

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

4/21/23
ROS

Handwritten mark

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

L.D. 24

Date: 4/21/23

(Filing No. S-40)

MINORITY

AGRICULTURE, CONSERVATION AND FORESTRY

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

131ST LEGISLATURE

FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “*B*” to S.P. 16, L.D. 24, “An Act to Prohibit Open Burning Under a Red Flag Warning and Regulate Recreational Campfires”

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

'An Act to Prohibit Certain Open Burning Under a Red Flag Warning and Regulate Recreational Campfires'

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

Sec. 1. 12 MRSA §9321, sub-§1-A is enacted to read:

1-A. Red flag warning areas. The following provisions govern permits for open burning in geographic areas subject to a red flag warning.

A. Except as provided in paragraph B, the director or the director's delegate may not issue a permit or other permission for open burning to take place in a geographic area subject to a red flag warning.

B. The director or the director's delegate may issue a permit for a controlled burn on a commercially managed wild blueberry field in a geographic area subject to a red flag warning as long as the application for the permit includes a prescribed burn plan approved by the issuing authority. The permit must incorporate by reference the approved burn plan.

Sec. 2. 12 MRSA §9321, sub-§2, as amended by PL 1999, c. 547, Pt. B, §32 and affected by §80, is further amended to read:

2. Revocation. The director or the director's delegate may revoke any permit during a period of high forest fire danger or any permit ~~which that~~ results in creation of a nuisance condition without compliance with the provisions of Title 4, chapter 5 or Title 5, chapter 375. If a geographic area is subject to a red flag warning, the following provisions apply.

COMMITTEE AMENDMENT

ROS

1 A. Except as provided in paragraph B, the director or the director's delegate shall
2 revoke any permit for open burning in that geographic area during the period in which
3 a red flag warning is in effect.

4 B. The director or the director's delegate is not required to revoke a permit for a
5 controlled burn on a commercially managed wild blueberry field during the period in
6 which a red flag warning is in effect if the permit includes an approved prescribed burn
7 plan.

8 **Sec. 3. 12 MRSA §9321-B** is enacted to read:

9 **§9321-B. Definitions**

10 As used in this article, unless the context otherwise indicates, the following terms have
11 the following meanings.

12 **1. Recreational campfire.** "Recreational campfire" means an out-of-door fire that is
13 used for cooking, personal warmth, light or ceremonial or aesthetic purposes and that is not
14 a part of debris disposal. "Recreational campfire" includes a residential fire contained
15 within an out-of-door fireplace. "Recreational campfire" does not include a portable
16 lantern designed to emit light resulting from combustion or a stove that is used inside a
17 structure or living accommodation.

18 **2. Red flag warning.** "Red flag warning" means a forecast warning issued by the
19 United States Department of Commerce, National Oceanic and Atmospheric
20 Administration, National Weather Service or its successor, in consultation with the bureau,
21 that informs the public, firefighters and land management agencies that conditions are ideal
22 for wildland fire combustion and rapid spread. A red flag warning indicates for a given
23 geographic area, until the warning is withdrawn, that the temperature is warm, the humidity
24 is very low and strong winds are expected and that these factors produce an increased risk
25 of fire danger.

26 **Sec. 4. 12 MRSA §9324, sub-§9** is enacted to read:

27 **9. Open burning during red flag warning.** A person may not engage in open burning
28 under section 9325, subsection 1 or 2, including a recreational campfire, in any geographic
29 area subject to a red flag warning. Open burning without a permit under section 9325,
30 subsection 2 is exempt from this subsection at the following locations:

31 A. A camping facility licensed under Title 22, section 2495; and

32 B. Campsites under the jurisdiction of the Department of Agriculture, Conservation
33 and Forestry or the Baxter State Park Authority, as long as the campsite and the use of
34 out-of-door fires and charcoal and gas grills at the campsite comply with rules under
35 section 9001-B, subsection 4.'

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

38 **SUMMARY**

39 The bill prohibits the director of the Bureau of Forestry, within the Department of
40 Agriculture, Conservation and Forestry, from issuing a permit or other permission for open
41 burning to take place in a geographic area subject to a red flag warning. This amendment,
42 which is the minority report of the committee, provides an exception for wild blueberry

COMMITTEE AMENDMENT

ROS

COMMITTEE AMENDMENT "B" to S.P. 16, L.D. 24 (S-40)

1 growers by allowing the director or director's delegate to issue a permit for a controlled
2 burn on a commercially managed wild blueberry field in a geographic area subject to a red
3 flag warning as long as the application for the permit includes a prescribed burn plan
4 approved by the issuing authority.

5 The bill requires the director or the director's delegate to revoke any permit for open
6 burning in a geographic area in which a red flag warning is in effect. The amendment
7 provides that the director or the director's delegate is not required to revoke a permit for a
8 controlled burn on a commercially managed wild blueberry field during the period in which
9 a red flag warning is in effect if the permit includes an approved prescribed burn plan.

10 The amendment clarifies that a red flag warning is a forecast warning issued by the
11 United States Department of Commerce, National Oceanic and Atmospheric
12 Administration, National Weather Service in consultation with the Bureau of Forestry.

13 The amendment strikes from the bill provisions restricting the size of a recreational
14 campfire to 3 feet in diameter on the ground at the base of the fire or 3 feet in height.

15 The bill prohibits open burning, both permissible open burning with a permit and
16 permissible open burning without a permit, during the period in which a red flag warning
17 is in effect. The amendment exempts from this prohibition open burning without a permit
18 at a licensed camping facility and at campsites under the jurisdiction of the Department of
19 Agriculture, Conservation and Forestry or the Baxter State Park Authority, as long as the
20 campsite and the use of out-of-door fires and charcoal and gas grills at the campsite comply
21 with department rules.

22 **FISCAL NOTE REQUIRED**
23 **(See attached)**

COMMITTEE AMENDMENT



131st MAINE LEGISLATURE

LD 24

LR 91(03)

An Act to Prohibit Open Burning Under a Red Flag Warning and Regulate Recreational Campfires

Fiscal Note for Bill as Amended by Committee Amendment "B" (S-40)
Committee: Agriculture, Conservation and Forestry
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Department of Agriculture, Conservation and Forestry to implement the provisions of this bill are anticipated to be minor and can be absorbed within existing budgeted resources.