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L.D. 1482 (Filing No. H-340)

AGRICULTURE, CONSERVATION AND FORESTRY

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STATE OF MAINE

HOUSE OF REPRESENTATIVES

129TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A" to H.P. 1084, L.D. 1482, Bill, "An Act To 9 Clarify Provisions of the Blueberry Tax " 10

Amend the bill by striking out everything after the enacting clause and inserting the following:

13 'Sec. 1. 36 MRSA §4303, first ¶, as amended by PL 2013, c. 331, Pt. C, §23, is further amended to read: 14

15 There is levied and imposed a tax at the rate of $1 \frac{1}{2}$ per pound on all wild blueberries processed in this the State and on all unprocessed wild blueberries shipped to 16 a destination outside this the State. All wild blueberries harvested in the State that are to be shipped outside the State for processing must be weighed on a state-certified scale in 18 the State prior to being shipped outside the State. The tax is computed on the gross 19 20 weight of the wild blueberries as delivered prior to any processing or shipping. The processor that first receives unprocessed wild blueberries in the State, or the shipper that 21 22 transports unprocessed wild blueberries to a destination outside the State, is responsible for reporting and paying the tax. 23

24 Sec. 2. 36 MRSA §4307, as amended by PL 2013, c. 331, Pt. C, §28, is further 25 amended to read:

§4307. Records and reports; payment of tax

Every processor or shipper responsible for reporting and paying the tax imposed by section 4303 shall, on or before November 1st of each year, report to the State Tax Assessor the quantity of unprocessed wild blueberries that are processed in this the State er, shipped to a destination outside the State or imported from a destination outside the State during the current season, on forms furnished by the State Tax Assessor. The report must contain the information pertinent to collection of tax under this chapter as the State Tax Assessor prescribes. With the report, each processor or shipper shall forward payment of the full 1 1/2¢ per pound tax upon all wild blueberries reported.

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COMMITTEE AMENDMENT "/-" to H.P. 1084, L.D. 1482

1. Shippers. A shipper shall report the amount of tax due for each load of 1 unprocessed wild blueberries subject to the tax shipped to a destination outside the State, 2 including for each load: 3 4 A. The date shipped; and 5 B. The gross weight of the wild blueberries shipped. 2. Report to commission. The State Tax Assessor annually shall forward a report 6 with a summary of the data collected under this section to the Wild Blueberry 7 Commission of Maine, including the total number of pounds of the following: 8 9 A. Wild blueberries grown in the State; B. Wild blueberries processed in the State; 10 C. Unprocessed wild blueberries imported into the State; and 11 12 D. Unprocessed wild blueberries exported from the State. Sec. 3. 36 MRSA \$4308, as amended PL 1997, c. 511, \$17 and PL 2011, c. 657, 13 Pt. W, $\S6$, is further amended to read: 14 15 §4308. Inspection The State Tax Assessor or, the assessor's duly authorized agents, the Commissioner 16 of Agriculture, Conservation and Forestry and the commissioner's deputies, agents or 17 employees have authority to enter any place of business of any processor or shipper or 18 any car, boat, truck or other conveyance in which wild blueberries are to be or are being 19 transported, including on a public way, and to inspect any books or records of any 20 processor or shipper, or any premises where wild blueberries are stored, handled, 21 transported or merchandised, for the purpose of determining what wild blueberries are 22 taxable under this chapter or for the purpose of determining the truth or falsity of any 23 statement or return made by any processor or shipper, and the State Tax Assessor may 24 delegate that power to the. The Commissioner of Agriculture, Conservation and Forestry, 25 or the commissioner's deputies, agents or employees, shall conduct periodic random 26 inspections of processors and shippers under this section and section 4316, subsection 4, 27 Sec. 4. 36 MRSA §4316, sub-§1, as amended by PL 2007, c. 694, §10, is further 28 amended to read: 29 30 1. Record keeping required. A shipper or processor who transports or receives wild blueberries shall keep a permanent record of each lot or load of wild blueberries. 31 32 The record must include the name of the driver of the vehicle used to deliver the wild blueberries, the date of delivery, the delivery point, a copy of the transportation permit, 33 the driver's license number and, the total pounds of wild blueberries delivered, the origin 34 of the delivery and, if the origin is a location in the State, the name and address of the 35 grower or seller and the grower's or seller's certificate number if the grower or seller is 36 37 certified under section 4305. Sec. 5. 36 MRSA §4316, sub-§2-A is enacted to read: 38 2-A. Tracking. Wild blueberries must be uniquely identified during transportation 39 40 to a receiving facility by the field from which they were harvested.

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COMMITTEE AMENDMENT "/ " to H.P. 1084, L.D. 1482

Sec. 6. 36 MRSA §4316, sub-§4, as amended by PL 2007, c. 694, §10 and PL 2011, c. 657, Pt. W, §5, is further amended to read:

4. Audits. The Wild Blueberry Commission of Maine may request the Department of Agriculture, Conservation and Forestry to conduct audits, and the department at its own discretion may conduct, an audit of the records of shippers a shipper or processors a processor for the purpose of ascertaining compliance with this section. The commissioner Commissioner of Agriculture, Conservation and Forestry, or a duly authorized agent, has free access, during normal business hours, to all records required to be kept by shippers or processors pursuant to this section and also to shippers' or processors' accounts payable, accounts receivable, records of inventories, actual inventories, records of shipments and such other business records as are needed to ascertain compliance with this section. Any documents inspected or taken by the department in furtherance of the audit functions or any other information collected by the department pursuant to the audit must be kept confidential notwithstanding any provision to the contrary contained in Title 1, chapter 13, subchapter 1. This confidential status does not apply to any documents, records or information that is needed as evidence in any civil or criminal proceeding to enforce any law under this chapter or any other criminal law.

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Sec. 7. Effective date. This Act takes effect January 1, 2020."

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

SUMMARY

This amendment strikes and replaces the bill to remove the establishment of a tax of 3/4¢ per pound for wild blueberries shipped from outside the State for processing in the State. The amendment requires all wild blueberries harvested in the State that are to be shipped outside the State for processing to be weighed on a state-certified scale in the State prior to being shipped outside the State.

The amendment strikes detailed reporting, for processors, of wild blueberry transactions subject to the tax.

The bill requires the State Tax Assessor to forward an annual report containing information pertinent to the collection of the blueberry tax to the Wild Blueberry Commission of Maine. The amendment specifies that the report must include the total number of pounds of: wild blueberries grown in the State, wild blueberries processed in the State, unprocessed wild blueberries imported into the State and unprocessed wild blueberries exported from the State.

The bill requires the Department of Agriculture, Conservation and Forestry to conduct periodic random inspections of wild blueberry shippers and processors. The amendment strikes the requirement that each shipper and processor be inspected at least 38 once in a 3-year period. 39

The amendment strikes the requirement that the Wild Blueberry Commission of 40 41 Maine maintain and periodically update a detailed survey of the wild blueberry industry 42 acreage and assets and other industry data.

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COMMITTEE AMENDMENT " to H.P. 1084, L.D. 1482

1 The amendment strikes the requirement that the Wild Blueberry Commission of 2 Maine submit an itemized report of its yearly revenue and expenditures to the 3 Commissioner of Agriculture, Conservation and Forestry and the joint standing 4 committee of the Legislature having jurisdiction over agriculture matters.

5 The amendment removes the repeal of the current law that provides an exception for 6 wild blueberries harvested outside the State to the prohibition on the transport of wild 7 blueberries in quantities exceeding 25 pounds without first obtaining a transportation 8 permit from the Wild Blueberry Commission of Maine.

9 The amendment removes the provision in the bill that changes the penalty for a 2nd 10 violation of the record-keeping requirements within a 5-year period from up to \$10,000 to 11 \$10,000.

The amendment removes from the bill the prohibition on mixing or commingling of wild blueberries harvested from a field with wild blueberries from another field and the requirement that each field from which blueberries are harvested have a unique identifying number and for shippers and processors to record for each lot of wild blueberries the unique identifying number of that lot. Instead, the amendment provides that wild blueberries must be uniquely identified by the field from which they were harvested during transportation to a receiving facility.

19 The amendment provides an effective date for this legislation of January 1, 2020.

FISCAL NOTE REQUIRED (See attached)

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129th MAINE LEGISLATURE

LD 1482

LR 1121(02)

An Act To Clarify Provisions of the Blueberry Tax

Fiscal Note for Bill as Amended by Committee Amendment 'A' (H-34D) Committee: Agriculture, Conservation and Forestry Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

This bill makes changes to the reporting requirements associated with the wild Maine blueberry tax. Any additional costs to the Department of Agriculture, Conservation and Forestry or the Wild Blueberry Commission of Maine (WBC) associated with the revised reporting requirements are anticipated to be minor and can be absorbed within additional resources. Additional costs to the Department of Administrative and Financial Services associated with compiling and reporting the required information to the WBC can be absorbed within existing budgeted resources.