

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

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
2002

B-1. The Immigration and Naturalization Service of the Department of Justice and the United States Customs Service of the Department of the Treasury shall develop policies governing their employees, including training policies.

Sec. 4. Effective date. That section of this Act that enacts the Maine Revised Statutes, Title 25, section 1502-A, subsection 5, paragraph B-1 takes effect July 1, 2004.

See title page for effective date, unless otherwise indicated.

CHAPTER 603

S.P. 718 - L.D. 1920

An Act to Address Liquidation Harvesting

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

Sec. 1. 12 MRSA §8881, sub-§5-A is enacted to read:

5-A. Landowner. "Landowner" means a person, company or other entity that holds title to land, including joint owners or tenants in common. If the ownership of the timber located on the land is different from the fee ownership of the land, the owner of the timber is deemed to be a landowner and is jointly and severally responsible with the fee landowner for compliance with this subchapter. If a corporate landowner is a wholly owned subsidiary of another corporation, both parent and subsidiary are deemed to be the same landowner.

Sec. 2. 12 MRSA §8883, sub-§1, as amended by PL 1999, c. 361, §5, is further amended to read:

1. Notification prior to harvest. Unless an alternate form or method of reporting is provided in rule, notification must be on forms supplied by the bureau and must 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;

F-1. An indication whether the land being harvested is taxed under the Maine Tree Growth Tax Law. If the land being harvested is taxed under the Maine Tree Growth Tax Law, the notification must include a statement, signed by the landowner, indicating that the harvest is consistent with the forest management and harvest plan required by Title 36, section 574-B, subsection 1. A licensed professional forester who has a fiduciary responsibility to the landowner may sign the statement required in this paragraph.

Failure to indicate that the harvest is consistent with the forest management and harvest plan constitutes a withdrawal from taxation under the Maine Tree Growth Tax Law of the land being harvested in a manner that is not consistent with the forest management and harvest plan. When such failure is indicated, the director shall notify the assessor for the jurisdiction in which the parcel is located that the land or a portion of the land no longer meets the requirements of Title 36, chapter 105, subchapter 2-A and must be withdrawn in accordance with Title 36, section 581;

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

If the land being converted to another use is taxed under the Maine Tree Growth Tax Law, notification of a change of land use under this subsection constitutes a withdrawal from taxation under the Maine Tree Growth Tax Law of that portion of land being converted to another use. When a change in land use is indicated, the director shall notify the assessor for the jurisdiction in which the parcel is located that the land or the portion of land no longer meets the requirements of Title 36, chapter 105, subchapter 2-A and must be withdrawn in accordance with Title 36, section 581;

H. The signatures of the harvester when listed on the form in accordance with paragraph A and the licensed professional forester when listed on the form in accordance with paragraph B;

H-1. The signature of the landowner and the signature of the designated agent when a designated agent is listed in accordance with paragraph A. If the designated agent is a licensed professional forester who has a fiduciary

responsibility to the landowner, the signature of the landowner is not required;

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. The map must be a copy of a 7.5 or 15 minute series topographical map produced by the United States Geological Survey or a map of equivalent or superior detail in the location of roads; and

J. The date of notification.

Sec. 3. 12 MRSA §8887, sub-§1, as enacted by PL 1989, c. 555, §12 and affected by c. 600, Pt. B, §11, is amended to read:

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~~ is considered a separate offense.

Providing inaccurate information on a notification form for a harvest operation of 50 cords or less constitutes a civil violation for which a forfeiture not to exceed \$50 may be assessed. Providing inaccurate information on a notification form for 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.

Sec. 4. 36 MRSA §574-B, sub-§3, as enacted by PL 1989, c. 555, §16, is repealed and the following enacted in its place:

3. Transfer of ownership. When land taxed under this subchapter is transferred to a new owner, within one year of the date of transfer, the new landowner must file with the municipal assessor or the State Tax Assessor for land in the unorganized territory one of the following:

A. A sworn statement indicating that a new forest management and harvest plan has been prepared; or

B. A statement from a licensed professional forester that the land is being managed in accordance with the plan prepared for the previous landowner.

The new landowner may not harvest or authorize the harvest of forest products for commercial use until a statement described in paragraph A or B is filed with the assessor. A person owning timber rights on land taxed under this subchapter may not harvest or authorize the harvest of forest products for commercial use until a statement described in paragraph A or B is filed with the assessor.

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

For the purposes of this subsection, "transferred to a new owner" means the transfer of the controlling interest in the fee ownership of the land or the controlling interest in the timber rights on the land.

Sec. 5. 36 MRSA §575-A is enacted to read:

§575-A. Assistance in determining compliance with forest management and harvest plan

Upon request of a municipal assessor or the State Tax Assessor and in accordance with section 579, the Director of the Bureau of Forestry within the Department of Conservation may provide assistance in evaluating a forest management and harvest plan to determine whether the plan meets the definition of a forest management and harvest plan in section 573, subsection 3-A. Upon request of a municipal assessor or the State Tax Assessor, the Director of the Bureau of Forestry may provide assistance in determining whether a harvest or other silvicultural activity conducted on land enrolled under this subchapter complies with the forest management and harvest plan prepared for that parcel of land. When assistance is requested under this section and section 579, the Director of the Bureau of Forestry or the director's designee may enter and examine forest land for the purpose of determining compliance with the forest management and harvest plan.

Sec. 6. 36 MRSA §579, 4th ¶, as repealed and replaced by PL 1979, c. 666, §16, is amended to read:

The assessor or the assessor's duly authorized representative may enter and examine the forest lands under this subchapter and may examine ~~into~~ any information submitted by the owner or owners. A copy of the forest management and harvest plan required under section 574-B must be available to the assessor upon request and to the Director of the Bureau of Forestry within the Department of Conservation or the director's designee when the assessor seeks assistance in accordance with section 575-A. A forest management and harvest plan provided in accordance with this section is confidential and is not a public record as defined in Title 1, section 402, subsection 3.

Sec. 7. Reports. The Director of the Bureau of Forestry within the Department of Conservation shall continue to include information on liquidation harvesting in the biennial report on the state of the State's forests required under the Maine Revised Statutes, Title 12, section 8879. The report must include an estimate of the number of harvests and total acres harvested that meet the definition of liquidation harvesting. Information must be collected and reported in a manner that facilitates comparison from one report period to another. The report must include a summary of the requests for assistance received from assessors under Title 36, section 575-A and the response of the Director of the Bureau of Forestry to those requests. The Director of the Bureau of Forestry shall provide copies of the 2003 biennial report on the state of the State's forests to the joint standing committee of the Legislature having jurisdiction over tax matters upon publishing the report.

For purposes of this section, "liquidation harvesting" means the purchase of timberland followed by a harvest that removes most or all commercial value in standing timber without regard for long-term forest management principles and the subsequent sale or attempted resale of the harvested land within 5 years. As more information is gathered on this practice, the Director of the Bureau of Forestry shall advise the joint standing committee of the Legislature having jurisdiction over forestry matters on recommended revisions to this definition to better describe and quantify practices that threaten timber supply and warrant policy consideration.

See title page for effective date.

CHAPTER 604

S.P. 720 - L.D. 1922

An Act Concerning Rules of the Bureau of Parks and Lands

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

Sec. 1. 12 MRSA §1801, sub-§2, as enacted by PL 1997, c. 678, §13, is amended to read:

2. Commissioner. "Commissioner" means the Commissioner of Conservation.

Sec. 2. 12 MRSA §1803, sub-§1, as enacted by PL 1997, c. 678, §13, is amended to read:

1. Jurisdiction. Has jurisdiction, custody and control over and responsibility for managing:

A. All state parks and historic sites and national parks that are controlled and managed by the State, except Baxter State Park; ~~and~~

B. Public reserved lands, nonreserved public lands ~~and~~, submerged lands and intertidal lands;

C. The Allagash Wilderness Waterway; and

D. Public boating facilities acquired or constructed and maintained pursuant to subchapter IX.

Sec. 3. 12 MRSA §1803, sub-§6, as enacted by PL 1997, c. 678, §13, is amended to read:

6. Rules. From time to time shall adopt, amend, repeal and enforce reasonable rules necessary to carry out the duties assigned to it, including, but not limited to, rules:

A. For the protection and preservation of state parks, historic sites, the Allagash Wilderness Waterway, public boating facilities owned or managed by the bureau, submerged lands, public reserved lands and nonreserved public lands;

B. For the protection and safety of the public; ~~and~~

C. For observance of the conditions and restrictions, expressed in deeds of trust or otherwise, of the state parks, historic sites, the Allagash Wilderness Waterway, public boating facilities owned or managed by the bureau, submerged lands, public reserved lands and nonreserved public lands of the State and of monuments thereon; and

D. For preservation of the natural beauty, historic integrity and character of the Allagash Wilderness Waterway.

All rules of the bureau must be adopted in accordance with ~~the procedures set forth in~~ Title 5, chapter 375, subchapter II. ~~These rules, except those related to the conduct of public hearings, may be enforced by any law enforcement officer. Violation of any such rules, except those related to the conduct of public hearings, is a Class E crime.~~

Sec. 4. 12 MRSA §1804, sub-§§4 and 5, as enacted by PL 1997, c. 678, §13, are amended to read:

4. Surplus property. Sell storehouses and other structures and fixtures that are surplus to the needs of the bureau; ~~and~~

5. Bureau budget. Prepare and submit to the commissioner the budget for the bureau; and