

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2014 to July 16, 2015

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 15, 2015

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

Augusta, Maine
2015

**CHAPTER 313
H.P. 509 - L.D. 756**

**An Act To Enhance the
Address Confidentiality
Program Regarding Property
Records**

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

Sec. 1. 5 MRSA §90-B, sub-§4, as amended by PL 2013, c. 478, §1, is further amended to read:

4. Use of designated address. Upon demonstration of a program participant's certification in the program, state and local government agencies and the courts shall accept and use only the designated address as a program participant's address unless the secretary has ~~determined that:~~ approved an exemption pursuant to subsection 5-A.

~~A. The agency has a bona fide statutory or administrative requirement for the use of the program participant's address or mailing address, such that it is unable to fulfill its statutory duties and obligations without the residential address; and~~

~~B. The program participant's address or mailing address will be used only for those statutory and administrative purposes.~~

Sec. 2. 5 MRSA §90-B, sub-§5, as amended by PL 2013, c. 478, §1, is repealed.

Sec. 3. 5 MRSA §90-B, sub-§5-A is enacted to read:

5-A. Disclosure to law enforcement and to other state and local agencies. If the secretary determines it appropriate, the secretary may make a program participant's address or mailing address available for use by granting an exemption under the following circumstances:

A. Upon request to the secretary by:

(1) A law enforcement agency in the manner provided for by rule; or

(2) A commissioner or other chief administrator of a state or local government agency or the commissioner's or administrator's designee in the manner provided for by rule; and

B. Upon a finding by the secretary that:

(1) An agency under paragraph A has a bona fide statutory, administrative or law enforcement requirement for use of the program participant's address or mailing address such that the agency is unable to fulfill its statutory duties and obligations without the address or mailing address; and

(2) The program participant's address or mailing address will be used only for those statutory, administrative or law enforcement purposes and otherwise will be kept under seal and excluded from public inspection.

Sec. 4. 36 MRSA §191, sub-§2, ¶K, as amended by PL 2009, c. 361, §11, is further amended to read:

K. The disclosure by a municipal assessor, or by the State Tax Assessor with regard to the unorganized territory, of information contained on a declaration of value filed pursuant to section 4641-D or the Internet publication by the State Tax Assessor of information, other than taxpayer identification numbers, obtained from declarations of value filed pursuant to section 4641-D, except that, upon request by an individual who is certified by the Secretary of State as a participant in the Address Confidentiality Program pursuant to Title 5, section 90-B, the municipal assessor shall redact the name of that individual on the declaration of value form prior to disclosure;

See title page for effective date.

**CHAPTER 314
S.P. 315 - L.D. 870**

**An Act To Amend the Maine
Spruce Budworm Management
Laws**

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

Sec. 1. 12 MRSA §8422, sub-§§1, 2 and 4, as enacted by PL 1979, c. 737, §12, are amended to read:

1. Supply of wood. ~~The protection of an adequate~~ Monitoring the status of and reporting on the present and future supply of wood to support the long-term economic needs of the State and of its forest products industries;

2. Development of program. The development and utilization in both the public and private sectors of forest protection and management programs ~~which~~ that are cost-effective, biologically sound and responsive to the public's environmental and health concerns ~~of the public;~~

4. Private efforts; pest management. The encouragement of private efforts to undertake a variety of integrated pest management techniques ~~which~~ that result in a long-term reduction in the susceptibility vulnerability of the ~~state's~~ State's forests to spruce budworm infestation and loss;

Sec. 2. 12 MRSA §8422, sub-§4-A is enacted to read:

4-A. Presalvage and salvage harvesting. The regulation of presalvage and salvage harvesting designed to reduce losses of timber while protecting public trust resources and supporting the protection of wildlife habitat through the retention of non-susceptible tree species where silviculturally and ecologically appropriate;

Sec. 3. 12 MRSA §8422, sub-§§5 to 7, as enacted by PL 1979, c. 737, §12, are amended to read:

5. Implementation. ~~The implementation of equitable methods for determining private and public participation in, and financing of, spruce budworm suppression and prevention management programs, including provision for voluntary participation in future insecticide spray projects;~~

6. Regulatory review. ~~The provision for adequate regulatory review of any proposed insecticide spray projects by an independent state agency the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control; and~~

7. Management options. ~~The provision of management and utilization assistance programs options for small forest landowners designed to minimize impacts of spruce budworm infestation and loss.~~

Sec. 4. 12 MRSA §8423-A, sub-§§2 and 4, as enacted by PL 1981, c. 278, §2, are repealed.

Sec. 5. 12 MRSA §8423-A, sub-§5, as enacted by PL 1981, c. 278, §2, is amended to read:

5. Forest land owners. ~~"Forest land owners" means persons who own forest lands within the district, including, without limitation, persons owning or claiming timber and grass rights in public reserved land located within the district.~~

Sec. 6. 12 MRSA §8423-A, sub-§6, as enacted by PL 1981, c. 278, §2 and amended by PL 2011, c. 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, is further amended to read:

6. Management program. ~~"Management program" means all activities undertaken by the Bureau of Forestry in connection with the short-term and long-term suppression, control and prevention management of spruce budworm infestations, including, without limitation, any activities undertaken in connection with spray projects, spruce budworm survey and detection activities, targeting silvicultural, marketing and integrated pest management programs, research, methods development and related activities and any involvement in any spray activities.~~

Sec. 7. 12 MRSA §8423-A, sub-§7-A is enacted to read:

7-A. Presalvage and salvage harvesting. "Presalvage and salvage harvesting" means the harvesting of trees vulnerable to damage.

Sec. 8. 12 MRSA §8423-A, sub-§§8 and 10, as enacted by PL 1981, c. 278, §2, are repealed.

Sec. 9. 12 MRSA §8423-A, sub-§11, as enacted by PL 1981, c. 278, §2 and amended by PL 2011, c. 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, is repealed.

Sec. 10. 12 MRSA §8423-A, sub-§13 is enacted to read:

13. Spruce budworm timber harvesting standards. "Spruce budworm timber harvesting standards" means standards for presalvage and salvage harvesting of spruce and fir stands vulnerable to and subject to spruce budworm damage.

Sec. 11. 12 MRSA §8423-B, as enacted by PL 1981, c. 278, §3, is repealed.

Sec. 12. 12 MRSA §8423-C is enacted to read:

§8423-C. Presalvage and salvage harvesting

1. Regulation. The Department of Agriculture, Conservation and Forestry shall regulate the presalvage and salvage harvesting of forest stands in areas that, based on the proportion of balsam fir, white spruce, red spruce, black spruce, other softwood and hardwood components present, have significant risk of damage from spruce budworm and are subject to a credible threat of imminent spruce budworm damage.

A. The assessments of risk and vulnerability of a specific forest stand must be supported by adequate data, including but not limited to:

(1) Forest stand type information; and

(2) A documented history of recent elevated spruce budworm moth presence or foliage damage from spruce budworm feeding.

B. The director shall designate areas for presalvage and salvage harvesting subject to rules adopted pursuant to subsection 5 no later than January 1st of each year. Areas designated for presalvage and salvage harvesting must be inspected and verified by a licensed forester in the employ of the bureau. The director shall seek public comment for a 30-day period prior to designating such areas.

C. A forest stand that is identified for presalvage and salvage harvesting must be located within the areas designated pursuant to paragraph B.

2. Notification. Prior to beginning timber harvesting pursuant to this subchapter, a landowner or designated agent shall notify the bureau in accordance

with the notification requirements set forth in chapter 805, subchapter 5.

3. Reporting. Timber harvests conducted pursuant to this subchapter are subject to the same reporting requirements set forth in chapter 805, subchapter 5, except that the director may require additional information to be reported to satisfy the requirements of this subchapter.

4. Confidentiality. Reports filed in accordance with subsection 3 are confidential. The director may publish summary reports that use aggregated data that do not reveal the activities of an individual person or firm. Reports submitted pursuant to subsection 3 must be available for the use of the State Tax Assessor for the administration of Title 36.

5. Rules. The commissioner shall adopt rules to implement this subchapter, including rules establishing spruce budworm timber harvesting standards. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

A. The rules must:

(1) Exclude presalvage and salvage harvesting in protection subdistricts within the jurisdiction of the Maine Land Use Planning Commission and in areas subject to timber harvesting regulation under section 8867-B;

(2) Identify the areas subject to a credible threat of imminent spruce budworm damage and the forest stand criteria needed for presalvage and salvage harvesting; and

(3) Define the size and scope of presalvage and salvage harvesting projects that will require additional review by the bureau.

B. The Commissioner of Agriculture, Conservation and Forestry shall consult with the Commissioner of Environmental Protection and the Commissioner of Inland Fisheries and Wildlife to ensure that rules adopted under this subsection are consistent with wildlife habitat and environmental protection.

C. Except as otherwise provided in this subchapter or in rules developed pursuant to this subsection, the provisions of chapter 805, subchapter 3-A do not apply to presalvage and salvage harvesting regulated under this subchapter.

D. The rules must provide that regeneration requirements adopted by rule pursuant to section 8869, subsection 1 apply to spruce budworm timber harvesting conducted pursuant to this subchapter.

6. Penalties. A person who violates this section or a rule adopted pursuant to this section commits a civil violation and is subject to the following penalties:

A. A person who violates this section or a rule adopted pursuant to this section commits a civil violation for which a fine of not less than \$100 and not more than \$1,000 may be adjudged for each day of that violation; and

B. A person who violates this section or a rule adopted pursuant to this section after having previously been adjudicated of a violation of this section within the previous 5-year period commits a civil violation for which a fine of not less than \$1,000 but not more than \$2,000 may be adjudged for each day of that violation.

If the economic benefit resulting from the violation exceeds the applicable penalties under paragraphs A and B, the maximum fines may be increased. The maximum fine may not exceed an amount equal to twice the economic benefit resulting from the violation. The bureau shall consider as economic benefit, without limitation, the costs avoided or the enhanced value accrued at the time of the violation by the violator as a result of not complying with the applicable legal requirements.

Sec. 13. 12 MRSA §8424, sub-§1, as enacted by PL 1979, c. 737, §12 and amended by PL 2011, c. 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, is further amended to read:

1. General authority. In accordance with the provisions of this subchapter, the Bureau of Forestry, acting under the supervision of the director, ~~shall be empowered to~~ may plan for and undertake activities related to ~~spruce budworm~~ spruce budworm management programs on behalf of the State.

Sec. 14. 12 MRSA §8424, sub-§2, as amended by PL 2011, c. 657, Pt. W, §7; c. 662, §10; and PL 2013, c. 405, Pt. A, §23, is repealed.

Sec. 15. 12 MRSA §8424, sub-§3, as amended by PL 1985, c. 58, §1, is repealed.

Sec. 16. 12 MRSA §8424, sub-§§4 and 5, as enacted by PL 1979, c. 737, §12, are repealed.

Sec. 17. 12 MRSA §8424, sub-§6, as amended by PL 1983, c. 623, is repealed.

Sec. 18. 12 MRSA §8424, sub-§§7 and 8, as enacted by PL 1979, c. 737, §12 and amended by PL 2011, c. 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, are further amended to read:

7. Technical assistance programs. The Bureau of Forestry shall ~~undertake to develop and implement budworm management~~ use its authorized technical assistance programs ~~for small wood lot owners to assist landowners with spruce budworm management issues.~~

8. Supply-demand analyses. The Bureau of Forestry shall conduct or cause to be conducted ~~an~~ analysis analyses of future supply and demand for the

spruce and fir resources of the State. ~~The purpose of such analysis shall be to determine the types and levels of future spruce budworm protection needs and strategies for such spruce and fir resources.~~

Sec. 19. 12 MRSA §8424, sub-§9, as enacted by PL 1979, c. 737, §12 and amended by PL 2011, c. 657, Pt. W, §§5 and 7 and PL 2013, c. 405, Pt. A, §23, is repealed.

Sec. 20. 12 MRSA §8425, as enacted by PL 1979, c. 737, §12 and amended by PL 2011, c. 657, Pt. W, §§5 and 7 and PL 2013, c. 405, Pt. A, §23, is repealed.

Sec. 21. 12 MRSA §8426, as amended by PL 1985, c. 664, §1; PL 2011, c. 657, Pt. W, §7; and PL 2013, c. 405, Pt. A, §23, is repealed.

Sec. 22. 12 MRSA §8427, as corrected by RR 2013, c. 2, §19, is repealed.

Sec. 23. 12 MRSA §8428, sub-§§2 and 3, as enacted by PL 1979, c. 737, §12, are repealed.

Sec. 24. 12 MRSA §8428, sub-§4, as enacted by PL 1979, c. 737, §12 and amended by PL 2011, c. 657, Pt. W, §6, is repealed.

Sec. 25. 12 MRSA §8428, sub-§5, as enacted by PL 1979, c. 737, §12, is amended to read:

5. Entry on lands. The director or ~~his~~ the director's representatives may enter, ~~upon reasonable advance notice to the landowner, at any reasonable time and in a reasonable manner,~~ any tract of land for on which ~~application pursuant to section 8424, subsection 2, has been made in order to inspect the same free of any charge or cost imposed by the owner or his agents~~ a spruce budworm management program is being conducted or is proposed to be conducted.

Sec. 26. 12 MRSA §8428, sub-§6, as enacted by PL 1979, c. 737, §12, is repealed.

Sec. 27. 12 MRSA §8428, sub-§7, as enacted by PL 1979, c. 737, §12, is amended to read:

7. Contractual authority. The director, ~~with the approval of the commissioner, shall have the authority to~~ may enter into contracts ~~for the acquisition of insecticides, aircraft, personnel and other goods and services necessary or appropriate for management programs and for other purposes related to this subchapter.~~

Sec. 28. 12 MRSA §8428, sub-§8, as enacted by PL 1979, c. 737, §12, is repealed.

Sec. 29. 12 MRSA §8428, sub-§10, as corrected by RR 2013, c. 1, §24, is amended to read:

10. Report. The director shall, at the end of each calendar year, undertake a ~~complete financial~~ review of any spruce budworm management program activities undertaken that year and shall make a full report

on the activities to the joint standing committee of the Legislature having jurisdiction over forestry management matters during the next session of the Legislature. The report ~~shall~~ must include, but ~~is not~~ is not be limited to, ~~sources of funding, private, state or federal and total expenditures broken down in the following categories: Insecticides, aircraft, monitoring, research and other appropriate categories. Also to be included shall be a statement of any remaining balance by source, private, state or federal spruce budworm survey and monitoring activities and findings, outcomes of any research or methods development activities, levels and outcomes of harvest monitoring for harvests conducted under rules adopted pursuant to this subchapter, scopes of landowner assistance activities conducted and other issues as appropriate. The Department of Agriculture, Conservation and Forestry, Board of Pesticides Control must report information on spray activities related to spruce budworm management and outcomes annually to the bureau no later than March 1st. Reports required under this subsection must use aggregated data that do not reveal the activities of an individual person or firm.~~

Sec. 30. 12 MRSA §8428, sub-§11, as enacted by PL 1985, c. 664, §3, is repealed.

Sec. 31. 12 MRSA §8430, as amended by PL 1987, c. 183, §4; PL 2011, c. 657, Pt. W, §7; and PL 2013, c. 405, Pt. A, §23, is further amended to read:

§8430. Research

1. Authority. The Bureau of Forestry, acting through its director, with the approval of the commissioner, may make grants of funds and enter into contracts for purposes of research related to forest management strategies, effects on wildlife and wildlife habitat, insecticide and spray application technologies, integrated pest management techniques, forest product marketing and utilization and other issues pertinent to the purposes of this subchapter. This research may be funded with any funds available, ~~provided that as long as~~ as the cost of environmental and health monitoring of spray projects ~~shall be~~ are part of annual spray project costs and not paid out of General Fund moneys.

2. Research on public lands. The commissioner, director or other chief executive officer of any state agency having jurisdiction over any public land may make that land over which the commissioner, director or officer has jurisdiction available on such terms and conditions as ~~he deems~~ the commissioner, director or officer considers reasonable to any public or private nonprofit entity engaged in spruce budworm control research and related silvicultural control research. The director shall likewise encourage private landowners within the State to make their lands available for the same purposes.

Sec. 32. 12 MRSA §8431 is enacted to read:

§8431. Effect of other laws

This subchapter does not exempt any presalvage and salvage harvesting on public reserved lands and nonreserved public lands from any other law governing management of those lands, including but not limited to management of deer wintering areas.

Sec. 33. 36 MRSA §112, sub-§8, ¶C, as amended by PL 2011, c. 548, §10, is repealed.

See title page for effective date.

CHAPTER 315

S.P. 353 - L.D. 1013

An Act To Prevent the Shackling of Pregnant Prisoners and Pregnant Juveniles

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

Sec. 1. 30-A MRSA §1510 is enacted to read:

§1510. Definitions

For the purposes of this chapter, "prisoner" or "inmate" means an adult sentenced and committed to, transferred to or detained in the custody of a jail, including an adult in a community confinement monitoring program pursuant to section 1659-A.

Sec. 2. 30-A MRSA c. 13, sub-c. 2-A is enacted to read:

SUBCHAPTER 2-A

PREGNANT PRISONERS AND PREGNANT JUVENILES

§1581. Definitions

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

1. Corrections officer. "Corrections officer" means a person who is responsible for the custody or direct supervision of a person confined in a jail, prison or state correctional facility pursuant to an order of a court or as a result of an arrest and who possesses a current and valid certificate issued by the Board of Trustees of the Maine Criminal Justice Academy pursuant to Title 25, section 2803-A.

2. Labor. "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity and duration to bring about effacement and progressive dilation of the cervix.

3. Postpartum recovery. "Postpartum recovery" means, as determined by a woman's physician, the period immediately following delivery, including the entire period the woman is in the hospital or infirmary after giving birth.

4. Restraints. "Restraints" means any physical restraint or mechanical device used to control the movement of a prisoner's or juvenile's body or limbs, including, but not limited to, disposable or soft restraints, handcuffs, a security restraint system that combines handcuffs with a rigid component, leg irons, belly chains, a security or tether chain and a convex shield.

§1582. Restraint of pregnant prisoners and pregnant juveniles

1. Restraints prohibited. A jail may not use restraints on a prisoner or juvenile known to be pregnant, including during transport to a medical facility or birthing center, labor, delivery and postpartum recovery, unless the jail administrator or the designee of the jail administrator makes a determination that the prisoner or juvenile presents an extraordinary circumstance as described in subsection 2.

2. Exceptions. Use of restraints on a pregnant prisoner or a pregnant juvenile for an extraordinary circumstance is permitted only if a jail administrator or designee of the jail administrator makes a determination that there is a substantial flight risk or other extraordinary medical or security circumstance that requires restraints to be used to ensure the safety and security of the pregnant prisoner or pregnant juvenile, the staff of the jail or medical facility, other prisoners or juveniles or the public, except that:

A. If a doctor, nurse or other health professional treating the prisoner or juvenile requests that restraints not be used, the corrections officer accompanying the prisoner or juvenile shall immediately remove all restraints; and

B. Notwithstanding this subsection, leg or waist restraints may not be used at any time, and restraints may not be used on a prisoner or juvenile in labor or childbirth.

3. Procedures. If restraints are used on a pregnant prisoner or pregnant juvenile pursuant to subsection 2:

A. The corrections officer must apply the least restrictive type of restraints in the least restrictive manner necessary; and

B. The jail administrator or designee of the jail administrator shall make written findings within 10 days as to the extraordinary circumstance that required the use of the restraints. These findings must be kept on file by the jail for at least 5 years and must be made available for public inspection, except that individually identifying information of