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**AGRICULTURE, CONSERVATION AND FORESTRY**

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**STATE OF MAINE  
SENATE  
131ST LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 16, L.D. 24, “An Act to Prohibit Open Burning Under a Red Flag Warning and Regulate Recreational Campfires”

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

**'An Act to Prohibit Certain Open Burning Under a Red Flag Warning and Regulate Recreational Campfires'**

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

**'Sec. 1. 12 MRSA §9321, sub-§1-A** is enacted to read:

**1-A. Red flag warning areas.** The following provisions govern permits for open burning in geographic areas subject to a red flag warning.

A. Except as provided in paragraph B, the director or the director's delegate may not issue a permit or other permission for open burning to take place in a geographic area subject to a red flag warning.

B. The director or the director's delegate may issue a permit for a controlled burn on a commercially managed wild blueberry field in a geographic area subject to a red flag warning as long as the application for the permit includes a prescribed burn plan approved by the issuing authority. The permit must incorporate by reference the approved burn plan.

**Sec. 2. 12 MRSA §9321, sub-§2,** as amended by PL 1999, c. 547, Pt. B, §32 and affected by §80, is further amended to read:

**2. Revocation.** The director or the director's delegate may revoke any permit during a period of high forest fire danger or any permit ~~which~~ that results in creation of a nuisance condition without compliance with the provisions of Title 4, chapter 5 or Title 5, chapter 375. If a geographic area is subject to a red flag warning, the following provisions apply.

**COMMITTEE AMENDMENT**

1           A. Except as provided in paragraph B, the director or the director's delegate shall  
2           revoke any permit for open burning in the geographic area during the period in which  
3           a red flag warning is in effect.

4           B. The director or the director's delegate is not required to revoke a permit for a  
5           controlled burn on a commercially managed wild blueberry field during the period in  
6           which a red flag warning is in effect if the permit includes an approved prescribed burn  
7           plan.

8           **Sec. 3. 12 MRSA §9321-B** is enacted to read:

9           **§9321-B. Definitions**

10           As used in this article, unless the context otherwise indicates, the following terms have  
11           the following meanings.

12           **1. Licensed camping facility.** "Licensed camping facility" means a recreational  
13           camp, youth camp or camping area licensed under Title 22, section 2495.

14           **2. Recreational campfire.** "Recreational campfire" means an out-of-door fire that is  
15           used for cooking, personal warmth, light or ceremonial or aesthetic purposes and that is not  
16           a part of debris disposal. "Recreational campfire" includes a residential fire contained  
17           within an out-of-door fireplace. "Recreational campfire" does not include a portable  
18           lantern designed to emit light resulting from combustion or a stove that is used inside a  
19           structure or living accommodation.

20           **3. Red flag warning.** "Red flag warning" means a forecast warning issued by the  
21           United States Department of Commerce, National Oceanic and Atmospheric  
22           Administration, National Weather Service or its successor, in consultation with the bureau,  
23           that informs the public, firefighters and land management agencies that conditions are ideal  
24           for wildland fire combustion and rapid spread. A red flag warning indicates for a given  
25           geographic area, until the warning is withdrawn, that the temperature is warm, the humidity  
26           is very low and strong winds are expected and that these factors produce an increased risk  
27           of fire danger.

28           **Sec. 4. 12 MRSA §9324, sub-§9** is enacted to read:

29           **9. Recreational campfires.** A person who kindles or uses a recreational campfire,  
30           other than a licensed camping facility, may not allow the recreational campfire to exceed 3  
31           feet in diameter on the ground at the base of the fire or 3 feet in height.

32           **Sec. 5. 12 MRSA §9324, sub-§10** is enacted to read:

33           **10. Open burning during red flag warning.** A person may not engage in open  
34           burning under section 9325, subsection 1 or 2, including a recreational campfire, in any  
35           geographic area subject to a red flag warning. Open burning without a permit under section  
36           9325, subsection 2 is allowed at the following locations:

37           A. A licensed camping facility; and

38           B. Campsites under the jurisdiction of the Department of Agriculture, Conservation  
39           and Forestry or the Baxter State Park Authority, as long as the campsite and the use of  
40           out-of-door fires and charcoal and gas grills at the campsite comply with rules under  
41           section 9001-B, subsection 4.

1           **Sec. 6. 12 MRSA §9325, sub-§2, ¶A**, as enacted by PL 1991, c. 36, §4, is amended  
2 to read:

3           A. ~~Recreational campfires~~ A recreational campfire kindled when the ground is covered  
4 by snow or on a frozen bodies body of water, as long as the recreational campfire does  
5 not exceed 3 feet in diameter on the ground at the base of the fire and does not exceed  
6 3 feet in height;

7           **Sec. 7. 12 MRSA §9325, sub-§2, ¶B**, as enacted by PL 1991, c. 36, §4, is amended  
8 to read:

9           B. Residential use of outdoor grills and fireplaces for recreational purposes such as  
10 preparing food, as long as the fire does not exceed 3 feet in diameter in a fireplace or  
11 grill at the base of the fire and does not exceed 3 feet in height; and'

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

### SUMMARY

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15           The bill prohibits the director of the Bureau of Forestry, within the Department of  
16 Agriculture, Conservation and Forestry, from issuing a permit or other permission for open  
17 burning to take place in a geographic area subject to a red flag warning. This amendment,  
18 which is the majority report of the committee, provides an exception for wild blueberry  
19 growers by allowing the director or director’s delegate to issue a permit for a controlled  
20 burn on a commercially managed wild blueberry field in a geographic area subject to a red  
21 flag warning as long as the application for the permit includes a prescribed burn plan  
22 approved by the issuing authority.

23           The bill requires the director or the director’s delegate to revoke any permit for open  
24 burning in a geographic area in which a red flag warning is in effect. The amendment  
25 provides that the director or the director’s delegate is not required to revoke a permit for a  
26 controlled burn on a commercially managed wild blueberry field during the period in which  
27 a red flag warning is in effect if the permit includes an approved prescribed burn plan.

28           The amendment clarifies that a red flag warning is a forecast warning issued by the  
29 United States Department of Commerce, National Oceanic and Atmospheric  
30 Administration, National Weather Service in consultation with the Bureau of Forestry.

31           The bill prohibits a person who kindles or uses a recreational campfire from allowing  
32 the recreational campfire to exceed 3 feet in diameter on the ground at the base of the fire  
33 or 3 feet in height. The amendment exempts a licensed camp facility from this prohibition.

34           The bill prohibits open burning, both permissible open burning with a permit and  
35 permissible open burning without a permit, during the period in which a red flag warning  
36 is in effect. The amendment exempts from this prohibition open burning without a permit  
37 at a licensed camping facility and at campsites under the jurisdiction of the Department of  
38 Agriculture, Conservation and Forestry or the Baxter State Park Authority, as long as the  
39 campsite and the use of out-of-door fires and charcoal and gas grills at the campsite comply  
40 with department rules.

### FISCAL NOTE REQUIRED

(See attached)