

MAINE STATE LEGISLATURE

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Date: 6/5/13 minority L.D. 421 (Filing No. H-351)

AGRICULTURE, CONSERVATION AND FORESTRY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 293, L.D. 421, Bill, "An Act To Prohibit the Unauthorized Harvesting of Wild Mushrooms and Fiddleheads"

Amend the bill by striking out the title and substituting the following:

'An Act To Prohibit the Unauthorized Harvesting of Wild Mushrooms'

Amend the bill by striking out all of section 1.

Amend the bill by striking out all of sections 2 to 5 and inserting the following:

Sec. 2. 12 MRSA §8841, sub-§4 is enacted to read:

4. Wild mushroom. "Wild mushroom" means a mushroom that is harvested for commercial purposes in the wild. "Wild mushroom" does not include a cultivated mushroom that is grown, harvested, processed and packaged by a commercial organization.

Sec. 3. 12 MRSA §8842-A, as enacted by PL 2003, c. 452, Pt. F, §40 and affected by Pt. X, §2, is amended to read:

§8842-A. Owner's permission required

1. Cutting or harvesting prohibited. A person may not:

A. Cut or harvest Christmas trees or evergreen boughs or wild mushrooms on land of another without securing written permission or a bill of sale from the owner or the owner's authorized agents. Only one such permit is needed per work crew. Violation of this paragraph is a Class E crime; or

B. Violate paragraph A when:

- (1) The value of the trees or boughs or wild mushrooms is more than \$10,000. Violation of this subparagraph is a Class B crime;
- (2) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

COMMITTEE AMENDMENT

- 1 (3) The value of the trees ~~or~~, boughs or wild mushrooms is more than \$2,000 but
2 not more than \$10,000. Violation of this subparagraph is a Class C crime;
- 3 (4) The value of the trees ~~or~~, boughs or wild mushrooms is more than \$1,000 but
4 not more than \$2,000. Violation of this subparagraph is a Class D crime; or
- 5 (5) The person has 2 prior Maine convictions for any combination of the
6 following: theft; any violation of Title 17-A, section 401 in which the crime
7 intended to be committed inside the structure is theft; any violation of Title 17-A,
8 section 651; any violation of Title 17-A, section 702, 703 or 708; or attempts
9 thereat. Title 17-A, section 9-A governs the use of prior convictions when
10 determining a sentence. Violation of this subparagraph is a Class C crime.

11 **2. Transport prohibited.** A person may not:

12 A. Transport Christmas trees ~~or~~, evergreen boughs or wild mushrooms without
13 written permission or a bill of sale from the owner of the land where the trees ~~or~~,
14 evergreen boughs or wild mushrooms were harvested or that owner's authorized
15 agents. Violation of this paragraph is a Class E crime; or

16 B. Violate paragraph A when:

17 (1) The value of the trees ~~or~~, boughs or wild mushrooms is more than \$10,000.
18 Violation of this subparagraph is a Class B crime;

19 (2) The person is armed with a dangerous weapon at the time of the offense.
20 Violation of this subparagraph is a Class B crime;

21 (3) The value of the trees ~~or~~, boughs or wild mushrooms is more than \$2,000 but
22 not more than \$10,000. Violation of this subparagraph is a Class C crime;

23 (4) The value of the trees ~~or~~, boughs or wild mushrooms is more than \$1,000 but
24 not more than \$2,000. Violation of this subparagraph is a Class D crime; or

25 (5) The person has 2 prior Maine convictions for any combination of the
26 following: theft; any violation of Title 17-A, section 401 in which the crime
27 intended to be committed inside the structure is theft; any violation of Title 17-A,
28 section 651; any violation of Title 17-A, section 702, 703 or 708; or attempts
29 thereat. Title 17-A, section 9-A governs the use of prior convictions when
30 determining a sentence. Violation of this subparagraph is a Class C crime.

31 **3. Inspections and investigations.** An officer authorized to make inspections and
32 investigations under this article may require of any person, firm or corporation engaged in
33 cutting, harvesting or transporting Christmas trees ~~or~~, evergreen boughs or wild
34 mushrooms to show:

35 A. If engaged in cutting or harvesting trees ~~or~~, boughs or wild mushrooms belonging
36 to another, a current written permit or bill of sale issued pursuant to subsection 1,
37 paragraph A; and

38 B. If engaged in transportation, a current written permit, bill of sale, port of entry
39 statement or other written proof of ownership when transporting for commercial

1 purposes trees, loose or in bundles, ~~or~~ boughs, loose or baled, or wild mushrooms. A
2 driver shall carry this permit on the driver's person or in the vehicle.

3 **4. Remedies not exclusive.** Prosecution under this section does not preclude the
4 civil remedy available under Title 14, section 7552.

5 **5. Strict liability.** Violation of this section is a strict liability crime as defined in
6 Title 17-A, section 34, subsection 4-A.

7 **Sec. 4. 12 MRSA §8844**, as repealed and replaced by PL 1983, c. 507, §2, is
8 amended to read:

9 **§8844. Seizure or attachment**

10 Any officer authorized to make inspections, investigations or arrests under this
11 Article may seize and hold Christmas trees ~~or~~, evergreen boughs or wild mushrooms until
12 proof of ownership has been established. If no proof of ownership has been established,
13 the officer shall try to determine where those trees ~~or~~, boughs or wild mushrooms were
14 cut or harvested and notify the landowner. If the owner does not want the trees ~~or~~,
15 boughs or wild mushrooms, or ownership cannot be determined, the State may dispose of
16 them and any money derived from the disposition of the trees ~~and~~, boughs shall or wild
17 mushrooms must be paid to the landowner, if ~~his~~ the landowner's identity can be
18 established and, otherwise, to the Treasurer of State to be credited to the General Fund.

19 **Sec. 5. 12 MRSA §8847**, as repealed and replaced by PL 1983, c. 507, §4, is
20 amended to read:

21 **§8847. Enforcement agencies**

22 State police, county sheriffs, municipal law enforcement officers, state forest rangers
23 and game wardens are authorized to make ~~inspections~~ inspections, investigations, arrests
24 and disposals of trees ~~and~~, boughs or wild mushrooms under this Article.'

25 Amend the bill in section 7 in the 4th and 5th lines (page 3, lines 31 and 32 in L.D.)
26 by striking out the following: "boughs, wild mushrooms and fiddleheads" and inserting
27 the following: 'boughs and wild mushrooms'

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

30 **SUMMARY**

31 This amendment is the minority report. It removes fiddleheads from the title of the
32 bill. The amendment deletes from the bill prohibitions against commercially harvesting
33 fiddleheads without written permission or a bill of sale from the landowner. The
34 amendment also deletes from the bill the definition of "fiddlehead."

FISCAL NOTE REQUIRED
(See attached)



126th MAINE LEGISLATURE

LD 421

LR 1064(02)

An Act To Prohibit the Unauthorized Harvesting of Wild Mushrooms and Fiddleheads

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Agriculture, Conservation and Forestry

Fiscal Note Required: Yes

A (H-351)

Fiscal Note

Current biennium cost increase - General Fund

Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Establishes new Class B, Class C, Class D and Class E crimes; increases correctional and judicial costs.

The collection of additional fines may also increase General Fund revenue by minor amounts.