

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

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

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Augusta, Maine
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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

Sec. 5. 12 MRSA §1804, sub-§6 is enacted to read:

6. Restrictions on public access. Post notice of any restrictions to public access at points commonly used to access the land or at a facility or structure where such rules and notices are regularly posted. The director may restrict public access to any portion of the land or waters within the bureau's jurisdiction when the restrictions reasonably relate to protecting public health, safety or welfare or the economic interests or natural resources of the State.

Sec. 6. 12 MRSA §1806 is enacted to read:

§1806. Enforcement

The bureau may coordinate and exercise law enforcement power over the land and water within the bureau's jurisdiction. The provisions in this section apply to law enforcement within the jurisdiction of the bureau.

1. Powers of law enforcement officers. A law enforcement officer may issue a written summons to any person the officer has probable cause to believe has committed or is committing a bureau rule violation, a civil violation or a crime. Any law enforcement officer may detain or arrest, with or without a warrant, any person the officer has probable cause to believe has committed or is committing a crime.

2. Powers of bureau staff or agents. The director may authorize an employee or agent of the bureau to issue a written summons to any person who the employee or agent has probable cause to believe has committed or is committing a civil violation or a crime. The director may authorize an employee or agent of the bureau to detain or arrest any person who the employee or agent has probable cause to believe has committed or is committing a crime. The director shall notify the joint standing committee of the Legislature having jurisdiction over parks and public lands matters in writing prior to adopting a policy that authorizes employees or agents of the bureau to make arrests.

3. Civil violations. Except for violations of section 1880 or rules adopted to implement section 1880, a person who violates a rule adopted by the bureau under this chapter commits a civil violation for which a forfeiture of not more than \$500 may be adjudged.

4. Criminal offenses. In addition to offenses designated as crimes elsewhere in statute, a person commits a Class E crime if while within the jurisdiction of the bureau the person in fact:

A. Removes, molests, injures or damages anything natural, material, prehistoric or historic, except as authorized by the bureau or allowed by laws and rules relating to hunting, fishing and trapping;

B. Removes, mutilates, defaces, or destroys a notice or rule posted by the bureau or a lawfully erected monument or marker;

C. Mutilates, defaces, destroys, moves off station or sinks any buoy, beacon or marking device placed by the State either floating on the waters of the State or permanently fixed to land or a structure adjacent to the waters of the State;

D. Moors or in any manner fastens a vessel, boat, scow or raft to any buoy or beacon placed by the State in any waters of this State or to any permanent structure placed by the State in any waters of this State except for a dock, wharf or other structure placed for that purpose;

E. Possesses a loaded weapon in violation of park rules or in areas closed to hunting by rule, law or ordinance;

F. Discharges any firearm, bow and arrow, weapon powered by carbon dioxide cartridges or other weapon within 300 feet of any picnic area, designated camping area, parking area, building, shelter or boat launching site or in violation of park rules or in areas closed to hunting by rule, law or ordinance;

G. Commits unauthorized access by motorized vehicle, boat or aircraft in violation of bureau rules;

H. Violates the requirements for a trip leader permit issued under section 7322; or

I. Enters land or waters to which access has been restricted under section 1804.

Sec. 7. 12 MRSA §1821, as enacted by PL 1997, c. 678, §13, is repealed.

Sec. 8. 12 MRSA §1832, sub-§§2 and 3, as enacted by PL 1997, c. 678, §13, are repealed.

Sec. 9. 12 MRSA §1841, sub-§4, as enacted by PL 1997, c. 678, §13, is repealed.

Sec. 10. 12 MRSA §1846, sub-§§2 and 3, as enacted by PL 1997, c. 678, §13, are repealed.

Sec. 11. 12 MRSA §1857, sub-§4, as enacted by PL 1997, c. 678, §13, is repealed.

Sec. 12. 12 MRSA §1862, sub-§8, as enacted by PL 1997, c. 678, §13, is repealed.

Sec. 13. 12 MRSA §1867, sub-§4, as enacted by PL 1997, c. 678, §13, is repealed.

Sec. 14. 12 MRSA §1867, sub-§6, as enacted by PL 2001, c. 391, §3, is amended to read:

6. Pulpwood salvage exemption. A person who has been granted a charter or other specific authorization by the Legislature prior to June 30, 1998 to erect and maintain piers and booms to collect and store pulpwood in waters over submerged lands may salvage the pulpwood stored in compliance with that charter and is exempt from subsections 3, 4 and 5 of this section and rules pertaining to pulpwood salvage adopted under section 1803, as long as, prior to conducting a pulpwood salvage operation, that person:

- A. Provides documentation satisfactory to the bureau of the legislative charter or approval specifically authorizing pulpwood storage at the proposed salvage site;
- B. Attests that the salvaged pulpwood is to be processed at a mill owned by that person;
- C. Obtains all applicable permits required by local, state and federal agencies having jurisdiction over the salvage activity; and
- D. Provides a plan acceptable to the bureau that results in substantial improvements or benefits to public trust rights or uses on that or a related body of water.

Pulpwood salvaged under a plan approved and implemented in accordance with the terms of this subsection is the property of the person authorized to collect and store pulpwood at the salvage site. A person who salvages pulpwood under this subsection shall comply with the provisions of the approved plan and with all applicable permitting requirements and other legal requirements pertaining to the salvage activity. Pulpwood salvaged under this section may be processed only at a mill owned by the person authorized to collect and store pulpwood at the salvage site.

Sec. 15. 12 MRSA §1883, as enacted by PL 1997, c. 678, §13, is repealed.

Sec. 16. 12 MRSA §1884, as amended by PL 1999, c. 547, Pt. B, §28 and affected by §80, is further amended to read:

§1884. Enforcement, inspection and penalties for violations

~~Rules and permits~~ Permits issued by the bureau under this subchapter have the force and effect of law. No timber harvesting operation may be undertaken except in conformance with this subchapter.

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

~~Any person who violates any provision of this subchapter other than section 1880 or rules adopted or permits issued under section 1880 commits a Class E crime.~~

A person who violates any provision of section 1880, except as otherwise provided in this paragraph, or rules adopted to implement or permits issued under that section 1880 commits a civil violation for which a forfeiture of up to \$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 1880 commits a civil violation for which a forfeiture of up to \$1,000 may be adjudged. A person who violates the herbicide provisions of section 1880 is subject to the penalties of Title 22, section 1471-J.

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 subchapter or of the ~~rules or~~ permits issued under it or rules adopted under section 1803. This action may include, but is not limited to, proceedings to revoke or suspend any bureau permit or approval taken before the District Court in accordance with Title 4, section 152, subsection 9 and Title 4, chapter 5 or, notwithstanding the provisions of Title 5, section 10051, before the Superior Court, as part of an enforcement action brought by the bureau.

Sec. 17. 12 MRSA §§1885, 1886 and 1887, as enacted by PL 1997, c. 678, §13, are repealed.

Sec. 18. 12 MRSA §1895, sub-§§1 and 2, as enacted by PL 1997, c. 678, §13, are repealed.

Sec. 19. 12 MRSA §§1899-A, 1899-B and 1899-C, as enacted by PL 1997, c. 678, §13, are repealed.

Sec. 20. 15 MRSA §1025, as amended by PL 1997, c. 678, §20, is further amended to read:

§1025. Law enforcement officers

A law enforcement officer making a warrantless arrest under Title 17-A, section 15 may, without fee, take the personal recognizance of any defendant for appearance on a charge of a Class D or Class E crime. If authorized, a law enforcement officer may, without fee, take the personal recognizance with deposit in

accordance with ~~Title 12, section 1886~~; Title 12, section 7053, subsection 2, paragraph C; and Title 12, section 9707. The law enforcement officer's authority under this section continues as long as the arrestee remains in the officer's custody.

Sec. 21. 25 MRSA §2801-B, sub-§1, ¶B, as amended by PL 1999, c. 682, §2, is further amended to read:

B. Agents or representatives of the Department of Conservation, Bureau of Parks and Lands, whose law enforcement powers are limited to those specified in Title 12, section ~~1821~~ 1806;

See title page for effective date.

CHAPTER 605

H.P. 1513 - L.D. 2016

An Act to Facilitate Compliance with Spill Prevention Requirements and Authorize Reimbursement for Certain Oil Spill Remediation Expenses

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

Sec. 1. 38 MRSA §569-A, sub-§8, ¶A, as amended by PL 1999, c. 278, §2, is further amended to read:

A. Administrative expenses, personal services and equipment costs of the department related to the administration and enforcement of this subchapter, except that total disbursements for personal services may not exceed ~~\$2,250,000~~ \$2,900,000 per fiscal year, multiplied by an annual adjustment factor of 4% beginning in fiscal year ~~1999~~ 2002-03;

Sec. 2. 38 MRSA §570-K, sub-§4, as enacted by PL 1993, c. 363, §17 and affected by §21, is amended to read:

4. Exemption. The following aboveground oil storage facilities are exempt from the requirements of ~~this section~~ subsections 2 and 3:

A. Facilities or portions of facilities that are used exclusively for the storage of #2 and other home heating oil and consist of an individual tank of 660 gallons or less capacity or an aggregate tank capacity of 1320 gallons or less; and

B. Facilities containing only liquefied petroleum gas or liquefied natural gas.

Sec. 3. 38 MRSA §570-K, sub-§5 is enacted to read:

5. Spill prevention and control. An above-ground oil storage facility used in the marketing and distribution of oil to others must be operated in compliance with the federal requirements for the preparation and implementation of spill prevention control and countermeasure plans under 40 Code of Federal Regulations, 112 (2001). Failure to comply with those federal requirements constitutes a violation of this Title. If the department believes that a facility's plan does not satisfy those federal requirements, the department shall request an opinion from the United States Environmental Protection Agency as to the legal adequacy of the plan and any amendment necessary to bring the facility into compliance with those federal requirements. The department shall prepare educational and technical materials for use by facilities affected by this subsection. This subsection is repealed October 1, 2005.

Sec. 4. Report. The Commissioner of Environmental Protection shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 15, 2005 on all activities undertaken by the Department of Environmental Protection under the provisions of the Maine Revised Statutes, Title 38, section 570-K, subsection 5. That report must include the number of facilities inspected under that subsection; the number of spill prevention and control and countermeasure plans reviewed by the department under that subsection; the number, nature and result of any written communications submitted to the United States Environmental Protection Agency pursuant to that subsection; the number and result of all enforcement actions taken by the department for violations of that subsection; and an overview of the educational and technical assistance efforts undertaken by the department under that subsection. That report must also include a qualitative assessment of the department's effectiveness in implementing that subsection, including an assessment by the regulated community of the department's performance under that subsection.

Sec. 5. Authority to report out legislation. The joint standing committee of the Legislature having jurisdiction over natural resources matters may report out legislation to the First Regular Session of the 122nd Legislature on any matter pertaining to the State's enforcement of federal standards pertaining to the preparation and implementation of spill prevention control and countermeasure plans under the Maine Revised Statutes, Title 38, section 570-K, subsection 5.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.