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H.P. 830

House of Representatives, March 26, 2013

**An Act To Allow Removal of Trees for Shoreline Stabilization
Adjacent to Coastal Wetlands under the Natural Resources
Protection Act**

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CAMPBELL of Orrington.
Cosponsored by Senator MASON of Androscoggin and
Representatives: BENNETT of Kennebunk, JOHNSON of Eddington, PEASE of Morrill,
WELSH of Rockport.

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

2 **Sec. 1. 38 MRSA §480-Q, sub-§23, ¶A,** as amended by PL 2003, c. 637, §1, is
3 further amended to read:

4 A. The cutting or clearing is subject to the jurisdiction of a municipality pursuant to
5 chapter 3, subchapter 1, article 2-B; ~~or~~

6 **Sec. 2. 38 MRSA §480-Q, sub-§23, ¶B,** as amended by PL 2007, c. 292, §27, is
7 further amended to read:

8 B. If the cutting or clearing is not subject to the jurisdiction of a municipality
9 pursuant to chapter 3, subchapter 1, article 2-B, vegetation within the adjacent area is
10 maintained as follows:

11 (1) There is no cleared opening greater than 250 square feet in the forest canopy
12 as measured from the outer limits of the tree crown, except that a footpath may be
13 established for the purpose of access to water if it does not exceed 6 feet in width
14 as measured between tree trunks and has at least one bend in its path to divert
15 channelized runoff;

16 (2) Any selective cutting of trees within the buffer strip leaves a well-distributed
17 stand of trees and other natural vegetation.

18 (a) For the purposes of this subparagraph, a "well-distributed stand of trees"
19 is defined as maintaining a rating score of 16 or more points in a 25-foot by
20 50-foot rectangular area as determined by the following rating system.

21 (i) A tree with a diameter at 4 1/2 feet above ground level of 2.0 to less
22 than 4.0 inches has a point value of one.

23 (ii) A tree with a diameter at 4 1/2 feet above ground level of 4.0 inches
24 to less than 8.0 inches has a point value of 2.

25 (iii) A tree with a diameter at 4 1/2 feet above ground level of 8.0 inches
26 to less than 12.0 inches has a point value of 4.

27 (iv) A tree with a diameter at 4 1/2 feet above ground level of 12.0 or
28 more inches has a point value of 8.

29 (b) In applying this point system:

30 (i) The 25-foot by 50-foot rectangular plots must be established where
31 the landowner or lessee proposes clearing within the required buffer;

32 (ii) Each successive plot must be adjacent to, but may not overlap, a
33 previous plot;

34 (iii) Any plot not containing the required points may have no vegetation
35 removed except as otherwise allowed by this subsection;

36 (iv) Any plot containing the required points may have vegetation
37 removed down to the minimum points required or as otherwise allowed
38 by this subsection; and

1 (v) Where conditions permit, no more than 50% of the points on any
2 25-foot by 50-foot rectangular area may consist of trees greater than 12
3 inches in diameter.

4 (c) For the purposes of this subparagraph, "other natural vegetation" is
5 defined as retaining existing vegetation under 3 feet in height and other
6 ground cover and retaining at least 5 saplings less than 2 inches in diameter
7 at 4 1/2 feet above ground level for each 25-foot by 50-foot rectangular area.
8 If 5 saplings do not exist, the landowner or lessee may not remove any
9 woody stems less than 2 inches in diameter until 5 saplings have been
10 recruited into the plot;

11 (3) In addition to the requirements of subparagraph (2), no more than 40% of the
12 total volume of trees 4.5 inches or more in diameter, measured 4 1/2 feet above
13 ground level, is selectively cut in any 10-year period;

14 (5) Tree branches are not pruned except on the bottom 1/3 of the tree as long as
15 tree vitality will not be adversely affected; and

16 (6) In order to maintain a buffer strip of vegetation, when the removal of storm-
17 damaged, diseased, unsafe or dead trees results in the creation of cleared
18 openings in excess of 250 square feet, these openings are replanted with native
19 tree species unless there is existing new tree growth; or

20 **Sec. 3. 38 MRSA §480-Q, sub-§23, ¶C** is enacted to read:

21 C. The cutting or clearing is of a shrub, tree or other woody vegetation that has the
22 condition of being naturally uprooted or partially uprooted and this condition
23 threatens sedimentation in or the stability or erosion of a shoreline of a coastal
24 wetland.

25 **SUMMARY**

26 This bill exempts from the permit requirements under the Natural Resources
27 Protection Act the cutting or clearing of a shrub, tree or other woody vegetation that has
28 the condition of being naturally uprooted or partially uprooted and this condition
29 threatens sedimentation in or the stability or erosion of a shoreline of a coastal wetland.