

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Prohibit Foraging on Private Land without Permission

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

Sec. 1. 12 MRSA §8842-A, sub-§1, as amended by PL 2015, c. 55, §1, is further amended to read:

1. Cutting prohibited. A person may not:

A. Cut or harvest Christmas trees or, evergreen boughs or edible wild food on land of another without securing written permission or a bill of sale from the owner or the owner's authorized agents and having a copy of this written permission or bill of sale in immediate possession. Violation of this paragraph is a Class E crime; or

B. Violate paragraph A when:

(1) The value of the trees or, boughs or edible wild food is more than \$10,000. Violation of this subparagraph is a Class B crime;

(2) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(3) The value of the trees or, boughs or edible wild food is more than \$2,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime;

(4) The value of the trees or, boughs or edible wild food is more than \$1,000 but not more than \$2,000. Violation of this subparagraph is a Class D crime; or

(5) The person has 2 prior Maine convictions for any combination of the following: theft; any violation of Title 17-A, section 401 in which the crime intended to be committed inside the structure is theft; any violation of Title 17-A, section 651; any violation of Title 17-A, section 702, 703 or 708; or attempts thereat. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime.

Sec. 2. 12 MRSA §8842-A, sub-§§2 and 3, as enacted by PL 2003, c. 452, Pt. F, §40 and affected by Pt. X, §2, are amended to read:

2. Transport prohibited. A person may not:

A. Transport Christmas trees or, evergreen boughs or edible wild food without written permission or a bill of sale from the owner of the land where the trees or, evergreen boughs or edible wild food were harvested or that owner's authorized agents. Violation of this paragraph is a Class E crime; or

B. Violate paragraph A when:

(1) The value of the trees or, boughs or edible wild food is more than \$10,000. Violation of this subparagraph is a Class B crime;

(2) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(3) The value of the trees or, boughs or edible wild food is more than \$2,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime;

(4) The value of the trees or, boughs or edible wild food is more than \$1,000 but not more than \$2,000. Violation of this subparagraph is a Class D crime; or

(5) The person has 2 prior Maine convictions for any combination of the following: theft; any violation of Title 17-A, section 401 in which the crime intended to be committed inside the structure is theft; any violation of Title 17-A, section 651; any violation of Title 17-A, section 702, 703 or 708; or attempts thereat. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime.

3. Inspections and investigations. An officer authorized to make inspections and investigations under this article may require of any person, firm or corporation engaged in cutting, harvesting or transporting Christmas trees or, evergreen boughs or edible wild food to show:

A. If engaged in cutting or harvesting trees or, boughs or edible wild food belonging to another, a current written permit or bill of sale issued pursuant to subsection 1, paragraph A; and

B. If engaged in transportation, a current written permit, bill of sale, port of entry statement or other written proof of ownership when transporting for commercial purposes trees, loose or in bundles, or boughs, loose or baled, or edible wild food. A driver shall carry this permit on the driver's person or in the vehicle.

Sec. 3. 12 MRSA §8844, as repealed and replaced by PL 1983, c. 507, §2, is amended to read:

§ 8844. Seizure or attachment

Any officer authorized to make inspections, investigations or arrests under this Article may seize and hold Christmas trees or, evergreen boughs or edible wild food until proof of ownership has been established. If no proof of ownership has been established, the officer shall try to determine where those

trees ~~or~~, boughs or edible wild food were cut or harvested and notify the landowner. If the owner does not want the trees ~~or~~, boughs;or edible wild food or ownership cannot be determined, the State may dispose of them and any money derived from the disposition of the trees ~~and~~, boughs ~~shall~~ or edible wild food must be paid to the landowner, if ~~his~~ the landowner's identity can be established and, otherwise, to the Treasurer of State to be credited to the General Fund.

Sec. 4. 12 MRSA §8847, as repealed and replaced by PL 1983, c. 507, §4, is amended to read:

§ 8847. Enforcement agencies

State police, county sheriffs, municipal law enforcement officers, state forest rangers and game wardens are authorized to make inspections, investigations, arrests and disposals of trees ~~and~~, boughs or edible wild food under this ~~Article~~ article.

Sec. 5. 22 MRSA §2175, sub-§3, as amended by PL 2013, c. 533, §21, is further amended to read:

3. Refusal to certify; revocation of certification. The Department of Health and Human Services may decline to certify any person adjudged to have violated Title 12, chapter 805, subchapter 3, article 2 with regard to harvesting or transporting wild mushrooms or determined to lack the appropriate training to safely harvest, broker or sell wild mushrooms, in accordance with rules adopted by the Department of Health and Human Services pursuant to this section. The Department of Health and Human Services may revoke, in accordance with the Maine Administrative Procedure Act, the certification of any person in accordance with rules adopted by the Department of Health and Human Services pursuant to this section or any person adjudged to have violated Title 12, chapter 805, subchapter 3, article 2 with regard to harvesting or transporting wild mushrooms.

Sec. 6. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 12, chapter 805, subchapter 3, article 2, in the article headnote, the words "transportation or cutting of christmas trees" are amended to read "transportation, cutting or harvesting of christmas trees, evergreen boughs and edible wild food" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

SUMMARY

This bill requires anyone harvesting edible wild food to have written permission or a bill of sale from the landowner before harvesting or transporting. The permission requirements and enforcement provisions of this bill are the same as currently exist in Maine law for commercial harvesting of Christmas trees and boughs for wreaths. The bill also authorizes the Department of Health and Human Services to decline to certify or to revoke the certification under the Maine Wild Mushroom Harvesting Certification Program of any person found in violation of the prohibition.