



Maine Forest Products Council

The voice of Maine's forest economy

MFPC Testimony in Opposition to LD 2061 An Act Regarding the Transportation of Products in the Forest Products Industry

Feb. 6, 2020, Patrick Strauch, Executive Director

Senator Chipman, Representative Tipping and distinguished members of the Taxation Committee, I am Patrick Strauch, executive director of the Maine Forest Products Council.

Since 1961, MFPC has represented the broad spectrum of our state's diverse forest products community, including logging contractors, sawmills, pulp and paper mills, biomass energy facilities, pellet manufacturers, furniture manufacturers, and the owners of more than eight million acres of commercial forestland in Maine.

First, we oppose this bill because it is unnecessary. Landowners ensure it is written into their contracts with contractors that all federal laws and regulations must be followed. In our experience, Canadian trucking companies have been very careful to comply with regulations regarding transportation of forest products in Maine.

Some contractors have U.S. trucks that deliver loads into Canadian mills and there are others with Canadian trucks that pick up loads from Maine clients' yards and landings and return to Canada. Some have a mix of both. It is my understanding that they follow Homeland Security Guidelines for compliance of commercial motor vehicles engaged in cross border traffic.

If violations are occurring, enforcement of the current law is the way to deal with the issue, not new legislation that penalizes a select segment of landowners.

Second, the Council strongly objects to yet another attempt to use the successful and productive Tree Growth Tax program to punish behavior unrelated to the program's goals of promoting better forest management and encouraging landowners to retain and improve their holdings of forestland.

The Tree Growth Tax program has done more to conserve Maine's forests than any other program and its importance will only increase as our state deals with climate change. In the Governor's Climate Change Council, of which I am a member, it's recognized that we need to encourage good forest management and not lose forestland to development, if we are to obtain the Maine's goal for climate mitigation (today our forests sequester the equivalent of 60 percent of our current petroleum-based emissions). Maine forestland, has the potential to increase forest carbon stocks, retain jobs in rural areas, as well as generate sawlogs, pulpwood and energy products.

Without current use taxation under Tree Growth, Maine would not have the scenic forestlands desired by the public for hunting, hiking and watershed protection. Tree Growth helps stabilize and sustain the state's wood supply, as well as the nearly 15,000 direct jobs in our industry and more than 33,000 total jobs across Maine.¹

It's essential that this program be stable from year to year, not rewritten because of the trends, issues or concerns of a single legislative session. Our state has more trees now than it did a century ago because Maine's Tree Growth

¹ Economic contribution of Maine's forest products industry 2014 and 2016 (estimated), James L. Anderson III and Dr. Mindy Crandall, School of Forest Resources, University of Maine, June 30, 2016

program provides an appropriate current use taxation system that allows owners of woodland to keep their property as a working forest,

Since 1969, many bills have been brought before the Legislature concerning the Tree Growth Tax. The list (<https://www.maine.gov/legis/lawlib/ldl/treegrowthtax/>) compiled by the Legislative and Law Library is already about 25 pages long. At first, most bills proposed technical changes, adjustments in municipal reimbursement rates and various modifications to penalties for withdrawing from the program.

Then in 2001, a bill attempted to use the Tree Growth program to modify behavior. LD 406 An Act to Reduce Tree Growth Tax Benefits to Landowners Who Ship Raw Timber Outside the Country would have assessed a penalty equal to 25 percent of the property taxes otherwise assessed on the lands. It died in the Taxation Committee. Some other unsuccessful bills that sought to attach restrictions beyond the intent of the law are listed on Page 3.

Fortunately for Maine's forests, through the years the Taxation Committee has recognized that this is an inappropriate use of the Tree Growth Tax Law. Additionally, the Fifth and 14th Amendments of the U.S. Constitution contain clauses that the government cannot take away your "life, liberty or property without due process of law." This language limits the ability of federal, state and local governments to pass and enforce laws, regulations, policies or rules unless they are fair, not arbitrary.

As you can see, LD 2061 An Act Regarding the Transportation of Products in the Forest Products Industry, is just another variation on the same theme. It provides that a landowner who owns 50,000 or more acres of forestland and "allows transportation of forest products harvested on the landowner's land from a location in the State to another location in the State in violation of federal law or regulation or an international trade agreement is ineligible for classification under the Maine Tree Growth Tax Law and the landowner may not receive certain tax incentives or state grants or other state funding."

LD 2061 provides no explanation or justification for arbitrarily singling out those who own 50,000 or more acres of forestland. Tree Growth always has been and should remain applicable and consistent across ownership sizes.

This bill apparently is targeting the transportation of wood between Canada and the United States that is subject to cabotage rules.² The language concerning unlimited liability for landowners would, on its face, apply to more than just cabotage law, which is defined as the transport of goods or passengers between two ports/places within the same country by a foreign shipping/transport operator.

Arguably, if a U.S. trucker moved products within the state but, in doing so, violated other federal laws (such as, for instance, DOT driver hour restrictions, alcohol/drug testing requirements, or maintenance regulations), then that would constitute a violation of LD 2061.

It's been reported that this legislation is aimed at a loophole in the law involving H2A bonded Canadian laborers who are granted permission to enter the U.S. as truck drivers and can therefore make intrastate deliveries. So you might be interested to know that the number of bonded laborers who can operate as truck drivers this year is between five and 11. Given the difficulty of finding sufficient drivers to move wood -- an estimated 250,000 loads in the unorganized regions of the state -- these bonded workers not significantly jeopardizing U.S. trucking jobs.

There has been no evidence provided that a problem exists nor any reason to link this remedy to the Tree Growth Tax Program, since laws already exist to deal with violations.

The Council urges you to vote Ought Not to Pass.

² Homeland Security Cross-Border Trucking Guidelines, <https://www.dhs.gov/cross-border-trucking-guidelines>.

Examples of Unsuccessful Tree Growth Legislation that sought to attach conditions that were beyond and unrelated to the intent of the Tree Growth Tax Law

- **2001 - LD 406** An Act to Reduce Tree Growth Tax Benefits to Landowners Who Ship Raw Timber Outside the Country would have assessed a penalty equal to 25 percent of the property taxes otherwise assessed on the lands.
- **2001 - LD 1061** An Act to Reduce Tree Growth Tax Benefits to Landowners Who Employ Migrant Workers.
- **2001 - LD 1062** An Act to Reduce Tree Growth Tax Benefits to Landowners Who Restrict Access to Their Land.
- **2003 - LD 1172** An Act To Assist American Mills with Tree Growth Management, required that a portion of the timber harvested from land classified under the Maine Tree Growth Tax Law be sold or transferred to a mill located in the United States if the landowner owns at least 100,000 acres. The portion must be at least 50% in 2004, 60% in 2005, 70% in 2006 and 80% in 2007 and subsequent years. The bill imposes a penalty if those percentages are not maintained and equal to the amount of the tax benefit
- **2005 - LD 988** An Act To Amend the Maine Tree Growth Tax Law, which reduced the tax owed under the Maine Tree Growth Tax Law by 25 percent for a landowner of 1,000 or more contiguous acres who allows public access to that land.
- **2006 - LD 1328** An Act To Amend the Maine Tree Growth Tax Law To Encourage Public Access, provided that a parcel of land 500 acres or larger that is taxed pursuant to the Maine Tree Growth Tax Law must be open to the public for traditional uses, including, but not limited to, hunting, fishing, trapping, snowmobiling and hiking.
- **2019-2020 - LD 1150** An Act To Amend the Maine Tree Growth Tax Law To Encourage Public Access, which excludes from benefits under the Maine Tree Growth Tax Law a parcel of land to which public access for recreational use is limited or prohibited. (This committee voted Monday, Ant. Div. Rep.)