



**Testimony in Opposition to LD 1407,  
An Act To Provide That a Forestry Operation That Conforms to Accepted Practices  
May Not Be Declared a Nuisance  
April 22, 2021**

Greetings, Senator Dill, Representative O’Neil, and Members of the Committee. I am Melanie Sturm, the Forests and Wildlife Director at the Natural Resources Council of Maine, and I am providing testimony in opposition to LD 1407.

LD 1407 is similar to laws that other U.S. states have passed. These laws are colloquially referred to as “right to practice forestry” laws. For example, the Vermont State Legislature passed a right to practice forestry law in 2018. The Vermont law takes a slightly different approach than the one proposed in LD 1407. In Vermont, there is the *presumption* that an activity is not a nuisance. The presumption can be rebutted by showing that there is negligence, a failure to comply with applicable laws, or that there is a substantial adverse effect on the health, safety, or welfare of an adjoining landowner. LD 1407 does not contain that same presumption, which would have practical implications, so at the very least it seems prudent to have that safeguard in place.

Another difference between LD 1407 and Vermont’s law are the relevant forestry activities listed in the bill. It is unclear how some of the activities would lead to a nuisance claim – for example, change in ownership and adoption of new forest technology. These need further explanation. While some specific forestry activities are listed, others are not. For instance, pesticide drift or stream siltation, which could result from commonplace forestry activities, may not be isolated to a single property. Best management practices may have been used in carrying out these forestry activities, but if there was an adverse, significant impact to a neighboring property or to nearby public land then affected landowners should have legal recourse.

LD 1407 is also similar to an existing right to farm law here in Maine. A key difference is that the right to farm law ([Title 7, Chapter 6, Section 153](#)) cites that farm operations must be in compliance with state and federal laws, rules, and regulations and does not use vague terminology like “generally accepted forest management practices,” which is found in LD 1407. “Generally accepted forest management practices” is ambiguous and would likely lead to confusion, litigation, or ways for landowners to bypass the Forest Practices Act and other applicable rules and regulations.

Overall, I would expect to see a preponderance of evidence that this law is needed in order to answer questions like: How frequently are forestry operations stalled as a result of nuisance complaints? What types of claims are being made? Are they frivolous or legitimate? How often have public entities made complaints against forest operations versus private landowners? Which companies have had complaints filed against them, and where do they operate? Documentation would be helpful and potentially revealing. Only if the issue is widespread, prolific, and ongoing would it seem that legislation is necessary.

On its face, LD 1407 appears to be far reaching. I am curious why blanket protection for forestry operations against any complaints is needed. There are dozens of commercial activities in Maine that



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are noisy or messy at times and that might also want to be shielded from nuisance complaints. Why single out forestry? Again, documentation would be helpful in this instance.

Based on the information at hand right now, LD 1407 seems to limit the rights of nearby landowners if there is a problem. Legislation that strips away rights of Maine people who may be legitimately and significantly affected by forestry activity would be misguided and consequential.

For these reasons, I urge the Committee to vote Ought Not to Pass on LD 1407. Thank you for you for the opportunity to testify, and I would be glad to answer any questions you may have.