

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "**B**" to H.P. 315, L.D. 429, Bill, "An Act Regarding State Forest Practice Laws"

Amend the bill by striking out all of the title and inserting in its place the following:

'An Act to Implement Sound Forest Practices'

Further amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

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

Sec. 1. 12 MRSA §5101, 2nd and 3rd ¶¶, as enacted by PL 1985, c. 488, §4, are amended to read:

The Legislature further finds that the forests of Maine are subject to increased demand for all of its products and that it has been subject to significantly increased natural mortality losses in the past-decade 1970's and 1980's.

The Legislature also finds that the vast majority of the forest resource in Maine is under private ownership and that the State's role should be to serve as a catalyst to encourage and promote sustained yield management and use of the forest and its related resources. This role is best realized if state actions in the forestry sector manifest a consistent and comprehensive perspective of how the forest resources can best serve the continuous need of the people of Maine.

The Legislature further finds that the forest land resource is being subjected to increasing pressure for conversion and development. These changes affect overall timber production, public recreation and wildlife habitat.

1 attorney's fees, and for court costs. In addition, if the action
2 includes the destruction, cutting or injury of any commercial
3 forest trees, the defendant is responsible for regeneration of
4 the stand in accordance with Title 12, section 8869. For
5 purposes of this section, Christmas trees and evergreen boughs
6 are defined in Title 12, section 8841, and agricultural product
7 is defined in section 7551-A.

9 Sec. 15. 36 MRSA §573, sub-§3-A is enacted to read:

11 3-A. Forest management and harvest plan. "Forest
12 management and harvest plan" means a written document, prepared
13 by a licensed professional forester, outlining activities to
14 regenerate, improve and harvest a standing crop of timber. The
15 plan shall include the location of water bodies and wildlife
16 habitat identified by the Department of Inland Fisheries and
17 Wildlife. A plan may include, but not be limited to, schedules
18 and recommendations for timber stand improvement, harvesting
19 plans and recommendations for regeneration activities.

21 Sec. 16. 36 MRSA §574, as amended by PL 1981, c. 517, §4 and
22 c. 625, §2, is repealed.

23 Sec. 17. 36 MRSA §574-B is enacted to read:

25 §574-B. Applicability

27
28 An owner of a parcel containing forest land may apply at the
29 landowner's election by filing with the assessor the schedule
30 provided for in section 579; except that this subchapter shall
31 not apply to any parcel containing less than 10 acres of forest
32 land. For purposes of this subchapter, a parcel is deemed to
33 include a unit of real estate, notwithstanding that it is divided
34 by a road, way, railroad or pipeline, or by a municipal or county
35 line. The election to apply shall require the unanimous consent
36 of all owners of an interest in a parcel, except for the State,
37 which is not subject to taxation hereunder.

38 A parcel of land used primarily for growth of trees to be
39 harvested for commercial use shall be taxed according to this
40 subchapter, provided that the landowner complies with the
41 following requirements:

42
43 1. Forest management and harvest plan. A forest management
44 and harvest plan has been prepared for the parcel and updated
45 every 10 years. The landowner shall file a sworn statement with
46 the municipal assessor in a municipality or the State Tax
47 Assessor for parcels in the unorganized territory that a
48 management plan has been prepared for the parcel. A landowner
49 with a parcel taxed pursuant to this subchapter on the date of
50 enactment of this provision has until April 1, 1999 to comply
51 with this requirement and may, upon request, be subject to the

1 applicability provisions until April 1, 1999, under this section
2 as it existed on April 1, 1982;

3
4 2. Evidence of compliance with plan. The landowner must
5 comply with the plan developed under subsection 1, and must
6 submit, every 10 years to the municipal assessor in a
7 municipality or the State Tax Assessor for parcels in the
8 unorganized territory, a statement from a licensed professional
9 forester that the landowner is managing the parcel according to
10 schedules in the plan required under subsection 1; and

11
12 3. Transfer of ownership. If the land is transferred to a
13 new owner, a forest management and harvest plan must be prepared
14 for the landowner and a sworn statement to that effect submitted
15 within one year to the municipal assessor in a municipality or
16 the State Tax Assessor for the unorganized territory.

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

19
20 Sec. 18. 36 MRSA §579, first ¶, as amended by PL 1981, c. 706,
21 §9 is further amended to read:

22
23
24 The owner or owners of forest land subject to valuation
25 under this subchapter shall submit a signed schedule in
26 duplicate, on or before April 1st of the year in which that land
27 first becomes subject to valuation under this subchapter, to the
28 assessor upon a form to be prescribed by the State Tax Assessor,
29 identifying the land to be valued hereunder, listing the number
30 of acres of each forest type, showing the location of each forest
31 type and representing that the land is used primarily for the
32 growth of trees to be harvested for commercial use. Those
33 schedules may be required at such other times as the assessor may
34 designate upon 90-days- 120-days' written notice.

35
36 Sec. 19. 36 MRSA §581-E is enacted to read:

37
38 §581-E. Report to the Bureau of Forestry

39
40 The municipal assessor or chief assessor of a primary
41 assessing area shall report to the Bureau of Forestry by November
42 1, 1990, or 30 days following the tax commitment date, whichever
43 is sooner, and annually thereafter, on forms provided by the
44 bureau, the following information relating to land taxed
45 according to this subchapter:

46
47 1. The names and addresses of landowners;

48
49 2. The total acres taxed pursuant to this subchapter,
50 including a forest type breakdown by softwood, mixed wood
51 and hardwood; and

1 3. The year each parcel was accepted for taxation under
2 this subchapter.

3 Sec. 20. 36 MRSA §1112, as repealed and replaced by PL 1987,
4 c. 728, §9, is amended to read:

5 §1112. Recapture penalty

6 Any change in use disqualifying land for classification
7 under this subchapter shall cause a penalty to be assessed by the
8 assessors of the municipality in which the land is located, or by
9 the State Tax Assessor if the land is not within a municipality,
10 in addition to the annual tax in the year of disqualification
11 except when the change is occasioned by a transfer resulting from
12 the exercise or the threatened exercise of the power of eminent
13 domain.

14 For land classified as farmland under this subchapter for
15 less than 5 full years, the penalty shall be equal to 40% of its
16 assessed fair market value at the time the land is removed from
17 the program. For land that has been classified as farmland under
18 this subchapter for more than 5 full years but less than 10 full
19 years, the penalty shall be full recapture of the taxes that
20 would have been paid on the land for all the years it was in the
21 program, less all taxes that were paid during those years and
22 interest at the rate set by the town during those years on
23 delinquent taxes. For land that has been classified as farmland
24 under this subchapter for more than 10 full years, the penalty
25 shall be the recapture of the taxes that would have been paid on
26 the land for the past 5 years if it had not been classified under
27 this subchapter, less all taxes that were actually paid during
28 those 5 years and interest at the rate set by the town during
29 those 5 years on delinquent taxes.

30 No penalty may be assessed at the time of a change of use
31 from one the farmland classification of land subject to taxation
32 under this subchapter to another the open space classification of
33 land subject to taxation under this subchapter ~~nor may any.~~ No
34 penalty may be assessed upon the withdrawal of open space land
35 from taxation under this subchapter if the owner applies for and
36 is accepted for classification as timberland under subchapter
37 II-A, ~~provided that in.~~ There also is no penalty imposed when
38 land classified as timberland is accepted for classification as
39 open space land. In the event a penalty is later assessed under
40 subchapter II-A the period of time that the land was taxed as
41 farmland or as open space land under this subchapter shall be
42 included for purposes of establishing the amount of the penalty.

43 If land is withdrawn from classification under this
44 subchapter, any penalty assessed may be considered for abatement
45 pursuant to the procedures incorporated in subchapter VIII.

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DEPARTMENT OF FINANCE		
TOTAL	<u> </u>	<u>\$5,000</u>
TOTAL APPROPRIATION	<u> </u>	<u>\$1,384,252</u>
	<u>\$1,334,444</u>	

FISCAL NOTE

Enactment of this legislation would result in a General Fund appropriation to the Department of Conservation, Forest Management, Utilization and Marketing, Account #01505.1, in the amount of \$1,622,588 in fiscal year 1989-90 and \$1,384,252 in fiscal year 1990-91. The bill also establishes a sales tax exemption for seedlings used in commercial forestry. This will result in a loss of General Fund revenue of \$36,667 in fiscal year 1990-91. The Commercial Forestry Excise Tax formula is changed beginning in fiscal year 1991-92, which will have a significant future impact on the General Fund when fully phased in. Also, a new income tax credit is established, resulting in an estimated loss of revenue to the General Fund of \$3,000 in fiscal year 1989-90 and \$6,000 in fiscal year 1990-91. Finally, funds are provided to the Bureau of Taxation for a computer.

The total impact of appropriations and revenue losses to the General Fund will be as follows:

	1989-90	1990-91
	\$1,337,444	\$1,426,919

There also will be significant future costs.'

STATEMENT OF FACT

This amendment replaces the original bill. In order to allow landowners, resource managers and regulators to plan for and manage healthy, productive forest lands, the amendment directs the Maine Forests for the Future Program to track the forest land base; provides for technical assistance for forest landowners and wood processors; establishes regulation of forest harvesting practices; requires accurate reporting of forest management, harvesting and processing activities; and creates landowner incentives to protect the forest land base and to actively manage forest lands.

Sections 1 to 5 of the amendment require the Maine Forests for the Future Program to track changes to the forest land base

1 as part of their overall assessment of forest lands and
2 establishes a study to develop a voluntary incentives program for
3 exemplary forest management.

5 Section 6 of the amendment enables the Commissioner of
6 Conservation to work with the University of Maine System to
7 enhance the curriculum in forest products marketing and finance.

9 Section 9 of the amendment enacts a strong technical
10 assistance program for forest landowners and wood processors,
11 including a forest management information clearinghouse, a
12 natural resource educator and a strengthened field forester
13 program to provide outreach services and referrals.

15 Section 10 of the amendment requires the Commissioner of
16 Conservation to develop rules for regeneration requirements,
17 clear-cutting practices, forest management plans and a variance
18 procedure from these requirements. Opportunities for public
19 comment and input are incorporated throughout this process.
20 These rules will be designed to address environmental concerns
21 related to clear-cutting. In recognition of the variation of
22 forest lands and harvesting sites in Maine, this amendment
23 proposes a variance procedure from the clear-cutting performance
24 standards. These procedures are to be site-related and not tied
25 to economic hardships of any individuals or corporations.

27 Section 10 of the amendment also requires regeneration of
28 commercial tree species on a clear-cut site within 5 years of a
29 clear-cut, except when destroyed by a natural disaster. These
30 regeneration requirements must be disclosed upon sale of any
31 harvested forest land until regeneration on the parcel has
32 satisfied the requirements of this section. Timber trespass
33 restitution requirements are amended in section 14 of the
34 amendment to include regeneration. Forest management plans for
35 clear-cuts over 50 acres in size are required to assure that
36 environmental concerns are addressed in large harvests.

37 Finally, in recognition of the difficulty in having a
38 variety of municipal ordinances regulating timber harvesting in
39 Maine, section 10 of the amendment requires municipalities to use
40 consistent terms in their ordinances, file their ordinances with
41 the Bureau of Forestry and notify the Bureau of Forestry before
42 any new ordinances are adopted.

45 Sections 13, 14 and 15 of the amendment strengthen forest
46 landowner and wood processor reporting requirements. While much
47 of the proposed new subchapter is reallocated from existing law,
48 this amendment requires preliminary notification of timber
49 harvesting. This will allow the bureau to track harvesting
50 operations and to conduct landowner outreach. Penalty provisions
51 for notification and reporting under this subchapter are
strengthened.

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Section 17 of the bill changes the requirements for eligibility for tree growth tax consideration to require a forest management plan for the parcel. This requirement is paired with a \$200 income tax credit for forest management plans in section 23 of the amendment.

Section 20 removes a loophole created last year for the transfer of land from tree growth tax status to the open space program and returns the withdrawal penalty to the level of the tree growth tax program.

Section 21 enacts a sales tax exemption for commercial tree seedlings.

Section 23 phases down the commercial forestry excise tax to 25% of the program costs by 1996.

Section 24 provides an income tax credit to landowners that have forest management plans developed for their holdings. Maine needs to encourage small landowners to manage their forest lands well to get the highest yields off those lands. This also offsets the new applicability provisions of the tree growth tax laws.

The amendment also contains two reporting requirements. Section 25 requires the Citizens Forestry Advisory Council to review all environmental protection standards related to forestry with the goal of recommending consistency. Section 26 requires the Commissioner of Conservation to review municipal ordinances and the need for them within 18 months of promulgating rules for forest practices.

This amendment also places an appropriation and a fiscal note on the bill.

Reported by the Committee on Taxation
Reproduced and distributed under the direction of the Clerk of the House
6/19/89 (Filing No. H-635)