'

16 Amend the bill in section 8 in §4316 in subsection 3-A in the first line (page 4, line  
17 25 in L.D.) by striking out the following: "A person who violates this section when the  
18 person" and inserting the following: 'A shipper or processor who violates this section  
19 when the shipper or processor'

20 Amend the bill in section 8 in §4316 in subsection 4 in the 2nd line (page 4, line 32 in  
21 L.D.) by striking out the following: "receivers" and inserting the following: 'receivers  
22 shippers or processors'

23 Amend the bill in section 8 in §4316 in subsection 4 in the 5th line (page 4, line 35 in  
24 L.D.) by striking out the following: "receivers" and inserting the following: 'receivers  
25 shippers or processors'

26 Amend the bill in section 8 in §4316 in subsection 4 in the 5th line (page 4, line 35 in  
27 L.D.) by striking out the following: "receivers' accounts" and inserting the following:  
28 'receivers' shippers' or processors' accounts'

29 Amend the bill by adding before the summary the following:

30 **'Emergency clause.** In view of the emergency cited in the preamble, this  
31 legislation takes effect when approved.'

32 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
33 section number to read consecutively.

34 **SUMMARY**

35 This amendment adds an emergency preamble and clause to the bill. It specifies that  
36 the State Tax Assessor is required to suspend or revoke the certification of a processor or  
37 shipper of wild blueberries when the assessor receives notification that certain violations  
38 have occurred. It allows the assessor to accept a notarized statement to determine that  
39 violations by an owner, officer or employee have not occurred. It clarifies that it is illegal

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COMMITTEE AMENDMENT "A" to S.P. 795, L.D. 2001

- 1 for a first hauler to transport berries to anyone who is not certified as a shipper or
- 2 processor. Instead of basing increased penalties for illegal transportation of berries on the
- 3 value of the berries as proposed in the bill, this amendment establishes illegal
- 4 transportation by a person with 2 prior convictions as a Class C crime.

FISCAL NOTE REQUIRED  
(See Attached)

**COMMITTEE AMENDMENT**



# 123rd MAINE LEGISLATURE

LD 2001

LR 3197(02)

## An Act To Reduce Wild Blueberry Theft

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

Current biennium cost increase - General Fund

Minor revenue increase - General Fund

#### Correctional and Judicial Impact Statements

Increases fines and the class of crime for violation of the laws regarding transportation and receipt of wild blueberries. Establishes new Class C crimes. Class C crimes must be served in a state correctional facility. The average cost to the state for each sentence is \$70,308 based on an average length of stay of 1 year, 10 months. The Judicial Department expects 0-1 cases every 5 years based on no violations filed in the history of the MEJIS system. The collection of additional fines may also increase General Fund revenue by minor amounts.

#### Fiscal Detail and Notes

Additional costs to the Department of Agriculture, Food, and Rural Resources can be absorbed within existing budgeted resources.