

MAINE STATE LEGISLATURE

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L.D. 2279

Date: 5/9/24

(Filing No. S- 778)

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STATE OF MAINE
SENATE
131ST LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 994, L.D. 2279, "An Act to Promote Equity in the Forest Products Industry by Allowing Commercial Wood Haulers to Be Eligible for Certain Sales Tax Exemptions and Refunds"

Amend the amendment by inserting after the title the following:

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

'An Act to Amend Provisions Relating to Certain Sales Tax Exemptions and Refunds for Commercial Wood Haulers, Payment for Harvesting Wood and Records of the Bureau of Forestry'

Amend the amendment by inserting after the first instructional paragraph the following:

'PART A'

Amend the amendment by inserting after section 6 the following:

'Sec. 7. Legislative findings and intent. The Legislature finds that the State, as the holder of the 2nd largest amount of land in the State and a significant market participant in timber operations, has an active interest in ensuring that the logging industry in general and commercial haulers of forest products specifically remain commercially viable in the State. The Legislature further finds and intends that the sales tax exemption provided in this Part to purchasers or lessees engaged in commercial wood harvesting that are located in this State and that have a physical place of business in the State will create and sustain logging jobs, encourage responsible harvesting practices and provide many other direct and indirect economic benefits to the State.'

Amend the amendment in section 8 in the first line (page 2, line 37 in amendment) by striking out the following: "Act" and inserting the following: 'Part'

Amend the amendment by inserting after section 8 the following:

'PART B'

Sec. B-1. 10 MRSA §1500-Q, as enacted by PL 2023, c. 357, §1, is amended to read:

§1500-Q. Payment for harvesting wood

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1 An entity that contracts with a person to harvest wood and place the wood roadside so
2 that the entity is able to have the wood hauled away for use or processing ~~must~~ shall pay
3 the person within 30 days of the person's fulfilling the contract and placing the wood
4 roadside. The Department of Agriculture, Conservation and Forestry, referred to in this
5 chapter as "the department," or a person licensed to scale wood pursuant to section 2365-A
6 under contract with the department shall conduct random inspections to ensure that entities
7 are complying with the requirements of this ~~section~~ chapter.

8 1. Violation. Any violation of this chapter constitutes prima facie evidence of a
9 violation of the Maine Unfair Trade Practices Act.

10 2. Civil penalty. Each violation of this chapter constitutes a civil violation for which
11 a penalty of not less than \$500 nor more than \$1,000 may be adjudged. Each day a violation
12 of this chapter continues constitutes a separate offense.

13 **Sec. B-2. 12 MRSA §8003, sub-§3,** as amended by PL 2021, c. 280, §5, is further
14 amended to read:

15 **3. Powers and duties.** The director shall exercise the powers of the office and ~~be~~ is
16 responsible for the execution and enforcement of the duties of the bureau as set forth in
17 chapters 801 ~~—809~~ to 810.

18 A. The director shall administer the bureau in an efficient manner and, with the consent
19 of the commissioner, shall organize the bureau as necessary to carry out the purposes
20 of this Part.

21 C. The director may, with the consent of the commissioner, accept grants and funds
22 from and enter into contracts with federal, state, local or other public and private
23 organizations to carry out the purposes of this Part.

24 D. The director may, with the consent of the commissioner, employ or retain expert
25 and professional consultants to assist in the duties of the bureau to the extent of funds
26 available.

27 E. The director may take measures to encourage an interest in forestry and shade trees
28 in the schools, colleges and among the general public and to encourage some degree of
29 elementary instruction in forestry and conservation of natural resources.

30 F. The director shall on or before September 1st, annually, submit to the commissioner
31 a report of the bureau's activities during the preceding fiscal year ending June 30th.

32 G. The director shall biennially prepare a budget for the bureau and submit it to the
33 commissioner.

34 H. The director shall have prepared annually a forest fire plan for each administrative
35 unit established according to the authority of section 8906, subsection 1. The plans
36 shall must incorporate the annual forest fire plans of municipalities.

37 I. The director is authorized to collect and classify statistics relating to the forests and
38 connected interests of the State and research the extent to which the forests of the State
39 are being destroyed by fires, insects, diseases and by wasteful cutting. The director may
40 also ascertain, to the extent possible, the effect of the diminution of the wooded surface
41 of the land upon the watersheds of the lakes, rivers, water powers and other natural
42 resources of the State.

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1 J. The director is authorized to conduct inspections and investigations on any lands to
2 survey and inspect shade, ornamental or forest trees pursuant to the authority and
3 procedures set forth in chapter 803.

4 K. The director may issue and enforce any license or permit authorized by this Part.

5 L. The director may, with the consent of the commissioner, acquire and hold any right
6 or interest in real or personal property on behalf of the State.

7 M. Except for lands acquired under the authority of paragraph N, the director is
8 authorized, with the consent of the commissioner, to sell, grant, lease, transfer or
9 otherwise convey any real or personal property under the jurisdiction of the bureau.
10 The director shall deposit the proceeds from the sale or lease of property into the forest
11 protection unit account. At least 60 days prior to offering any surplus property for sale
12 under this paragraph, the director shall notify the Executive Director of the Legislative
13 Council and the joint standing committee of the Legislature having jurisdiction over
14 forest resources matters of the director's intent to sell the property.

15 M-1. The proceeds under paragraph M may be used only to upgrade existing structures
16 owned by the forest protection unit within the bureau, to consolidate operations of the
17 unit through the improvement, repair, replacement, purchase or construction of
18 structures and to purchase land upon which to build structures. Ownership of any land
19 purchased under this paragraph or structures purchased or constructed under this
20 paragraph must be held in the name of the unit. Ownership of land or property
21 purchased under this paragraph may also be held in the name of the Department of
22 Administrative and Financial Services, Bureau of General Services when the unit
23 participates in the consolidation of facilities with other state agencies. Any purchase
24 of land or a structure pursuant to this paragraph must be approved by the Director of
25 the Bureau of General Services.

26 N. The director may, with the advice and consent of the Governor, purchase, when
27 funds are available from bequests or trusts other than bequests made or inter vivos
28 trusts created by the late Percival Proctor Baxter, or accept on the part of the State gifts
29 of parcels or tracts of land to the State, or may purchase land in the name of the State
30 for state forest purposes and may also designate and set aside such lands or portions
31 thereof as natural areas. The director ~~shall~~ may not under this section acquire title by
32 purchase to more than 4% of the land area within any one municipality without the
33 written consent of the municipal officer thereof. The title to lands acquired under this
34 section ~~shall~~ must be investigated and approved by the Attorney General.

35 The purpose of acquisition of land under this paragraph is the preservation of scenic
36 beauty and recreation as nearly unrestricted and general as is practicable for the people
37 of the State and those whom they admit to the privilege, the production of timber for
38 watershed protection, as a crop, as state forest demonstration areas for research
39 purposes and for the application of model forestry techniques under a well defined
40 criteria of full-use management. The lands acquired by the Bureau of Forestry and
41 designated by it as state forests or natural areas ~~shall never~~ may never be sold, but may
42 be exchanged for other land to permit consolidation, better access or more efficient
43 administration. Net revenues including, but not limited to, stumpage ~~shall~~ must be paid
44 to the Treasurer of State by the director and constitute a fund to be applied to the care
45 and improvement of these lands or for the acquisition of other lands for similar

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1 purposes, except that 25% of such revenues shall must be returned by the Treasurer of
2 State to the municipality wherein the land is located to be used for municipal purposes.

3 "Natural areas" means limited areas of land ~~which~~ that have retained their wilderness
4 character, although not necessarily completely natural and undisturbed, or have rare or
5 vanishing species of plant or animal life or similar features of interest ~~which~~ that are
6 worthy of preservation for the use of present and future residents of the State. Natural
7 areas held by the State shall must include and be designated as one or more of the
8 following 3 types and the location of each shall must be described in the designation:

9 Type 1. Semiwilderness areas ~~which~~ that by their size or location offer the experience
10 of solitude and self-reliance. Whereas, lands at the higher elevations are important for
11 protection of watersheds, are ecologically vulnerable if unwisely altered by human
12 interference and often may be uneconomic for logging or construction, it is hereby
13 found that such lands generally may be suitable for this classification;

14 Type 2. Units of importance for all the natural sciences, especially ecology, and with
15 outstanding value for education and research and for the appreciation of natural
16 processes. Preservation in the desired condition shall must be the prevailing purpose of
17 such holdings. Visitation shall must be regulated so as to ensure this preservation on a
18 permanent basis; and

19 Type 3. Areas ~~which~~ that are not of ecological or semiwilderness stature but ~~which~~
20 that have the appearance of being in an untouched natural state or ~~which~~ that are
21 capable of attaining that appearance if held and managed for this purpose.

22 Relating to natural areas of Type 1, 2 or 3, all land uses and practices ~~shall be~~ are
23 subject to ~~regulations~~ rules of the bureau, ~~promulgated~~ adopted pursuant to Title 5,
24 chapter 375, ~~subchapter H~~ subchapters 2 and 2-A, in carrying out the purposes of this
25 paragraph to manage or maintain the areas for the preservation of their natural
26 condition. Areas designated under these classifications ~~can~~ may be removed from such
27 designation only by approval of the director, with the advice and consent of the
28 Governor, following public notice and hearing. All lands acquired and administered
29 under this paragraph and all other state forests shall must be managed under the same
30 principles ~~which~~ that govern the management of the public reserve lands, to the extent
31 not inconsistent with this section and management of such state forests shall must, in
32 any event, be coordinated with the management of the public reserved lands in order
33 to facilitate the accomplishment of applicable management objectives.

34 O. The director may delegate the powers and duties of this Part to the director's agents
35 and representatives, including municipal forest fire wardens appointed by the director.

36 P. The director shall act as a liaison with the Department of Environmental Protection,
37 the Maine Land Use Planning Commission, the Department of Inland Fisheries and
38 Wildlife and the Cooperative Extension Service on forestry issues.

39 Q. The director, in cooperation with public and private landowners, shall actively
40 pursue creating areas on public and private land where the principles and applicability
41 of outcome-based forest policy, as defined in section 8868, subsection 2-B, can be
42 applied and tested. No more than 6 such areas may be designated. The director shall
43 seek to designate areas of various sizes owned by different landowners. The designated
44 areas must represent differing forest types and conditions and different geographic

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1 regions of the State. Prior to entering into an outcome-based forestry agreement, the
2 director and the panel of technical experts under section 8869, subsection 3-A shall
3 conduct a comprehensive review of the proposed outcome-based forestry agreement.
4 The term of initial agreements may not exceed 5 years. The director may renew an
5 agreement if requirements under this section and section 8869, subsection 3-A are met.
6 The term of a subsequent agreement may not exceed 5 years.

7 R. The director shall enforce section 8006 for those violations discovered as part of
8 the inspection process pursuant to Title 10, section 2364-B, subsection 6 and within
9 the existing resources of the bureau.

10 **Sec. B-3. 12 MRSA §8005**, as enacted by PL 2005, c. 358, §1 and amended by PL
11 2011, c. 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, is further amended to read:

12 **§8005. Certain information confidential**

13 **1. Contact information.** Social security numbers, addresses, telephone numbers and
14 electronic mail addresses of landowners owning less than 1,000 acres of forest land
15 statewide and collected by the bureau for the purposes of contacting landowners under
16 section 8611, or received by the bureau in notifications filed under section 8883-B, or in
17 reports received under Title 36, section 581-G are confidential and may be disclosed only
18 in accordance with this section.

19 **2. Forest management plan and information.** Social security numbers, forest
20 management plans and supporting documentation of forest management activities on
21 private forest land and held by the bureau for the purposes of administering landowner
22 assistance programs authorized under this chapter and chapter 805 are confidential and may
23 be disclosed only in accordance with this section.

24 **3. Disclosure.** Except as provided in subsection 4, the director may disclose
25 confidential information in accordance with this subsection. Confidential information
26 disclosed pursuant to this subsection remains the property of the bureau. Recipients of the
27 confidential information may not disclose this information or use this information except
28 as authorized by the director.

29 A. The director may disclose information designated as confidential under this section
30 to a governmental entity that, ~~in the opinion of the director,~~ requires this information,
31 including, but not limited to, when necessary to facilitate an investigation into a
32 complaint or suspected violation of this Part and to avoid imminent and serious harm.

33 B. ~~The director shall provide names, addresses and electronic mail addresses upon~~
34 ~~request to a nonprofit corporation that provides educational services to forest~~
35 ~~landowners regarding sound forest management as long as the information disclosed is~~
36 ~~used to provide information about forest management.~~

37 **4. Information designated as confidential by state or federal agency.** The director
38 may not disclose information furnished to the director that has been designated as
39 confidential by a state or federal agency furnishing the information unless disclosure is
40 authorized by the furnishing agency or with the written consent of a landowner under this
41 section.

42 **5. Penalty.** A person who receives confidential information pursuant to ~~subsection 3,~~
43 ~~paragraph B~~ this section and uses that information for a purpose other than that authorized
44 by the director commits a civil violation punishable by a fine of not more than \$1,000.

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Sec. B-4. 12 MRSA c. 810 is enacted to read:

CHAPTER 810

RECORDS OBTAINED DURING INVESTIGATION CONFIDENTIAL

§9801. Records obtained during investigation confidential

1. Records obtained during investigation or through provision of services to public. Records of the bureau obtained during an investigation into a complaint or suspected violation of this Part or through the provision of services to the public are confidential. Records obtained during an investigation of a complaint or suspected violation of this Part become public upon conclusion of an investigation unless the records are otherwise classified as confidential by any other provision of law. For purposes of this subsection, "conclusion of an investigation" means:

- A. A notice of adjudicatory hearing under Title 5, chapter 375, subchapter 4 has been given to the public;
- B. A consent agreement has been executed;
- C. An enforcement proceeding has been filed in a court of competent jurisdiction; or
- D. The investigation has been closed by the bureau.

2. Penalty. A person that receives confidential information pursuant to this section and uses that information for a purpose other than that authorized by the director commits a civil violation punishable by a fine of not more than \$1,000.'

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

SUMMARY

This amendment adds a legislative findings and intent section to Committee Amendment "A" and changes the title.

Current law requires an entity that contracts with a person to harvest wood and place the wood roadside so the entity is able to have the wood hauled away for use or processing to pay the person within 30 days of the person's fulfilling the contract and placing the wood roadside. In Part B, the amendment provides that an entity that violates this requirement commits a civil violation for which a fine of not more than \$1,000 may be adjudged and that any violation constitutes prima facie evidence of a violation of the Maine Unfair Trade Practices Act.

The amendment removes the provision in current law that requires the Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry to provide names, addresses and electronic mail addresses of the landowners owning less than 1,000 acres of forest land statewide upon request to a nonprofit corporation that provides educational services to forest landowners regarding sound forest management as long as the information disclosed is used to provide information about forest management.

The amendment provides that records of the Department of Agriculture, Conservation and Forestry, Bureau of Forestry obtained during an investigation into a complaint or

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SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 994, L.D. 2279 (S-778)

1 suspected violation of the Maine Revised Statutes, Title 12, Part 11 or through provision
2 of services to the public are confidential and that these records become public upon
3 conclusion of an investigation. The amendment provides that records of the bureau
4 obtained during an investigation or through provision of services to the public may be
5 disclosed under certain circumstances.

6 The amendment also updates a cross-reference and makes technical and grammatical
7 changes in the law governing the powers and duties of the Director of the Bureau of
8 Forestry.

9 SPONSORED BY: 

10 (Senator HICKMAN, C.)

11 COUNTY: Kennebec

FISCAL NOTE REQUIRED
(See attached)

SENATE AMENDMENT



131st MAINE LEGISLATURE

LD 2279

LR 3077(05)

An Act to Promote Equity in the Forest Products Industry by Allowing Commercial Wood Haulers to Be Eligible for Certain Sales Tax Exemptions and Refunds

Fiscal Note for Senate Amendment "A" to Committee Amendment "A" (S-778)

Sponsor: Sen. Hickman of Kennebec

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Minor revenue increase - General Fund

Minor revenue increase – Other Special Revenue Funds

Correctional and Judicial Impact Statements

This amendment may increase the number of civil suits filed in the court system. The additional workload associated with the minimal number of new cases does not require additional funding at this time. The collection of additional fines and filing fees will increase General Fund or other dedicated revenue by minor amounts.

Fiscal Detail and Notes

Any additional costs to the Office of the Attorney General or the Department of Agriculture, Conservation and Forestry associated with this amendment are anticipated to be minor and can be absorbed within existing budgeted resources.