

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

Amend the bill by inserting after the title and before the enacting clause the following:

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the theft of wild blueberries presents a threat to the viability of commercial wild blueberry operations; and

Whereas, the harvesting of wild blueberries begins in July in some areas of the State; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Amend the bill by inserting after the enacting clause the following:

Sec. 1. 36 MRSA §191, sub-§2, ¶II, as amended by PL 2007, c. 328, §3, is further amended to read:

II. The disclosure to an authorized representative of the Maine Milk Commission of information on the quantity of packaged milk handled in the State and subject to the milk handling fee established in section 4902 and other information obtained by the assessor in the administration of chapter 721; and

Sec. 2. 36 MRSA §191, sub-§2, ¶JJ, as enacted by PL 2007, c. 328, §4, is amended to read:

JJ. The disclosure to the State Purchasing Agent of a person's sales tax standing as necessary to enforce Title 5, section 1825-B, subsection 14-; and

Sec. 3. 36 MRSA §191, sub-§2, ¶KK is enacted to read:

KK. The disclosure to an authorized representative of the Wild Blueberry Commission of Maine of any information required for or submitted to the assessor in connection with the administration of the tax imposed under chapter 701.'

Amend the bill in section 1 in subsection 1-F in the 2nd and 3rd lines (page 1, lines 4 and 5 in L.D.) by striking out the following: "from which they" and inserting the following: 'where the berries'

Amend the bill in section 1 in subsection 1-F in the 3rd line (page 1, line 5 in L.D.) by striking out the following: "to a shipper or processor"

Amend the bill by striking out all of section 2.

Amend the bill in section 3 in §4305 in subsection 1 in the first line (page 1, line 15 in L.D.) by striking out the following: "Every" and inserting the following: 'A'

Amend the bill in section 3 in §4305 by striking out all of subsection 2 and inserting the following:

‘2. Violation; failure to obtain certification. A processor or shipper who fails to obtain certification under subsection 1 commits a civil violation for which a fine of not more than \$5,000 may be adjudged.’

Amend the bill in section 3 in §4305 in subsection 3 in paragraph A in the first line (page 1, line 27 in L.D.) by inserting after the following: "4303" the following: 'or 4303-A'

Amend the bill in section 3 in §4305 by striking out all of subsection 4 and inserting the following:

‘4. Mandatory suspension or revocation. Upon notification by the Wild Blueberry Commission of Maine, a state agency or a state, county or local law enforcement agency, the assessor shall suspend or revoke certification of a processor or shipper who is convicted under section 4316, subsection 3-A. A person convicted under section 4316, subsection 3-A whose certification has been suspended under this subsection may not obtain a new certification from the assessor for 5 years from the date of the conviction. A firm, company, partnership, association or corporation that has one or more owners, officers or employees who have been convicted under section 4316, subsection 3-A may not obtain certification from the assessor for 5 years from the date of any such conviction. The assessor may determine that an owner, officer or employee has not been convicted under section 4316, subsection 3-A if an applicant for certification submits a notarized statement attesting that none of the applicant's owners, officers or employees has been convicted under section 4316, subsection 3-A in the prior 5 years.’

Amend the bill in section 4 in subsection 1 in the 6th line (page 2, line 13 in L.D.) by inserting after the following: "town" the following: ', township or plantation or to global positioning coordinates for the area where wild blueberries are managed'

Amend the bill in section 4 in subsection 1 in the 9th line (page 2, line 16 in L.D.) by striking out the following: "current" and inserting the following: 'currentvalid'

Amend the bill in section 6 by striking out all of subsection 4 and inserting the following:

‘4. Violation; subsequent offenses. A person who violates subsection 1 when the person has 2 prior convictions for violation of subsection 1 commits a Class C crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.’

Amend the bill in section 7 in §4315 by striking out all of subsection 1 and inserting the following:

‘1. Transportation of wild blueberries; permit required. A person may not transport wild blueberries in quantities exceeding 25 pounds without first obtaining a transportation permit on an official form to be furnished by the Wild Blueberry Commission of Maine. The Wild Blueberry Commission of Maine shall issue upon request ~~official~~uniquely numbered transportation permit forms to ~~shippers and processors certified under section 4305~~owners. ~~Shippers and processors may~~Owners shall issue the transportation permits to ~~owners or owner's transportation agents with written authorization from owners~~first haulers or shippers who transport wild blueberries directly from the field from which the wild blueberries were harvested. Each transportation permit issued ~~must bear a different number and expire at the end~~automatically expires on the 30th of September in the calendar year in which it was issued. This subsection does not apply to wild blueberries that have been received by a certified shipper

or processor and have been weighed, logged into a permanent record-keeping system and reloaded onto a vehicle for shipping under a bill of lading.'

Amend the bill in section 7 in §4315 in subsection 1-A in the 6th and 7th lines (page 3, lines 10 and 11 in L.D.) by striking out the following: ", shippers and processors" and inserting the following: 'shippers and processorsowners'

Amend the bill in section 7 in §4315 by inserting after subsection 1-A the following:

'1-B. Restrictions on first haulers. A first hauler who is not certified as a shipper may not transport berries from the field to any entity other than a shipper or a processor holding a valid certification under section 4305.'

Amend the bill in section 7 in §4315 in subsection 3 by striking out all of paragraph A and inserting the following:

'A. Except as provided in subsection 4, a person who transports wild blueberries in violation of this section commits a Class E crime. Violation of this paragraph is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.:

(1) A Class E crime; or

(2) A Class C crime if the person has 2 or more prior convictions under this paragraph.

A violation under this paragraph is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.'

Amend the bill in section 8 in §4316 in subsection 1 in the first line (page 4, line 8 in L.D.) by striking out the following: "person who" and inserting the following: 'personshipper or processor who transports or'

Amend the bill in section 8 §4316 in subsection 1 in the 2nd line (page 4, line 9 in L.D.) by striking out the following: "received" and inserting the following: 'received'

Amend the bill in section 8 in §4316 in subsection 2 in the first line (page 4, line 14 in L.D.) by striking out the following: "person" and inserting the following: 'personshipper or processor'

Amend the bill in section 8 in §4316 in subsection 2 in the 2nd line (page 4, line 15 in L.D.) by striking out the following: "in lots of greater than 5 pounds" and inserting the following: 'in lots of greater than 5 pounds'

Amend the bill in section 8 in §4316 in subsection 3 in the first line (page 4, line 19 in L.D.) by inserting after the following: "blueberries" the following: 'transported or'

Amend the bill in section 8 in §4316 in subsection 3-A in the first line (page 4, line 25 in L.D.) by striking out the following: "A person who violates this section when the person" and inserting the following: 'A shipper or processor who violates this section when the shipper or processor'

Amend the bill in section 8 in §4316 in subsection 4 in the 2nd line (page 4, line 32 in L.D.) by striking out the following: "receivers" and inserting the following: 'receiversshippers or processors'

Amend the bill in section 8 in §4316 in subsection 4 in the 5th line (page 4, line 35 in L.D.) by striking out the following: "receivers" and inserting the following: 'receiversshippers or processors'

Amend the bill in section 8 in §4316 in subsection 4 in the 5th line (page 4, line 35 in L.D.) by striking out the following: "receivers' accounts" and inserting the following: 'receiversshippers' or processors' accounts'

Amend the bill by adding before the summary the following:

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment adds an emergency preamble and clause to the bill. It specifies that the State Tax Assessor is required to suspend or revoke the certification of a processor or shipper of wild blueberries when the assessor receives notification that certain violations have occurred. It allows the assessor to accept a notarized statement to determine that violations by an owner, officer or employee have not occurred. It clarifies that it is illegal for a first hauler to transport berries to anyone who is not certified as a shipper or processor. Instead of basing increased penalties for illegal transportation of berries on the value of the berries as proposed in the bill, this amendment establishes illegal transportation by a person with 2 prior convictions as a Class C crime.