

MAINE STATE LEGISLATURE

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LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FOURTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
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1989

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION
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ONE HUNDRED AND FOURTEENTH LEGISLATURE
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Sec. 1. 20-A MRSA §15612, sub-§6, ¶B, as enacted by PL 1983, c. 859, Pt. G, §§2 and 4, is amended to read:

B. The funds for the adjustment shall be limited to the amount appropriated by the Legislature for that purpose. Unexpended funds may be used to fund the out-of-district placement provisions under subsection 11.

Sec. 2. 20-A MRSA §15612, sub-§10, as enacted by PL 1987, c. 827, §2 and c. 850, §§4 and 5 and as amended by PL 1987, c. 861, §§16 and 17, is repealed and the following enacted in its place:

10. Adjustment for cost of educating eligible students in long-term drug treatment centers. A school administrative unit which operates an educational program, approved pursuant to section 9701 to 9706 to serve eligible students in licensed drug treatment centers, shall be reimbursed in the year in which costs are incurred as follows.

A. Reimbursements shall be limited to a maximum of 12 state average tuition rates a year for each approved plan.

B. The rate of reimbursement per student shall not exceed the state average tuition rates in effect during the year of placement as computed under sections 5804 and 5805.

C. The funds for the adjustment shall be limited to the amount appropriated by the Legislature for that purpose.

Sec. 3. 20-A MRSA §15612, sub-§11 is enacted to read:

11. Special education tuition and costs for out-of-district placement adjustment. A school administrative unit which places a student in an out-of-district placement shall receive an adjustment equal to the amount, if any, by which the tuition, treatment and room and board costs for an approved out-of-district special education placement in the year of allocation exceeds 3 times the secondary foundation per pupil operating rate for that year, or a prorated amount if the placement is less than a full year. State payments to school administrative units pursuant to this subsection shall be made during the year of allocation. The funds for the adjustment shall be limited to the amount appropriated by the Legislature for that purpose, and the department is authorized to prorate payments to units if the amount appropriated is insufficient to make full payments to all units.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective July 10, 1989.

CHAPTER 555

H.P. 315 - L.D. 429

An Act to Implement Sound Forest Practices

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

Sec. 1. 12 MRSA §5101, 2nd and 3rd ¶¶, as enacted by PL 1985, c. 488, §4, are amended to read:

The Legislature further finds that the forests of Maine are subject to increased demand for all of its products and that it has been subject to significantly increased natural mortality losses in the ~~past decade~~ 1970's and 1980's.

The Legislature also finds that the vast majority of the forest resource in Maine is under private ownership and that the State's role should be to serve as a catalyst to encourage and promote sustained yield management and use of the forest and its related resources. This role is best realized if state actions in the forestry sector manifest a consistent and comprehensive perspective of how the forest resources can best serve the continuous need of the people of Maine.

The Legislature further finds that the forest land resource is being subjected to increasing pressure for conversion and development. These changes affect overall timber production, public recreation and wildlife habitat.

Sec. 2. 12 MRSA §5101-A, sub-§1, as enacted by PL 1985, c. 488, §5, is amended to read:

1. Current status. Assess the current status of forest resources, including, but not limited to, timber, forest land base, fiber, recreation, water, wildlife and soil;

Sec. 3. 12 MRSA §5101-A, sub-§5, as enacted by PL 1985, c. 488, §5, is amended to read:

5. Recommendations. Recommend to the Governor and the Legislature the administrative and legislative policies or actions needed to refine or redirect state agency programs and to stimulate or remove obstacles to private sector action in a manner that contributes to an adequate supply of natural resources.

The Commissioner of Conservation shall establish and consult with a technical working group composed of members of the existing staff of the department and other persons knowledgeable in the areas referenced in subsection 1 and related fields to carry out the purposes of this chapter. The working group shall have expertise in forest management, forest utilization, recreation management, land use regulation, wildlife and fisheries management, watershed management and other areas as appropriate.

The Commissioner of Conservation shall coordinate the efforts of this program fully with ongoing departmental and federal forestry program planning, policy and research efforts.

Sec. 4. 12 MRSA §5103, sub-§1, ¶A, as repealed and replaced by PL 1985, c. 737, Pt. A, §26, is amended to read:

A. Based on these projections, the assessment shall include goals for the supply of forest resources, including, but not limited to, timber, fiber, forest lands, recreation, water and wildlife.

Sec. 5. 12 MRSA §5107 is enacted to read:

§5107. Enhance education in economics

The commissioner may work with representatives from the College of Forest Resources and the College of Business Administration in the University of Maine System, representatives from the forest industry and representatives from the business and finance community to develop curricula for a joint Master of Business Administration and Master of Science in Forestry degree program and to develop initiatives for forest products marketing, including continuing education courses for foresters in marketing and finance and a faculty position in forest products marketing.

Sec. 6. 12 MRSA §8003, sub-§3, ¶P is enacted to read:

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

Sec. 7. 12 MRSA c. 805, sub-c. I, as amended, is repealed.

Sec. 8. 12 MRSA c. 805, sub-c. I-A is enacted to read:

SUBCHAPTER I-A

TECHNICAL ASSISTANCE

§8611. Bureau of Forestry advisory programs

The bureau shall undertake the following programs to provide information and educational services for forest management in this State.

1. Forest management information. The bureau shall provide a forest management information clearing-house service with a statewide toll-free number. The information and referral service shall include, but not be limited to:

- A. Reporting, notification and management requirements pursuant to this chapter;
- B. Timber and forest management options;
- C. Soil conservation practices;

D. Insect and disease management practices;

E. Recreation management options; and

F. Wildlife management options.

2. Natural resource educator. The director shall employ a natural resource educator to develop and coordinate natural resource education, workshops and training opportunities for school-age children, forest landowners, forest products harvesters and forest managers. Specifically, this person shall:

A. Work with the Department of Educational and Cultural Services and organizations to integrate forestry and forest science programs into the science curricula in public schools; and

B. Establish a program for continuing education courses in timber harvesting equipment operation, safety and basic forest management skills.

§8612. Field foresters

The bureau shall employ by 1991, at least 16 field foresters to be located in field offices.

1. Duties. These foresters shall provide outreach services and referrals to small woodland owners and wood processors for harvesting, marketing and utilization of wood products. The foresters shall assist landowners and processors in:

A. Obtaining and explaining required forms for harvest notification and reporting;

B. Obtaining information to comply with the performance standards under this chapter;

C. Following up with landowners after harvest notification;

D. Reviewing landowner forest management plans;

E. Obtaining information to comply with environmental standards;

F. Explaining forest management options;

G. Promoting involvement in grants and incentive programs;

H. Disseminating educational material; and

I. Other duties as the director prescribes.

2. Limitations. Field foresters are limited to 3 site visits per landowner over a 5-year period, except as necessary to administer federal programs related to forestry or to determine compliance with provisions of this Title.

3. Comprehensive plans. The foresters may provide technical assistance on forestry issues to municipalities in developing their comprehensive plans.

4. Reporting requirements. The commissioner shall report biannually beginning in 1991, to the joint standing committee of the Legislature having jurisdiction over energy and natural resources on activities under the field forester program. This report, to be completed by February 1st, shall include a description of the types of assistance given to landowners and wood processors, a description of the activities of the field foresters and any recommendations for changes in the program.

Sec. 9. 12 MRSA c. 805, sub-c. III, art. 3 is repealed.

Sec. 10. 12 MRSA c. 805, sub-c. III-A is enacted to read:

SUBCHAPTER III-A

FOREST PRACTICES

§8867. Rulemaking

By September 1, 1990, the commissioner shall promulgate rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to implement this subchapter.

1. Prior to rulemaking. Prior to developing rules, the commissioner shall hold public meetings or hearings throughout the State to solicit public input. Before promulgating rules, the commissioner shall:

A. Seek advice from the Citizens' Forestry Advisory Council and ad hoc advisory boards formed pursuant to Title 5, section 12008, on forest management issues that vary from region to region, including regeneration and clear-cutting rules;

B. Consult with the Commissioner of Environmental Protection and the Commissioner of Inland Fisheries and Wildlife to ensure consistency between the departments' rules and the consideration of wildlife habitat and environmental protection; and

C. Consult with the director of the Office of Comprehensive Land Use Planning to ensure that municipalities can integrate any rules into their comprehensive planning process;

2. Report. The commissioner shall report to the Legislature by January 15, 1991, on the rules promulgated under this subchapter.

§8868. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Clear-cut. "Clear-cut" means any timber harvesting on a forested site greater than 5 acres in size which over a 10-year period results in an average residual basal area of trees over 6 inches in diameter measured at 4 1/2 feet above the ground of less than 30 square feet per acre, unless one or both of the following conditions exist:

A. If, after harvesting, the average residual basal area of trees over 1 inch in diameter measured at 4 1/2 feet above the ground is 30 square feet per acre or more, a clear-cut does not occur until the average residual basal area of trees 6 inches or larger measured at 4 1/2 feet above the ground is less than 10 square feet per acre; or

B. After harvesting, the site has a well-distributed stand of trees of at least 5 feet in height that meets the regeneration standards defined under section 8869, subsection 1.

2. Forest management plan "Forest management plan" means a site-specific document signed by a professional forester outlining proposed activities to ensure compliance with performance standards and regeneration requirements established pursuant to this subchapter.

3. Professional forester. "Professional forester" means a person licensed pursuant to Title 32, chapter 75.

4. Timber harvesting. "Timber harvesting" means the cutting or removal of at least 50 cords of timber for the primary purpose of selling or processing forest products.

§8869. Forest harvest regulations

To promote a healthy and sustainable forest that contains a balance of age classes necessary for a sustainable timber supply and spatial and compositional diversity, forest harvesting shall be regulated pursuant to this subchapter.

1. Standards for regeneration after harvests. The commissioner shall adopt rules to ensure adequate regeneration of commercial tree species on a site within 5 years of completion of any timber harvest. Rules to implement this requirement shall include identification of commercial tree species, minimum stocking standards and methods to mitigate inadequate regeneration. In developing regeneration standards, the commissioner shall take into consideration regional differences in forest types, tree species and physiographic conditions.

2. Performance standards for clear-cuts. The commissioner shall establish, by rule, performance standards for clear-cuts, including limitations on size. These standards shall protect water quality, minimize soil erosion, ensure adequate regeneration, address adverse impacts on wildlife habitat and provide for a healthy and sustainable forest. The commissioner shall incorporate regional variations in developing performance standards that consider growing conditions, tree species and site quality.

3. Plans for clear-cuts over 50 acres. For clear-cuts of 50 acres or more, the landowner, or agent of the land-

owner, shall develop, prior to harvest, a forest management plan signed by a professional forester that conforms to the standards set forth in subsections 1 and 2. This plan must be kept on file by the landowner or agent of the landowner and be available for inspection by the bureau until adequate regeneration in accordance with the standards set forth in subsection 1 is established.

4. Exemption for natural disaster. If the regeneration on a harvested clear-cut, or portion thereof, is destroyed by fire, disease, insect infestation or other natural disaster, the regeneration requirement does not apply. Vegetative cover sufficient to prevent accelerated erosion must be established on the site.

5. Variance. The commissioner shall establish, by rule, standards to permit activities that exceed the standards set forth under subsection 2. In developing standards, the commissioner shall consider the unique characteristics of a site and any related economic hardship which would result from noncompliance with these standards.

6. Transfer or sale of property. Upon sale or other transfer of ownership of land that has been harvested, the transferee becomes responsible for the regeneration requirements on the site. The transferor shall disclose in writing to the transferee the regeneration requirements of this section at, or prior to, the time of sale or transfer. Failure of the transferor to comply with the disclosure requirement shall result in the transferor being responsible for compliance with the regeneration requirements of subsection 1.

7. Application. This section shall apply to all forest lands within the State, including land in municipal and state ownership. Only state-owned or operated research forests or industrially owned research forests certified by the commissioner are exempt from these requirements.

8. Relationship to municipal rules and regulations. Nothing in this subchapter may be construed to preempt or otherwise limit the existing authority of municipalities to regulate harvesting, except that municipalities regulating timber harvesting shall adopt definitions for forestry terms used in their ordinances that are consistent with forestry terms adopted by the commissioner pursuant to this subchapter. Municipalities considering the adoption of ordinances regulating timber harvesting shall develop ordinances in consultation with the department.

9. Centralized listing of municipal ordinances. The bureau shall maintain for informational purposes a state-wide centralized listing of municipal ordinances that specifically apply to forest practices.

A. The clerk of any municipality which, on the effective date of this section, has an ordinance to be listed under this subsection, shall file a copy of that ordinance with the bureau by December 31, 1989.

B. The clerk of the municipality shall provide the bureau with notice and a copy of any ordinance to be listed under this subsection at least 30 days prior to the meeting of the legislative body or the public

hearing at which adoption of the ordinance shall be considered. The clerk shall notify the bureau within 30 days after adoption of the ordinance.

10. Right of enforcement. Enforcement of this subchapter shall be by any state, county or municipal law enforcement officer, including forest rangers and field foresters of the bureau and wardens of the Department of Inland Fisheries and Wildlife.

11. Right of entry. Agents of the bureau shall have rights of access to all lands within the State to carry out the duties they are authorized by law to administer and enforce. Entry into private property under this subsection is not a trespass. This subsection does not authorize entry into any building or structure.

Sec. 11. 12 MRSA c. 805, sub-c. IV is repealed.

Sec. 12. 12 MRSA c. 805, sub-c. V is enacted to read:

SUBCHAPTER V

FOREST LANDOWNER AND WOOD PROCESSOR REPORTING REQUIREMENTS

§8881. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. All-weather road. "All-weather road" means a public or private road that may be traversed during all seasons of the year.

2. Designated agent. "Designated agent" means a person, firm, company, corporation or other legal entity representing the landowner in timber sales or land management.

3. Forest products. "Forest products" means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass fuel wood, fuel wood or other products commonly known as forest products, but does not include Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material, cones or other seed crops.

4. Harvester. "Harvester" means a person, firm, company, corporation or other legal entity which harvests or contracts to harvest a forest product.

5. Harvest operation. "Harvest operation" means a harvest of forest products on land in a single municipality or township. Land harvested need not be contiguous and more than one harvester may work a harvest operation.

6. Lump-sum sale. "Lump-sum sale" means a sale in which the owner of standing timber sells the timber for one price and that price is not broken down by species or product.

7. Precommercial silvicultural activities. “Precommercial silvicultural activities” means chemical or mechanical thinning operations, planting, stand conversion or timber stand improvement activities where no forest products are sold.

8. Residue. “Residue” means by-products of a processed log, including, but not limited to bark, woodchips or sawdust.

9. Roundwood. “Roundwood” means logs, bolts and other round sections of wood as they are cut from a tree.

10. Roundwood processing operation. “Roundwood processing operation” means sawmills; bolter mills; shingle mills; veneer mills; fence pole and piling making operations; pulp and paper mills; wafer board, particle board and plywood mills; whole tree chippers; commercial fuel wood processors; and custom processing mills of these products.

11. Stumpage. “Stumpage” means standing timber.

§8882. Forms

Forms required under this subchapter shall be provided by the bureau and shall be written in an easily understandable format.

§8883. Notification

Prior to commencing harvesting operations, the landowner or designated agent shall notify the bureau of the harvest operation.

1. Notification prior to harvest. Notification shall be on forms supplied by the bureau and shall include the following information:

A. The name, address and phone number of the landowner, any designated agent, and, if known, any harvester or harvesters;

B. The name and address of any licensed professional forester consulting the landowner on forest management or harvesting practices;

C. The municipality or township and county of harvest;

D. The name of the nearest public or private all-weather road;

E. The approximate dates the harvest will begin and finish;

F. The anticipated acreage to be harvested;

G. Whether the land is being harvested to convert to another use within 2 years and, if so, what that use is to be;

H. The signatures of the landowner or designated agent;

I. A map locating the harvest site in relation to known or easily identifiable terrain features, such as a road junction or a stream and road junction. If the map is hand-drawn, a north arrow shall be included; and

J. The date of notification.

2. Harvest reporting forms. Upon receipt by the bureau of the form required under subsection 1, the bureau shall mail forms to the landowner or designated agent for reporting harvest information pursuant to this subchapter.

3. Notification form on file. The landowner or designated agent shall retain a copy of the notification form and produce it upon request of agents as specified in section 8888.

4. Duration. A notification shall remain valid for 2 years from the date of issue or upon completion of the harvest, whichever occurs first. If the harvest extends beyond 2 years, a new notice under this section must be filed.

5. Notification exemption. The following activities are exempt from the notification requirement under this section:

A. Activities where forest products are harvested for an owner's own use and are not sold or offered for sale or used in the owner's primary wood-using plants; and

B. Precommercial silvicultural forestry activities.

§8884. Annual wood processing reports

1. Wood processor reports. Owners or operators of all roundwood processing operations shall submit an annual report to the director of the bureau during the month of January for the roundwood used or processed by the operation during the preceding year. The report shall specify the amount of roundwood processed by species and county where cut from the stump.

2. Imports and exports. Persons, firms, corporations or companies selling roundwood out of the State or buying roundwood to bring into the State shall submit during the month of January information required under subsection 1, including information on residue. The report shall also identify the origin of imported roundwood by state or country and the destination of exported roundwood by state or country.

3. Confidentiality. Volume information contained in these reports is confidential and shall not be made public except that summary reports may be published that use aggregated data which do not reveal the activities of an individual person or firm.

§8885. Reports by forest landowners

1. Harvest report. Any owner of forest land who sells forest products or harvests forest products for that owner's commercial use shall submit a report to the director stating the species, volume and stumpage price per unit of measure for each transaction, the municipality or township where the stumpage was located, the estimated acreage of the harvest, the harvest method employed and the extent of whole-tree harvesting of both solid and chipped wood. For lump-sum sales, the purchaser shall be responsible for submitting the report.

2. Precommercial silvicultural practices report. Owners of forest land on which precommercial silvicultural practices have been performed on more than 10 acres in any year shall report these practices to the director.

3. Reports. Reports required under subsection 1 shall be due January 1st and July 1st. Reports required under subsection 2 shall be due during the month of January. If the period of cutting under subsections 1 or 2 extends beyond December 31st of any calendar year, a report shall be submitted during the month of January for the preceding year.

4. Confidentiality. Information contained in reports filed under this section shall not be made public, except that summary reports may be published that use aggregated data which do not reveal the activities of an individual person or firm. Forms submitted pursuant to this section shall be available for the use of the State Tax Assessor pursuant to Title 36, chapter 105, subchapter II-A.

5. Disclosure. Nothing in this section may be construed to prevent the disclosure of information to duly authorized officers of the United States and of other states, districts and territories of the United States and of the provinces and Dominion of Canada. The information shall be given only on the written request of the duly authorized officer when that officer's government permits the exchange of similar information with the taxing officials of this State and when that officer agrees that the information shall be used only for tax collection purposes.

§8886. Reports

The director shall produce the following reports.

1. Harvesting practices. Utilizing a sample of forest landowner reports and any other appropriate survey methods, the director shall tabulate an annual survey of the methods of harvesting and the harvest practices employed. The information on harvesting shall include, but not be limited to, the silvicultural prescriptions employed, the estimated acreage of various harvest methods, including clear-cutting, and the extent of whole-tree harvesting of both solid and chipped wood.

2. Semiannual price reports. The bureau shall publish, semiannually, a report on prices as specified below. These reports shall be reported by zones as determined by

the director and shall include a statewide average of all zones.

A. The reports shall include stumpage prices paid for forest tree species of the State as reported pursuant to section 8885. Prices for other forest products may be collected using acceptable survey techniques.

B. The reports shall include mill delivered prices paid by primary processors, wood wholesalers and wood brokers of the State.

§8887. Penalties

1. Notification. Failure to notify the bureau pursuant to section 8883, of a harvest operation of 50 cords or less constitutes a civil violation for which a forfeiture not to exceed \$50 may be assessed. Failure to notify the bureau pursuant to section 8883, of a commercial harvest operation of more than 50 cords constitutes a civil violation for which a forfeiture not to exceed \$1,000 for each occurrence may be assessed and for which immediate cessation of the operation may be ordered by the court. Continued operation after receiving an order to cease operation constitutes a civil violation for which a forfeiture not to exceed \$1,000 for each day the operation continues may be assessed. Each day of failure to notify shall be considered a separate offense.

2. Reports. Failure to submit reports pursuant to sections 8884 or 8885 constitutes a civil violation for which a forfeiture not to exceed \$1,000 for each failure may be assessed.

§8888. Enforcement

Enforcement of this subchapter shall be by any state, county or municipal law enforcement officer, including forest rangers and field foresters of the Bureau of Forestry and wardens of the Department of Inland Fisheries and Wildlife.

Sec. 13. 14 MRSA §7552, as repealed and replaced by PL 1983, c. 816, Pt. A, §5, is amended to read:

§7552. Injury to lands or property

Whoever cuts down, destroys, injures or carries away any ornamental or fruit tree, Christmas tree, evergreen boughs, agricultural product, timber, wood, underwood, stones, gravel, ore, goods or property of any kind from land not his that person's own, without license of the owner, or injures or throws down any fences, bars or gates, or leaves such gates open, or breaks glass in any building is liable in damages to the owner in a civil action. If such an act or such acts are committed willfully or knowingly, the defendant is liable to the owner in treble damages and, in addition, for the cost of any professional services necessary for the determination of damages, for attorney's fees, and for court costs. In addition, if the action includes the destruction, cutting or injury of any commercial forest trees, the defendant is responsible for regeneration of the stand in accordance with Title 12, section 8869. For purposes of this section, Christmas trees and evergreen boughs are defined in Title 12,

section 8841, and agricultural product is defined in section 7551-A.

Sec. 14. 36 MRSA §573, sub-§3-A is enacted to read:

3-A. Forest management and harvest plan. "Forest management and harvest plan" means a written document, prepared by a licensed professional forester, outlining activities to regenerate, improve and harvest a standing crop of timber. The plan shall include the location of water bodies and wildlife habitat identified by the Department of Inland Fisheries and Wildlife. A plan may include, but not be limited to, schedules and recommendations for timber stand improvement, harvesting plans and recommendations for regeneration activities.

Sec. 15. 36 MRSA §574, as amended by PL 1981, c. 517, §4 and c. 625, §2, is repealed.

Sec. 16. 36 MRSA §574-B is enacted to read:

§574-B. Applicability

An owner of a parcel containing forest land may apply at the landowner's election by filing with the assessor the schedule provided for in section 579; except that this subchapter shall not apply to any parcel containing less than 10 acres of forest land. For purposes of this subchapter, a parcel is deemed to include a unit of real estate, notwithstanding that it is divided by a road, way, railroad or pipeline, or by a municipal or county line. The election to apply shall require the unanimous consent of all owners of an interest in a parcel, except for the State, which is not subject to taxation hereunder.

A parcel of land used primarily for growth of trees to be harvested for commercial use shall be taxed according to this subchapter, provided that the landowner complies with the following requirements:

1. Forest management and harvest plan. A forest management and harvest plan has been prepared for the parcel and updated every 10 years. The landowner shall file a sworn statement with the municipal assessor in a municipality or the State Tax Assessor for parcels in the unorganized territory that a management plan has been prepared for the parcel. A landowner with a parcel taxed pursuant to this subchapter on the date of enactment of this provision has until April 1, 1999, to comply with this requirement and may, upon request, be subject to the applicability provisions until April 1, 1999, under this section as it existed on April 1, 1982;

2. Evidence of compliance with plan. The landowner must comply with the plan developed under subsection 1, and must submit, every 10 years to the municipal assessor in a municipality or the State Tax Assessor for parcels in the unorganized territory, a statement from a licensed professional forester that the landowner is managing the parcel according to schedules in the plan required under subsection 1; and

3. Transfer of ownership. If the land is transferred to a new owner, a forest management and harvest plan must be prepared for the landowner and a sworn statement to that effect submitted within one year to the municipal assessor in a municipality or the State Tax Assessor for the unorganized territory.

Parcels of land subject to section 573, subsection 3, paragraph B or C, are exempt from the requirements under this section.

Sec. 17. 36 MRSA §579, first ¶, as amended by PL 1981, c. 706, §9, is further amended to read:

The owner or owners of forest land subject to valuation under this subchapter shall submit a signed schedule in duplicate, on or before April 1st of the year in which that land first becomes subject to valuation under this subchapter, to the assessor upon a form to be prescribed by the State Tax Assessor, identifying the land to be valued hereunder, listing the number of acres of each forest type, showing the location of each forest type and representing that the land is used primarily for the growth of trees to be harvested for commercial use. Those schedules may be required at such other times as the assessor may designate upon ~~90-days'~~ 120-days' written notice.

Sec. 18. 36 MRSA §581-E is enacted to read:

§581-E. Report to the Bureau of Forestry

The municipal assessor or chief assessor of a primary assessing area shall report to the Bureau of Forestry by November 1, 1990, or 30 days following the tax commitment date, whichever is sooner, and annually thereafter, on forms provided by the bureau, the following information relating to land taxed according to this subchapter:

1. Landowner names and addresses. The names and addresses of landowners;

2. Total acreage. The total acres taxed pursuant to this subchapter, including a forest type breakdown by softwood, mixed wood and hardwood; and

3. Year of acceptance. The year each parcel was accepted for taxation under this subchapter.

Sec. 19. 36 MRSA §1112, as repealed and replaced by PL 1987, c. 728, §9, is amended to read:

§1112. Recapture penalty

Any change in use disqualifying land for classification under this subchapter shall cause a penalty to be assessed by the assessors of the municipality in which the land is located, or by the State Tax Assessor if the land is not within a municipality, in addition to the annual tax in the year of disqualification except when the change is occasioned by a transfer resulting from the exercise or the threatened exercise of the power of eminent domain.

For land classified as farmland under this subchapter for less than 5 full years, the penalty shall be equal to 40% of its assessed fair market value at the time the land is removed from the program. For land that has been classified as farmland under this subchapter for more than 5 full years but less than 10 full years, the penalty shall be full recapture of the taxes that would have been paid on the land for all the years it was in the program, less all taxes that were paid during those years and interest at the rate set by the town during those years on delinquent taxes. For land that has been classified as farmland under this subchapter for more than 10 full years, the penalty shall be the recapture of the taxes that would have been paid on the land for the past 5 years if it had not been classified under this subchapter, less all taxes that were actually paid during those 5 years and interest at the rate set by the town during those 5 years on delinquent taxes.

No penalty may be assessed at the time of a change of use from ~~one~~ the farmland classification of land subject to taxation under this subchapter to ~~another~~ the open space classification of land subject to taxation under this subchapter ~~nor may any~~. No penalty may be assessed upon the withdrawal of open space land from taxation under this subchapter if the owner applies for and is accepted for classification as timberland under subchapter II-A, ~~provided that in~~. There also is no penalty imposed when land classified as timberland is accepted for classification as open space land. In the event a penalty is later assessed under subchapter II-A the period of time that the land was taxed as farmland or as open space land under this subchapter shall be included for purposes of establishing the amount of the penalty.

If land is withdrawn from classification under this subchapter, any penalty assessed may be considered for abatement pursuant to the procedures incorporated in subchapter VIII.

For land classified as open space under this subchapter, the penalty shall be the same imposed on tree growth withdrawal in section 581.

Sec. 20. 36 MRSA §2723-A, sub-§5, as enacted by PL 1987, c. 362, §3, is repealed.

Sec. 21. 36 MRSA §2723-A, sub-§5-A is enacted to read:

5-A. Computing tax. This amount shall be multiplied by 45% in 1992, 40% in 1993, 35% in 1994, 30% in 1995 and 25% in 1996 and the sum shall then be divided by the total number of adjusted acres of commercial forest land, rounded to the nearest 1/10 of a cent and multiplied by the number of adjusted acres of commercial forest land owned by each taxpayer to determine the amount of tax for which each owner of commercial forest land shall be liable.

Sec. 22. Consistent standards. The Citizens' Forestry Advisory Council shall review all existing environmental protection standards found in Titles 12, 36 and 38 and rules promulgated under those Titles as they pertain to forest management activities to identify regulatory inconsis-

encies. The council shall report to the Governor and the Joint Standing Committee on Energy and Natural Resources by September 1, 1990, with findings and recommendations for legislative and regulatory changes.

Sec. 23. Municipal ordinances. The Department of Conservation shall report to the joint standing committee of the Legislature having jurisdiction over natural resources within 18 months of adopting rules pursuant to this Act on special problems with and the need for municipal ordinances regarding forest practices.

Sec. 24. Effective date. Sections 20 and 21 of this Act are effective July 1, 1991.

See title page for effective date, unless otherwise indicated.

CHAPTER 556

H.P. 560 - L.D. 758

An Act Relating to Health Insurance

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation permits the Joint Standing Committee on Banking and Insurance to request that the Mandated Benefits Advisory Commission formed in Part A of this Act perform studies on various issues and report to the Legislature. The committee intends to request the studies be performed by the fall of 1989; and

Whereas, in order for the studies to go forward in a timely manner, it is necessary for the members of the commission to be appointed and to begin work as soon as possible after enactment of this legislation; 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,

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

PART A

Sec. 1. 5 MRSA §12004-I, sub-§50, as enacted by PL 1987, c. 786, §5, is repealed and the following enacted in its place:

<u>50. In-</u>	<u>Mandated</u>	<u>Legislative</u>	<u>24 MRSA</u>
<u>urance</u>	<u>Benefits Advisory</u>	<u>Per Diem</u>	<u>§2325-B</u>
	<u>Commission</u>	<u>and Expenses</u>	