

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

SECOND SPECIAL SESSION

November 18, 1983

AND AT THE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

AND AT THE

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

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J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
JANUARY 4, 1984 TO APRIL 25, 1984

Effective July 25, 1984.

CHAPTER 754

H.P. 1793 - L.D. 2368

**AN ACT to Clarify the Timber-harvesting
Provisions of the Allagash Wilderness Waterway
Statutes.**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §662, sub-§§9-A and 9-B are enacted to read:

9-A. Timber-harvesting operation. "Timber-harvesting operation" means the cutting and removal of trees from their growing site and the attendant operation of mobile or portable chipping mills, and of cutting and skidding machinery, including the creation and use of skid trails, skid roads and winter haul roads, and the construction or creation of land management roads.

9-B. Visible from the watercourse. "Visible from the watercourse" means what a person at any point on the watercourse from Churchill Dam north can see without the aid of any magnifying devices.

Sec. 2. 12 MRSA §666, sub-§3, as amended by PL 1973, c. 460, §17, is further amended to read:

3. Camps. Other than structures permitted under subsection 1, camps shall be prohibited within the restricted zone. Existing commercial sporting camps shall be acquired and may be leased back to present owners or others on terms and conditions determined by the bureau; except that as of the effective date of this subsection, as amended, the bureau may not change the existing type of use of Jalbert's Sporting Camps on Round Pond and Nugents Sporting Camps on Chamberlain Lake, nor destroy nor abandon these camps without legislative approval.

Sec. 3. 12 MRSA §670, as amended by PL 1973, c. 460, §17, is repealed and the following enacted in its place.

§670. Control of timber-harvesting operations

1. Restricted zone. Timber-harvesting operations shall not be permitted within the restricted zone, except:

A. By direction of the bureau for the purpose of maintaining healthy forest conditions; or

B. By direction of the bureau for the purpose of correcting situations arising from natural disasters.

2. Waterway outside restricted zone. No person may commence a timber-harvesting operations in the waterway outside of the restricted zone without consultation with or, when required under paragraph B, approval from the bureau.

A. Before a timber-harvesting operation is commenced in the waterway outside the restricted zone, a management plan shall be submitted to the bureau. The plan shall contain:

(1) A plan of the proposed timber-harvesting operation, setting forth the type of cutting proposed;

(2) The amount of timber proposed to be removed;

(3) The time of year of cutting and removal;

(4) The location of principal haul road and crossings in the waterway to be used in connection with the proposed timber-harvesting operation;

(5) The plan for reforestation;

(6) A stand table indicating species composition, size class and health of the original and residual stands;

(7) Expected date of reentry;

(8) Pesticide or other chemical treatment planned; and

(9) Proposed plans to mitigate evidence of harvesting.

When an application for approval is not required under paragraph B, the bureau shall seek cooperation from those submitting the management plan in addressing any concerns of the bureau.

B. When the bureau determines that the timber-harvesting operation is proposed for an area in the waterway outside of the restricted zone and visible from the watercourse, the timber-harvesting operation may commence only with approval from the bureau. Application forms for approval, provided by the bureau, shall be completed and signed by the applicant. This paragraph shall not be construed to excuse the applicant from requirements for other permits required by law.

C. The bureau shall, within 30 days of receipt of an application for approval, either approve the proposed timber-harvesting operation, upon such terms and conditions as are appropriate and reasonable, or disapprove the proposed timber-harvesting operation setting forth in writing the reasons therefor. If a decision is not made within the 30 days, the timber-harvesting operation shall be considered approved under the provisions of the management plan submitted.

D. The bureau shall approve an application for a timber-harvesting operation when it finds that the management plan provides for the silvicultural alternative which:

- (1) Produces the least adverse impact upon the natural character of the area in the waterway outside the restricted zone and visible from the watercourse for which the timber-harvesting operation is proposed; and
- (2) Is economically feasible, except that an applicant may waive the requirement of a finding of economic feasibility.

E. Notwithstanding the provisions of paragraph D, the bureau shall not deny an application for the removal of trees that are dead, dying or damaged by natural causes.

F. Before disapproving an application or imposing terms and conditions under paragraph C, the bureau shall have the application and management plan reviewed by an experienced professional forester.

3. Report to Legislature. The bureau shall report, in January 1987, to the First Regular Session of the 113th Legislature, on its experience in controlling timber-harvesting operations under subsection 2. The report shall indicate and describe any inadequacies the bureau has found in subsection 2, or in any other provision of this chapter, that have hindered its ability to control timber-harvesting operations within the waterway, so as to carry out the policy established in section 661. The report shall also include a proposal for transferring authority to regulate timber-harvesting operations within the Allagash Wilderness Waterway from the Bureau of Parks and Recreation to the Maine Land Use Regulation Commission.

Sec. 4. 12 MRSA §674, as amended by PL 1973, c. 460, §17, is repealed and the following enacted in its place.

§674. Enforcement, inspection and penalties for violations

Rules, regulations and permits issued by the bureau under this chapter shall have the force and effect of law. No timber-harvesting operation may be undertaken, except in conformance with this chapter.

For the purposes of inspection and to assure compliance with permits issued or adopted by the bureau, authorized bureau staff or consultant personnel may conduct investigations, examinations, tests and site evaluations deemed necessary to verify information presented to the bureau, and may obtain access to any lands and structures regulated under this chapter.

Any person who violates any provision of this chapter, other than section 670, rules promulgated or permits issued under it commits a civil violation for which a forfeiture of up to, but not more than, \$50 for each day of the violation may be adjudged.

A person who violates any provision of section 670, except as otherwise provided in this paragraph, rules promulgated or permits issued under it commits a civil violation for which a forfeiture of up to, but not more than, \$1,000 for each day of the violation may be adjudged. A person who willfully or knowingly falsifies any statement contained in a management plan or application under section 670 commits a civil violation for which a forfeiture of up to, but not more than \$1,000 may be adjudged.

In addition, the bureau may, in the name of the State, institute any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate any violation of this chapter or of the rules or permits issued under it. This action may include, but is not limited to, proceedings to revoke or suspend any bureau permit or approval taken before the Administrative Court, in accordance with Title 4, section 1151, subsection 2, and sections 1152 to 1157 or, notwithstanding the provisions of Title 5, section 10051, before the Superior Court, as part of an enforcement action brought by the bureau.

Sec. 5. 12 MRSA §680, as amended by PL 1973, c. 460, §17, is repealed and the following enacted in its place.

§680. Appeals

Any applicant for a timber-harvesting permit aggrieved by a decision of the bureau relating to timber-harvesting operations may appeal therefrom in accordance with Title 5, chapter 375, subchapter VII.

Effective July 25, 1984.

CHAPTER 755

S.P. 878 - L.D. 2379

AN ACT To Amend the Liquor Laws to Permit
the Sale of Beer and Wine at Outdoor Stadiums.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 28 MRSA §2, sub-§8, ¶P is enacted to read:

P. "Outdoor stadium" means any commercially-operated outdoor facility with 5,000 or more seats designed or used for the playing of any sport or event, which is open to the general public, which charges a fee and which has adequate facilities for the sale and consumption of malt and vinous liquors.

Sec. 2. 28 MRSA §701-A, sub-§3, ¶I-1, as enacted by PL 1979, c. 432, §4, is amended to read: