

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 Penalize Violators of Wood Shipment and Quarantine Laws**

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

**Sec. 1. 12 MRSA §8307** is enacted to read:

### **§ 8307. Penalties**

**1. Civil violation.** A person who violates a rule adopted pursuant to sections 8305 and 8306, or a condition or term of a permit, variance or decision issued by the director or the Commissioner of Agriculture, Conservation and Forestry in accordance with rules adopted pursuant to sections 8305 and 8306, commits a civil violation.

**2. Penalty.** Except as provided in subsection 3, the following penalties apply to violations of this section.

**A.** A person who violates 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.

**B.** A person who violates this section after having 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 and not more than \$2,000 may be adjudged for each day of that violation.

**3. Economic benefit.** If the economic benefit resulting from a violation under subsection 1 exceeds the applicable penalties under subsection 2, 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.

**4. Costs permitted.** In any action or proceeding brought by the Attorney General under this section, the court may award litigation costs, including court costs, reasonable attorney's fees and reasonable expert witness fees, to be deposited in the General Fund if the State or any of its officers or agencies is a prevailing party in the action or proceeding and the defendant's defense was not substantially justified. For the purposes of this subsection, a defense is substantially justified if the defense had a reasonable basis in law or fact at the time it was raised.

## **SUMMARY**

This bill provides for penalties for violation of Department of Agriculture, Conservation and Forestry, Bureau of Forestry rules governing plant or wood products that may cause the introduction or

spread of a dangerous forest insect or disease and rules governing the quarantine of forest or shade trees or part of a forest or shade tree capable of supporting a disease or insect infestation.

The bill sets fines at \$100 to \$1,000 for each day of a violation and from \$1,000 to \$2,000 for each day of a violation by a violator that violated the rules within the previous 5-year period. It allows maximum fines to be increased to account for economic benefit and provides for the award of litigation costs in any action or proceeding brought by the Attorney General.