

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1108

H.P. 820

House of Representatives, March 15, 2011

An Act To Modify the Requirement To Replace Trees Cut Down in Violation of Local Laws

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative MOULTON of York.
Cosponsored by Senator THOMAS of Somerset and
Representatives: CROCKETT of Bethel, HARVELL of Farmington, O'CONNOR of Berwick,
SIROCKI of Scarborough.

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

2 **Sec. 1. 30-A MRSA §4452, sub-§3, ¶C-2**, as enacted by PL 2007, c. 92, §2, is
3 amended to read:

4 C-2. Notwithstanding paragraph C, for violations of the laws and ordinances set forth
5 in subsection 5, paragraph Q, the provisions of this paragraph apply. The court ~~must~~
6 may order the violator to correct or mitigate the violation unless the correction or
7 mitigation would result in a threat or hazard to public health or safety, substantial
8 environmental damage or a substantial injustice.

9 (1) Except for timber harvesting, correction or mitigation of a violation that
10 involves the cutting of a tree or trees ~~must~~ may include, but is not limited to,
11 replacement of ~~each~~ the tree or trees cut, but not necessarily on a one-for-one
12 basis, with a tree or trees of substantially similar ~~size and~~ species to the extent
13 reasonably available and feasible.

14 (2) Except for timber harvesting, correction or mitigation of a violation that
15 involves the cutting of understory vegetation ~~must~~ may include, but is not limited
16 to, replacement of the understory vegetation with understory vegetation of
17 substantially similar ~~size and~~ species to the extent reasonably available and
18 feasible.

19 (3) For violations requiring correction or mitigation pursuant to subparagraph (1)
20 or (2), the violator shall submit to the municipality a reforestation plan developed
21 with and signed by a forester licensed pursuant to Title 32, chapter 76 or other
22 qualified professional. The reforestation plan must include consideration of
23 specified site conditions and address habitat and other riparian restoration, visual
24 screening, understory vegetation and erosion and sedimentation control.

25 For purposes of this paragraph, "timber harvesting" has the same meaning as in Title
26 38, section 438-B, subsection 1, paragraph C.

27 For purposes of this paragraph, "understory vegetation" means all saplings that
28 measure less than 2 inches in diameter at 4.5 feet above ground level and all shrubs.

29 **SUMMARY**

30 Current law requires a person who, except for timber harvesting, cuts down a tree or
31 understory vegetation in violation of local land use laws and ordinances to replace the
32 tree or vegetation with a tree or vegetation of similar size and species.

33 This bill gives the court the discretion to order the replacement of the tree or
34 vegetation, provides that the replacement doesn't have to be on a one-for-one basis and
35 allows the replacement to be of a reasonably similar species only.