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Date: (Filing No. S-)

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**STATE OF MAINE
SENATE
126TH LEGISLATURE
SECOND REGULAR SESSION**

SENATE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to H.P. 206, L.D. 297, Bill, “An Act To Require Forest Rangers To Be Trained in Order To Allow Them To Carry Firearms”

Amend the amendment by striking out everything after the title and before the summary and inserting the following:

'Amend the bill by striking out the title and substituting the following:

'An Act To Create the Position of Conservation Officer To Provide for the Armed Protection of the Forests'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 12 MRSA §8901, sub-§2, ¶D, as amended by PL 2013, c. 130, §1 and c. 405, Pt. A, §24, is further amended to read:

D. Enforce the civil portions of Title 36, chapter 701 relating to blueberries, all civil laws relating to forests and forest preservation, civil laws relating to the Maine Land Use Planning Commission and civil laws and rules relating to lands under the jurisdiction of the Bureau of Parks and Lands;

Sec. 2. 12 MRSA §8901, sub-§2, ¶G, as amended by PL 1989, c. 174, §1, is further amended to read:

G. Carry out such other duties as the director prescribes; ~~and~~

Sec. 3. 12 MRSA §8901, sub-§2, ¶H, as enacted by PL 1989, c. 174, §2, is amended to read:

H. Have rights of access to all lands within the State to carry out the duties they are authorized by law to administer and enforce. Entry into private property under this paragraph is not a trespass. This paragraph does not authorize entry into any building or structure-; and

Sec. 4. 12 MRSA §8901, sub-§2, ¶I is enacted to read:

SENATE AMENDMENT

1 I. Investigate, plan and implement measures regarding forest health issues, including
2 the control of invasive forest insect species, and provide support to the units within
3 the bureau that are responsible for forest health and insect disease control.

4 **Sec. 5. 12 MRSA §8901, sub-§3, ¶A**, as amended by PL 2013, c. 130, §2 and c.
5 405, Pt. A, §24, is further amended to read:

6 A. Forest rangers and the state supervisor, for the purpose of enforcing the civil
7 provisions of Title 36, chapter 701 relating to blueberries, civil forest and forest
8 preservation laws, civil laws of the Maine Land Use Planning Commission and civil
9 laws and rules relating to the lands under the jurisdiction of the Bureau of Parks and
10 Lands, have statewide law enforcement powers equivalent to those of a sheriff, or a
11 sheriff's deputy, in the sheriff's county, including the right to execute or serve
12 criminal and civil violation processes against offenders, make warrantless arrests for
13 crimes, investigate and prosecute offenders, require aid in executing forest ranger
14 duties and deputize temporary aides; and

15 **Sec. 6. 12 MRSA §8901, sub-§3, ¶B**, as enacted by PL 1999, c. 352, §1 and
16 amended by PL 2011, c. 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §23, is repealed.

17 **Sec. 7. 12 MRSA §8901, sub-§3-A**, as enacted by PL 1999, c. 352, §2, is
18 amended to read:

19 **3-A. Liability.** When a forest ranger or the state supervisor provides assistance
20 under subsection 3, paragraph C while off duty, the forest ranger or the state supervisor
21 has the same immunity from tort liability and all the pension, relief, disability, workers'
22 compensation and insurance benefits and any other benefits the forest ranger or the state
23 supervisor enjoys while performing duties under subsection 3, ~~paragraphs~~ paragraph A
24 and B.

25 **Sec. 8. 12 MRSA §8901-A** is enacted to read:

26 **§8901-A. Conservation officers**

27 **1. Appointment; eligibility.** The Director of the Bureau of Forestry shall appoint,
28 subject to the Civil Service Law, up to 9 conservation officers, who may each be armed
29 with a firearm. Conservation officers must meet the training, certification and evaluation
30 standards, including a psychological screening test, for full-time law enforcement officers
31 established by the department and the Board of Trustees of the Maine Criminal Justice
32 Academy pursuant to Title 25, section 2803-A, subsection 1. Notwithstanding any laws
33 to the contrary, only those persons employed as forest rangers by the bureau are eligible
34 for appointment as conservation officers pursuant to this subsection.

35 **2. Powers and duties.** Conservation officers, in addition to having the same powers
36 and duties as forest rangers, have the following law enforcement powers:

37 A. For the purpose of enforcing Title 36, chapter 701 relating to blueberries, forest
38 and forest preservation laws, laws of the Maine Land Use Planning Commission and
39 laws and rules relating to the lands under the jurisdiction of the Bureau of Parks and
40 Lands, conservation officers have statewide law enforcement powers equivalent to
41 those of a sheriff, or a sheriff's deputy, in the sheriff's county, including the right to
42 execute or serve criminal and civil violation processes against offenders, make

1 warrantless arrests for crimes, investigate and prosecute offenders, require aid in
2 executing duties and deputize temporary aides;

3 B. The Director of the Bureau of Forestry, at the director's discretion, may authorize
4 conservation officers while on duty to arrest without a warrant a person who has
5 committed or is committing in the officer's presence any crime involving the use or
6 threatened use of physical force against a person.

7 For the purposes of this paragraph, criminal conduct has been committed or is being
8 committed in the presence of a conservation officer when one or more of the officer's
9 senses afford that officer personal knowledge of facts that are sufficient to warrant a
10 prudent and cautious law enforcement officer's belief that a crime involving the use
11 or threatened use of physical force against a person is being or has just been
12 committed and that the person arrested has committed or is committing that crime.
13 An arrest made pursuant to this paragraph must be made at the time of the
14 commission of the criminal conduct, or some part thereof, or within a reasonable time
15 thereafter or upon fresh pursuit; and

16 C. A conservation officer, while on or off duty, is authorized to provide assistance in
17 a life-threatening emergency consistent with bureau policies and within the scope of
18 the training of that conservation officer.

19 **3. Liability.** When a conservation officer provides assistance under subsection 2,
20 paragraph C while off duty, the conservation officer has the same immunity from tort
21 liability and all the pension, relief, disability, workers' compensation and insurance
22 benefits and any other benefits the conservation officer enjoys while performing duties
23 under subsection 2, paragraphs A and B.

24 **Sec. 9. 36 MRSA §4317**, as enacted by PL 1989, c. 214, §2, is amended to read:

25 **§4317. Authorized law enforcement**

26 State police, county sheriffs and their deputies, municipal enforcement officers, state
27 forest rangers, conservation officers and game wardens are authorized to make
28 inspections, conduct investigations, make arrests, if within the scope of their authority,
29 and otherwise enforce this chapter.

30 **Sec. 10. Review of staffing levels.** The Director of the Bureau of Forestry within
31 the Department of Agriculture, Conservation and Forestry shall review staffing levels
32 needed to protect forests in the State from fire and insect infestation and shall submit a
33 report that accomplishes that staffing plan within existing resources of the department to
34 the joint standing committee of the Legislature having jurisdiction over forestry matters
35 by December 15, 2014. The joint standing committee may report out legislation to the
36 First Regular Session of the 127th Legislature related to the report.

37 **Sec. 11. Reduction in classification or salary grade prohibited.** Any
38 change in enforcement authority of forest rangers contained in this Act may not reduce
39 the forest ranger employment classification or salary grade under the civil service laws.

40 **Sec. 12. Review of civil and criminal forest laws.** The Director of the Bureau
41 of Forestry within the Department of Agriculture, Conservation and Forestry shall
42 conduct a review of the civil and criminal penalties for violations of the laws involving

1 forests and forest preservation that are enforceable by forest rangers and conservation
 2 officers. The director shall submit a report, including any recommended changes to
 3 enforcement powers and duties of forest rangers and conservation officers for these laws,
 4 to the joint standing committee of the Legislature having jurisdiction over forestry
 5 matters by December 15, 2014. The joint standing committee may report out legislation
 6 to the First Regular Session of the 127th Legislature related to the report.

7 **Sec. 13. Appropriations and allocations.** The following appropriations and
 8 allocations are made.

9 **AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF**

10 **Division of Forest Protection Z232**

11 Initiative: Provides funding in fiscal year 2014-15 for training and overtime incurred
 12 while the conservation officers are training.

13	GENERAL FUND	2013-14	2014-15
14	Personal Services	\$0	\$4,599
15	All Other	\$0	\$5,777
16			
17	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$10,376</u>

18 **Division of Forest Protection Z232**

19 Initiative: Provides funding for firearms, vests and other related equipment in fiscal year
 20 2014-15.

21	GENERAL FUND	2013-14	2014-15
22	All Other	\$0	\$14,804
23			
24	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$14,804</u>

25 **Division of Forest Protection Z232**

26 Initiative: Provides appropriations for 9 Conservation Officer positions.

27	GENERAL FUND	2013-14	2014-15
28	POSITIONS - LEGISLATIVE COUNT	0.000	9.000
29	Personal Services	\$0	\$354,931
30			
31	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$354,931</u>

32 **Division of Forest Protection Z232**

33 Initiative: Deappropriates funding for 9 Forest Ranger II positions, which are being
 34 replaced by 9 Conservation Officer positions.

1	GENERAL FUND	2013-14	2014-15
2	POSITIONS - LEGISLATIVE COUNT	0.000	(9.000)
3	Personal Services	\$0	(\$354,931)
4			
5	GENERAL FUND TOTAL	<u>\$0</u>	<u>(\$354,931)</u>
6	AGRICULTURE, CONSERVATION AND		
7	FORESTRY, DEPARTMENT OF		
8	DEPARTMENT TOTALS	2013-14	2014-15
9			
10	GENERAL FUND	\$0	\$25,180
11			
12	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$25,180</u>

13 **Sec. 14. Effective date.** Those sections of this Act that amend the Maine Revised
 14 Statutes, Title 12, section 8901 take effect January 1, 2015.'

15 **SUMMARY**

16 This amendment strikes Committee Amendment "A" and strikes the bill and creates
 17 the position of conservation officer within the Department of Agriculture, Conservation
 18 and Forestry, Bureau of Forestry. The Director of the Bureau of Forestry is authorized to
 19 appoint up to 9 conservation officers, who are each allowed to be armed with a firearm,
 20 subject to the Civil Service Law, who must be selected from forest rangers employed by
 21 the bureau. A conservation officer is required to meet the same training, certification
 22 and psychological evaluation requirements as a full-time law enforcement officer as
 23 established by the department and Board of Trustees of the Maine Criminal Justice
 24 Academy. A conservation officer has the same powers and duties as a sheriff or sheriff's
 25 deputy to enforce criminal and civil laws relating to blueberries, forest and forest
 26 preservation laws, laws of the Maine Land Use Planning Commission and laws and rules
 27 relating to the lands under the jurisdiction of the Bureau of Parks and Lands.

28 This amendment, beginning January 1, 2015, restricts the enforcement authority of
 29 forest rangers to civil violations and amends the duties of forest rangers to include
 30 investigating, planning and implementing measures regarding forest health issues,
 31 including the control of invasive forest insect species, and providing support to the units
 32 within the bureau that are responsible for forest health and insect disease control. The
 33 changes in the enforcement authority and duties are not intended to result in a reduction
 34 of employment classification or salary grade for forest rangers.

35 Finally, this amendment requires the director to develop a plan, within existing
 36 resources, to address existing and future fire and insect and disease threats to the forest
 37 and to review the statutes related to forest protection. The director is required to submit a
 38 report that accomplishes the staffing plan within existing resources of the department and
 39 another report with any recommended additional changes to enforcement powers and the
 40 duties of forest rangers.

1 This amendment adds an appropriations and allocations section.

2 **SPONSORED BY:** _____

3 **(Senator SHERMAN)**

4 **COUNTY: Aroostook**