

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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

J.S. McCarthy Company
Augusta, Maine
1997

CHAPTER 152

S.P. 118 - L.D. 397

**An Act to Change the Burden of
Proof for Timber Trespass and
Timber Theft Violations**

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

Sec. 1. 17 MRSA §2510, sub-§1, as amended by PL 1987, c. 141, Pt. B, §14, is further amended to read:

1. Unlawful cutting. Any person who ~~intentionally, knowingly, recklessly or negligently~~ in fact cuts down or fells any tree without the consent of the owner of the property on which the tree stands commits a civil violation for which the forfeitures provided in this section may be adjudged, ~~except that the~~ Proof of a culpable state of mind is not required. The cutting down or felling of any tree by the following are exempt from this section:

A. The Department of Transportation in the performance of activities under Title 23, section 701;

B. Public utilities in maintaining adequate facilities in emergencies in compliance with Title 35-A, section 301; and

C. ~~Licensed arborists under contract with a municipality or private individual or municipal~~ Municipal employees, persons contracting with a municipality or other legitimate agents of a municipality acting within the course and scope of their employment, in or performing volunteer work for the municipality removing street trees or property line trees under ordinary circumstances or blown down trees or in emergencies; and.

D. ~~An abutter, personally or by his agent, involved in a boundary dispute with another abutter.~~

Sec. 2. 17 MRSA §2510, sub-§2, as amended by PL 1995, c. 450, §5, is further amended to read:

2. Forfeitures. The following forfeitures may be adjudged for each tree over 2 inches in diameter that has been cut or felled:

A. If the tree is no more than 6 inches in diameter, a forfeiture of \$25;

B. If the tree is over 6 inches and up to 10 inches in diameter, a forfeiture of \$50;

C. If the tree is over 10 inches and up to 14 inches in diameter, a forfeiture of \$75;

D. If the tree is over 14 inches and up to 18 inches in diameter, a forfeiture of \$100;

E. If the tree is over 18 inches and up to 22 inches in diameter, a forfeiture of \$125; and

F. If the tree is greater than 22 inches in diameter, a forfeiture of \$150.

Sec. 3. 17 MRSA §2510, sub-§§4 and 5 are enacted to read:

4. Restitution. The court shall inquire of the prosecutor or the owner of the property on which the tree was cut down or felled the extent of the owner's financial loss. With the owner's consent, the court shall order restitution when appropriate on the basis of an adequate factual foundation. The order of restitution must designate the amount of restitution to be paid and the person or persons to whom the restitution must be paid. Restitution ordered under this subsection is in addition to any forfeitures adjudged under subsection 2.

Any restitution ordered and paid must be deducted from the amount of any judgment awarded in a civil action brought by the owner against the offender based on the same facts.

5. Liability for conduct of another. A person commits the civil violation in subsection 1 even if the person did not personally cut down or fell the tree if the person is legally accountable for the conduct of another person who violates subsection 1. A person is legally accountable for the conduct of another person if:

A. The person causes another person to violate subsection 1; or

B. The person solicits another person to commit the civil violation or aids, agrees to aid or attempts to aid another person in planning or committing the civil violation.

See title page for effective date.

CHAPTER 153

H.P. 501 - L.D. 692

**An Act Concerning the Importation
of Marine Organisms That May Be
Dangerous to Indigenous Marine
Life or Its Environment**

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