

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND EIGHTEEN

—
S.P. 678 - L.D. 1809

An Act To Amend the Laws Governing the Issuance of Burn Permits

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

Whereas, under current law, anyone performing out-of-door burning is required to obtain a permit from the town forest fire warden or from the forest ranger having jurisdiction over the location where the fire is to be set; and

Whereas, until recently, as a convenience to the residents of the State, burn permits were available online and at no charge through a 3rd-party provider; and

Whereas, due to a change in interpretation of policy by the Commissioner of Agriculture, Conservation and Forestry, residents of the State are no longer able to get free online burn permits; and

Whereas, the burn permits issued online by the Department of Agriculture, Conservation and Forestry cost \$7 per permit; and

Whereas, in order to restore to the residents of the State the convenience of obtaining burn permits online and at no charge, it is necessary that this legislation take effect as soon as possible; and

Whereas, it is necessary for public safety that all burn permits are validly issued pursuant to statutory criteria in order to prevent wildfires, damage to property and harm to persons; 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,

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

Sec. 1. 12 MRSA §9321, sub-§3, as enacted by PL 1979, c. 545, §3, is amended to read:

3. Delegation. The director may delegate the issuance of permits to forest rangers or town forest fire wardens and their deputies. A town forest fire warden or deputy authorized to issue permits pursuant to this subsection may issue permits using burn permit software acquired from a private party to establish a publicly accessible online system in accordance with section 9327.

Sec. 2. 12 MRSA §9321-A, sub-§1, as amended by PL 1997, c. 512, §3, is further amended to read:

1. Possession and production of permit in organized territory. Any person, firm or corporation that engages in out-of-door burning in any municipality, plantation or village corporation as permitted by this article shall possess the permit at the scene of the burning and shall produce the permit on the demand of authorized persons, including fire chiefs, town forest fire wardens or their designated agents, state forest rangers, municipal code enforcement officers and any law enforcement officer as defined in Title 17-A. A person, firm or corporation that is issued an electronic permit pursuant to section 9326 or section 9327 may produce the permit on an electronic device.

Sec. 3. 12 MRSA §9326, last ¶, as amended by PL 2013, c. 35, §1, is further amended to read:

A person may apply for a permit to burn using the Internet or as otherwise provided in this article. When a person applies for and is issued a permit electronically ~~using the Internet~~ pursuant to this section, a fee of \$7 must be paid. From the \$7 fee, \$4 must be deposited in the General Fund, \$2 must be transferred to the municipality in which the permit is issued and the remainder of \$1 must be used to cover administrative costs. For a permit issued in the unorganized and deorganized areas, from the \$7 fee, \$6 must be deposited in the General Fund and the remainder of \$1 must be used to cover administrative costs.

Sec. 4. 12 MRSA §9327 is enacted to read:

§9327. Private party burn permit software

The Director of the Bureau of Forestry shall allow a municipality to use burn permit software acquired from a private party to establish a publicly accessible online system to issue a permit to burn pursuant to section 9325 if the issuance of a permit to burn using the private party burn permit software is in accordance with the criteria in section 9321.

1. Approval. The Director of the Bureau of Forestry shall approve private party burn permit software within 10 business days after a vendor or owner of a private party burn permit software system submits a request for review of the software to the director if the software submitted meets the requirements of this section and there are fewer than 2 private party burn permit software programs approved and in use pursuant to this section.

2. Limit on private party burn permit software. No more than 2 private party burn permit software programs may be approved and in operation in the State.

3. Notification. If the Director of the Bureau of Forestry does not approve the private party burn permit software that has been submitted for review under subsection 1, the director shall notify the vendor or owner of the private party burn permit software in writing of the reasons why the software has not been approved.

4. Appeal. A denial of approval of a private party burn permit software system is a final agency action that may be appealed in accordance with Title 5, chapter 375, subchapter 7.

5. Fee. If a person uses private party burn permit software to apply for a permit to burn, that person may not be charged a fee for the permit.

6. Private party burn permit software to be provided at no charge. A vendor or owner of a private party burn permit software system may not charge a municipality for use of private party burn permit software approved under subsection 1.

7. Application for burn permit not using private party burn permit software. A person may not be required to apply for a permit to burn using private party burn permit software, but may apply as otherwise provided in this article.

8. Rules. The Director of the Bureau of Forestry may adopt rules relating to private party burn permit software requirements. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

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