

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST SPECIAL SESSION
September 27, 2011

SECOND REGULAR SESSION
January 4, 2012 to May 31, 2012

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
LAWS IS
SEPTEMBER 28, 2011

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 30, 2012

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

Augusta, Maine
2012

~~shall~~ may not practice in any manner ~~which~~ that offers or implies to offer rebates to persons submitting specimens or other fee splitting inducements; or participate in any fee splitting arrangement. This applies to contents of fee schedules, billing methods or personal solicitation. The contractual provision of laboratory services for a fixed fee independent of the number of specimens submitted for such services is declared to be a violation of this section. ~~A copy of the itemized statement shall be sent to the patient.~~

See title page for effective date.

CHAPTER 532

S.P. 598 - L.D. 1741

An Act To Streamline the Paperwork Requirements of the State's Forest Practices Laws

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

Sec. 1. 12 MRSA §8878-A, as enacted by PL 1997, c. 720, §13, is repealed.

Sec. 2. 12 MRSA §8879, as amended by PL 2005, c. 683, Pt. A, §15, is further amended to read:

§8879. Report on the state of the State's forests

The director shall publish a ~~biennial~~ report on the state of the State's forests every 5 years. The director must submit a copy of the report to the joint standing committee of the Legislature having jurisdiction over forestry matters by January 1st ~~of odd-numbered every 5 years beginning January 1, 1999~~ 2016.

1. Content. The report must describe the condition of the State's forests based on historical information and information collected and analyzed by the bureau for the ~~biennium~~ 5-year period. The report must provide an assessment at the state level of progress in achieving the standards developed pursuant to section 8876-A, including progress of the outcome-based forestry experiment authorized under section 8003, subsection 3, paragraph Q. The director shall also provide observations on differences in achieving standards by landowner class. The report must summarize importing and exporting of forest products for foreign and interstate activities. The director shall obtain public input during the preparation of the report through ~~public hearings and other~~ appropriate methods.

1-A. Report on changes in ownership of forest land. Using information received under Title 36, section 581-G, the director shall monitor changes in ownership of parcels of forest land that are 1,000 acres or greater in area within the municipalities of the State

and classified under the Maine Tree Growth Tax Law. Using information received under Title 36, sections 581-F and 581-G, the director shall monitor the number of parcels classified under the Maine Tree Growth Tax Law and the distribution of parcels by size. The ~~biennial~~ report must include information on the number of parcels, classified by size categories, for the organized and unorganized territories of the State. The information must be presented in a manner that facilitates comparison from year to year.

In assessing changes in forest land ownership, the director shall also consider information reported pursuant to Title 36, sections 305 and 2728. The director shall provide a summary of changes in ownership of forest land in the ~~biennial~~ report.

2. Recommendations. The report must include recommendations for state and private actions designed to address the needs identified in the assessment.

A. State action recommendations must be defined in terms of necessary policies, programs, staff and budgetary requirements to achieve specific goals.

B. Recommendations for actions on privately held forest lands may be developed separately for large, industrial ownerships and small, nonindustrial ownerships. These recommendations must be defined in terms of actions needed to achieve specific goals.

Sec. 3. 12 MRSA §8881, sub-§12 is enacted to read:

12. Timber harvesting. "Timber harvesting" has the same meaning as in section 8868, subsection 4.

Sec. 4. 12 MRSA §8883-B, sub-§1, as enacted by PL 2003, c. 452, Pt. F, §44 and affected by Pt. X, §2, is amended to read:

1. Notification required prior to harvest. Unless exempted under subsection 6 or by rule, ~~prior to commencing harvesting operations the~~ a landowner or designated agent shall notify the bureau ~~of~~ prior to beginning timber harvesting.

~~A. A harvest operation of 50 cords or less; or~~

~~B. A commercial harvest operation of more than 50 cords.~~

When the ~~harvest~~ timber harvesting is occurring within a municipality, the bureau shall send a copy of the notification form to the municipal clerk.

Sec. 5. 12 MRSA §8883-B, sub-§2, ¶G, as enacted by PL 2003, c. 452, Pt. F, §44 and affected by Pt. X, §2, is amended to read:

G. 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;~~

Sec. 6. 12 MRSA §8883-B, sub-§2, ¶H, as enacted by PL 2003, c. 452, Pt. F, §44 and affected by Pt. X, §2, is amended to read:

H. 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;~~

Sec. 7. 12 MRSA §8883-B, sub-§6, as enacted by PL 2003, c. 452, Pt. F, §44 and affected by Pt. X, §2, is amended to read:

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

- A. Activities ~~where~~ when 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;
- B. Precommercial silvicultural forestry activities; and
- C. Harvesting performed by the landowner within a 12-month period when the total area harvested on land owned by that landowner does not exceed: 2 acres.

~~(1) Two acres if the residual basal area of acceptable growing stock over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground is less than 30 square feet basal area per acre; or~~

~~(2) Five acres if the residual basal area of acceptable growing stock over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground is more than 30 square feet basal area per acre.~~

Sec. 8. 12 MRSA §8883-B, sub-§6-A is enacted to read:

6-A. Alternative notifications. The bureau may develop alternative notification forms and methods for reporting:

A. A timber harvesting operation 10 acres or less in area; and

B. Timber harvesting for the purpose of converting the land to another use when a person certified in erosion control practices by the Department of Environmental Protection is responsible for management of erosion and sedimentation control at the harvest site.

Sec. 9. 12 MRSA §8883-B, sub-§7, as enacted by PL 2003, c. 452, Pt. F, §44 and affected by Pt. X, §2, is amended to read:

7. Penalties. The following penalties apply to the failure to notify the bureau pursuant to this section. Each day of failure to notify is a separate offense.

~~A. Failure to notify the bureau of a harvest operation of 50 cords or less constitutes a civil violation for which a fine of not more than \$50 may be adjudged.~~

~~B. Providing inaccurate information on a notification form for a harvesting operation of 50 cords or less is a civil violation for which a fine of not more than \$50 may be adjudged.~~

C. Failure to notify the bureau of a ~~commercial harvest~~ timber harvesting operation of ~~more than 50 cords~~ constitutes a civil violation for which a fine not to exceed \$1,000 for each occurrence may be adjudged 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 fine not to exceed \$1,000 for each day the operation continues may be adjudged.

D. Providing inaccurate information on a notification form for a ~~commercial~~ timber harvesting operation of ~~more than 50 cords~~ is a civil violation for which a fine of not more than \$1,000 for each occurrence may be adjudged.

Sec. 10. 12 MRSA §8883-B, sub-§9 is enacted to read:

9. Rulemaking. No later than November 1, 2012, the bureau shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 11. 12 MRSA §8886, sub-§1, as enacted by PL 1989, c. 555, §12 and affected by c. 600, Pt. B, §11, is amended to read:

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~~ **must** include, but ~~is not~~ **is** 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, the number of clear-cuts over 75 acres in size, the total acres planted and the total acres pre-commercially thinned.

Sec. 12. Directive to amend certain rules pertaining to certification of clearcuts and notification of timber harvesting. No later than November 1, 2012, the Commissioner of Conservation shall amend the Department of Conservation Rule Chapter 20: Forest Regeneration and Clearcutting Standards to:

1. Remove the requirement that a licensed professional forester certify that regeneration standards have been met for Category 2 and Category 3 clearcuts;

2. Remove the requirement that a landowner file a report with the Department of Conservation, Bureau of Forestry along with certification that the regeneration standards have been met for Category 2 and Category 3 clearcuts; and

3. Remove that section of Rule Chapter 20 that establishes a process by which landowners file a notification with the bureau prior to beginning a timber harvesting operation. Notwithstanding the Maine Revised Statutes, Title 12, section 8867-A, revisions to Rule Chapter 20 in accordance with this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 533

S.P. 592 - L.D. 1732

An Act To Amend Certain Provisions of the Fish and Wildlife Laws

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

Whereas, certain changes to the laws governing inland fisheries and wildlife and snowmobiles need to be made before the current winter season is over; 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:

Sec. 1. 12 MRSA §10155, sub-§1, as amended by PL 2011, c. 253, §3, is further amended to read:

1. Membership. Members of the board must be residents of the State. The board consists of the following 4 members:

A. Two employees of the department, appointed by the commissioner, one of whom may be a retired employee who has experience in taxidermy; and

B. ~~One~~ Two licensed ~~taxidermist~~ taxidermists with expertise in the art of taxidermy, appointed by the Governor; ~~and~~ .

~~C. One member of the general public with no affiliation to the art of taxidermy, appointed by the Governor.~~

Sec. 2. 12 MRSA §10801, sub-§6, ¶A, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

Sec. 3. 12 MRSA §11152, sub-§3, ¶A, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

Sec. 4. 12 MRSA §11152, sub-§7, as enacted by PL 2005, c. 142, §2, is amended to read:

7. Special antlerless deer permit. The commissioner shall issue a special antlerless deer permit to an eligible person who is ~~a resident and~~ is suffering from the loss of or the permanent loss of use of both lower extremities. The commissioner shall issue a permit upon application and after the applicant verifies that person's ambulatory disability with a letter signed by a physician ~~licensed in the State~~ confirming the person's condition. A person who is issued a special antlerless deer permit under this subsection may take an antlerless deer in any part of the State open to the taking of antlerless deer pursuant to subsection 3.

Sec. 5. 12 MRSA §12503, sub-§4, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B,