

MAINE STATE LEGISLATURE

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Date: 3/26/2018

(Filing No. S-417)

AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
SENATE
128TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 678, L.D. 1809, Bill, "An Act To Amend the Laws Governing the Issuance of Burn Permits"

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, under current law, anyone performing out-of-door burning is required to obtain a permit from the town forest fire warden or from the forest ranger having jurisdiction over the location where the fire is to be set; and

Whereas, until recently, as a convenience to the residents of the State, burn permits were available online and at no charge through a 3rd-party provider; and

Whereas, due to a change in interpretation of policy by the Commissioner of Agriculture, Conservation and Forestry, residents of the State are no longer able to get free online burn permits; and

Whereas, the burn permits issued online by the Department of Agriculture, Conservation and Forestry cost \$7 per permit; and

Whereas, in order to restore to the residents of the State the convenience of obtaining burn permits online and at no charge, it is necessary that this legislation take effect as soon as possible; and

Whereas, it is necessary for public safety that all burn permits are validly issued pursuant to statutory criteria in order to prevent wildfires, damage to property and harm to persons; 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,'

COMMITTEE AMENDMENT

1 Amend the bill in section 1 in subsection 3 in the 4th line by striking out the
2 following: "purchased" and inserting the following: 'acquired'

3 Amend the bill by striking out all of section 2 and inserting the following:

4 '**Sec. 2. 12 MRSA §9321-A, sub-§1**, as amended by PL 1997, c. 512, §3, is
5 further amended to read:

6 **1. Possession and production of permit in organized territory.** Any person, firm
7 or corporation that engages in out-of-door burning in any municipality, plantation or
8 village corporation as permitted by this article shall possess the permit at the scene of the
9 burning and shall produce the permit on the demand of authorized persons, including fire
10 chiefs, town forest fire wardens or their designated agents, state forest rangers, municipal
11 code enforcement officers and any law enforcement officer as defined in Title 17-A. A
12 person, firm or corporation that is issued an electronic permit pursuant to section 9326 or
13 section 9327 may produce the permit on an electronic device.

14 **Sec. 3. 12 MRSA §9326, last ¶**, as amended by PL 2013, c. 35, §1, is further
15 amended to read:

16 A person may apply for a permit to burn using the Internet or as otherwise provided
17 in this article. ~~When a person applies for and is issued a permit electronically using the~~
18 ~~Internet, a fee of \$7 must be paid. From the \$7 fee, \$4 must be deposited in the General~~
19 ~~Fund, \$2 must be transferred to the municipality in which the permit is issued and the~~
20 ~~remainder of \$1 must be used to cover administrative costs. For a permit issued in the~~
21 ~~unorganized and deorganized areas, from the \$7 fee, \$6 must be deposited in the General~~
22 ~~Fund and the remainder of \$1 must be used to cover administrative costs.~~

23 **Sec. 4. 12 MRSA §9327** is enacted to read:

24 **§9327. Private party burn permit software**

25 The Director of the Bureau of Forestry shall allow a municipality to use burn permit
26 software acquired from a private party to establish a publicly accessible online system to
27 issue a permit to burn pursuant to section 9325 if the issuance of a permit to burn using
28 the private party burn permit software is in accordance with the criteria in section 9321.

29 **1. Approval.** The Director of the Bureau of Forestry shall approve private party
30 burn permit software within 10 business days after a vendor or owner of a private party
31 burn permit software system submits a request for review of the software to the director if
32 the software submitted meets the requirements of this section and there are fewer than 2
33 private party burn permit software programs approved and in use pursuant to this section.

34 **2. Limit on private party burn permit software.** No more than 2 private party
35 burn permit software programs may be approved and in operation in the State.

36 **3. Notification.** If the Director of the Bureau of Forestry does not approve the
37 private party burn permit software that has been submitted for review under subsection 1,
38 the director shall notify the vendor or owner of the private party burn permit software in
39 writing of the reasons why the software has not been approved.

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1 4. Appeal. A denial of approval of a private party burn permit software system is a
2 final agency action that may be appealed in accordance with Title 5, chapter 375,
3 subchapter 7.

4 5. Fee. If a person uses private party burn permit software to apply for a permit to
5 burn, that person may not be charged a fee for the permit.

6 6. Private party burn permit software to be provided at no charge. A vendor or
7 owner of a private party burn permit software system may not charge a municipality for
8 use of private party burn permit software approved under subsection 1.

9 7. Application for burn permit not using private party burn permit software. A
10 person may not be required to apply for a permit to burn using private party burn permit
11 software, but may apply as otherwise provided in this article.

12 8. Rules. The Director of the Bureau of Forestry may adopt rules relating to private
13 party burn permit software requirements. Rules adopted pursuant to this subsection are
14 major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

15 **Sec. 5. Appropriations and allocations.** The following appropriations and
16 allocations are made.

17 **AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF**
18 **Division of Forest Protection Z232**

19 Initiative: Provides funding for an online burn permit system from InforME.

20	GENERAL FUND	2017-18	2018-19
21	All Other	\$0	\$9,600
22			
23	GENERAL FUND TOTAL	\$0	\$9,600

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

26 **SUMMARY**

27 This amendment requires the Director of the Bureau of Forestry within the
28 Department of Agriculture, Conservation and Forestry to allow municipalities to use burn
29 permit software acquired from a private party to issue a permit to burn if issuance of the
30 permit using the private party burn permit software meets certain statutory requirements,
31 and it limits to 2 the number of private party burn permit software programs that may be
32 approved and in operation in the State. The amendment provides that the vendor or owner
33 of the private party burn permit software must submit a request for review to the director.
34 The director must approve or deny approval of the software within 10 business days. If
35 the director denies approval of the software, the director must notify the vendor or owner
36 of the reasons why in writing.

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The amendment adds an emergency preamble and emergency clause and an appropriations and allocations section to the bill.

FISCAL NOTE REQUIRED

(See attached)



128th MAINE LEGISLATURE

LD 1809

LR 2840(02)

An Act To Amend the Laws Governing the Issuance of Burn Permits

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-417)
Committee: Agriculture, Conservation and Forestry
Fiscal Note Required: Yes

Fiscal Note

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
Net Cost (Savings)				
General Fund	\$0	\$52,739	\$52,739	\$52,739
Appropriations/Allocations				
General Fund	\$0	\$9,600	\$9,600	\$9,600
Revenue				
General Fund	\$0	(\$43,139)	(\$43,139)	(\$43,139)

Fiscal Detail and Notes

This bill directs the Department of Agriculture, Conservation and Forestry (ACF) to allow municipalities to use third-party internet based software to issue burn permits so long as the software meets statutory requirements and is approved by ACF. The bill eliminates the \$7 fee ACF charged for electronically issued burn permits via their online permit system. Currently, \$4 is deposited into the General Fund, \$2 is transferred to the municipality where the permit was issued and \$1 goes to InforME for the administrative cost of the online permit system. In unorganized areas, \$6 of the fee is deposited into the General Fund and \$1 is for the administrative costs of InforME. Beginning in fiscal year 2018-19, elimination of the fee will reduce annual General Fund revenue by \$43,139, reduce revenue to municipalities by approximately \$20,000 a year and reduce revenue available to pay InforME by \$9,600. The bill includes an ongoing General Fund appropriation to ACF of \$9,600 beginning in fiscal year 2018-19 to continue to pay InforME for burn permits issued through the state online system.