CHAPTER 701

BLUEBERRY TAX

§4301. Purpose

The production and marketing of wild blueberries is one of the most important agricultural industries of the State, and this chapter is enacted into law to conserve and promote the prosperity and welfare of this State and of the wild blueberry industry of this State by fostering research and extension programs, by supporting the development of promotional opportunities and other activities related to the wild blueberry industry. [PL 1997, c. 511, §3 (AMD).]

SECTION HISTORY

PL 1983, c. 836, §1 (AMD). PL 1997, c. 511, §3 (AMD).

§4302. Definitions

The terms used in this chapter shall be construed as follows:

1. Blueberries.

[PL 1997, c. 511, §4 (RP).]

1-A. Grower. "Grower" means a person, firm, partnership, association or corporation engaged in the growing of wild blueberries and that is not a "processor" as defined in subsection 2.
[PL 1997, c. 511, §5 (AMD).]

1-B. Crew leader. "Crew leader" means a person designated by an owner to supervise an organized crew.
[PL 1989, c. 214, §1 (NEW).]

1-C. Organized crew. "Organized crew" means a group of people working together under the supervision of a crew leader to harvest, pick, rake, possess or remove wild blueberries from the land of an owner.
[PL 1997, c. 511, §6 (AMD).]

1-D. Owner. "Owner" includes a landowner or leaseholder of land on which wild blueberries are grown and harvested for profit, or the landowner's or leaseholder's authorized agent, and includes a receiver of wild blueberries grown in Canada and purchased from Canadian sellers.
[PL 1997, c. 511, §6 (AMD).]

1-E. Permanent record. "Permanent record" means a written record which is kept and maintained for not less than 6 years.
[PL 1989, c. 214, §1 (NEW).]

1-F. First hauler. "First hauler" means a person, firm, partnership, association or corporation engaged in the transportation of wild blueberries from the field where the berries were harvested.
[PL 2007, c. 694, §4 (NEW).]

2. Processor. "Processor" means a person, firm, partnership, association or corporation first engaged in the fresh packing, canning, freezing, pressing, grinding, juicing or dehydrating of wild blueberries whether as owner, agent or otherwise.
[PL 2013, c. 331, Pt. C, §20 (AMD).]

3. Seller. "Seller" means a person, firm, partnership, association or corporation offering unprocessed wild blueberries for sale, either to themselves or to others.
[PL 2013, c. 331, Pt. C, §21 (AMD).]

4. Shipper. "Shipper" means a person, firm, partnership, association or corporation engaged in the shipping, transporting, storing, selling or otherwise handling of wild blueberries either in processed form or as fresh fruit, whether as owner, agent or otherwise.
[PL 1997, c. 511, §8 (AMD).]

5. Transportation permit.
[PL 2023, c. 18, §1 (RP).]

5-A. Unprocessed wild blueberries. "Unprocessed wild blueberries" means wild blueberries that have not been fresh packed, canned, frozen, pressed, ground, juiced or dehydrated.
[PL 2013, c. 331, Pt. C, §22 (NEW).]

6. Wild blueberries. "Wild blueberries" means all lowbush blueberries grown, purchased, sold or handled for commercial purposes in this State.
[PL 1997, c. 511, §10 (NEW).]

SECTION HISTORY

PL 1983, c. 836, §2 (AMD). PL 1989, c. 29, §1 (AMD). PL 1989, c. 214, §1 (AMD). PL 1997, c. 511, §§4-10 (AMD). PL 2007, c. 694, §4 (AMD). PL 2013, c. 331, Pt. C, §§20-22 (AMD). PL 2023, c. 18, §1 (AMD).

§4303. Rate of tax

Except as provided in section 4303-B, there is levied and imposed a tax at the rate of 1 1/2¢ per pound on all wild blueberries processed in the State and on all unprocessed wild blueberries shipped to a destination outside the State. All wild blueberries harvested in the State that are to be shipped outside the State for processing must be weighed on a state-certified scale in the State prior to being shipped outside the State. The tax is computed on the gross weight of the wild blueberries as delivered prior to any processing or shipping. The processor that first receives unprocessed wild blueberries in the State, or the shipper that transports unprocessed wild blueberries to a destination outside the State, is responsible for reporting and paying the tax. [PL 2021, c. 681, Pt. F, §2 (AMD); PL 2021, c. 681, Pt. F, §6 (AFF).]

A processor or shipper responsible for reporting and paying the tax imposed by this section shall charge and collect 1/2 of the tax levied under this section from the seller. [PL 2013, c. 331, Pt. C, §23 (NEW).]

SECTION HISTORY

PL 1977, c. 533, §1 (AMD). PL 1979, c. 392, §1 (AMD). PL 1983, c. 836, §3 (AMD). PL 1989, c. 29, §2 (AMD). PL 1997, c. 511, §11 (AMD). PL 2001, c. 147, §1 (AMD). PL 2013, c. 331, Pt. C, §23 (AMD). PL 2019, c. 222, §1 (AMD). PL 2019, c. 222, §7 (AFF). PL 2021, c. 681, Pt. F, §2 (AMD). PL 2021, c. 681, Pt. F, §6 (AFF).

§4303-A. Additional tax

(REPEALED)

SECTION HISTORY

PL 1971, c. 425, §1 (NEW). PL 1979, c. 392, §2 (AMD). PL 1983, c. 836, §4 (AMD). PL 1989, c. 29, §3 (AMD). PL 1997, c. 511, §12 (AMD). PL 2001, c. 147, §2 (AMD). PL 2013, c. 331, Pt. C, §24 (RP).

§4303-B. Exemption for wild blueberries grown on tribal land

The tax imposed by section 4303 does not apply to wild blueberries grown on tribal land. [PL 2021, c. 681, Pt. F, §3 (NEW); PL 2021, c. 681, Pt. F, §6 (AFF).]

SECTION HISTORY

PL 2021, c. 681, Pt. F, §3 (NEW). PL 2021, c. 681, Pt. F, §6 (AFF).

§4304. Due date

(REPEALED)

SECTION HISTORY

PL 1971, c. 425, §2 (AMD). PL 1997, c. 511, §13 (AMD). PL 2013, c. 331, Pt. C, §25 (RP).

§4305. Certification

1. Certification required. A processor or shipper of wild blueberries shall obtain certification from the assessor before processing or shipping wild blueberries. The assessor shall provide the applications for the certification, which must contain the name under which the processor or shipper is transacting business in the State, the place or places of business, the names and addresses of the persons constituting a firm, company or partnership and, if a corporation, the corporate name and names and addresses of its principal officers and agents in the State. A processor or shipper may not process or ship wild blueberries until the certification has been issued.
[PL 2007, c. 694, §5 (NEW).]

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.
[PL 2007, c. 694, §5 (NEW).]

3. Discretionary suspension or revocation. The assessor may suspend or revoke certification for:

A. Failure to pay the tax imposed by section 4303; [PL 2013, c. 331, Pt. C, §26 (AMD).]

B. Filing false or fraudulent reports or returns; or [PL 2007, c. 694, §5 (NEW).]

C. Failure to comply with section 4315 or 4316. [PL 2007, c. 694, §5 (NEW).]
[PL 2013, c. 331, Pt. C, §26 (AMD).]

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.
[PL 2007, c. 694, §5 (NEW).]

5. Certificate not license. A certificate issued by the assessor pursuant to this section is not a license within the meaning of that term in the Maine Administrative Procedure Act.
[PL 2007, c. 694, §5 (NEW).]

SECTION HISTORY

PL 1977, c. 694, §711 (RPR). PL 1995, c. 639, §14 (AMD). PL 1997, c. 511, §14 (AMD). PL 2003, c. 705, §5 (AMD). PL 2007, c. 694, §5 (RPR). PL 2013, c. 331, Pt. C, §26 (AMD).

§4306. Tax deducted from purchase price

(REPEALED)

SECTION HISTORY

PL 1977, c. 533, §2 (AMD). PL 1979, c. 392, §3 (AMD). PL 1983, c. 836, §5 (AMD). PL 1997, c. 511, §15 (AMD). PL 2001, c. 147, §3 (AMD). PL 2013, c. 331, Pt. C, §27 (RP).

§4307. Records and reports; payment of tax

Every processor or shipper responsible for reporting and paying the tax imposed by section 4303 shall, on or before November 1st of each year, report to the State Tax Assessor the quantity of unprocessed wild blueberries that are processed in the State, shipped to a destination outside the State or imported from a destination outside the State during the current season, on forms furnished by the State Tax Assessor. The report must contain the information pertinent to collection of tax under this chapter as the State Tax Assessor prescribes. With the report, each processor or shipper shall forward payment of the full 1 1/2¢ per pound tax upon all wild blueberries reported. [PL 2019, c. 222, §2 (AMD); PL 2019, c. 222, §7 (AFF).]

1. Shippers. A shipper shall report the amount of tax due for each load of unprocessed wild blueberries subject to the tax shipped to a destination outside the State, including for each load:

A. The date shipped; and [PL 2019, c. 222, §2 (NEW); PL 2019, c. 222, §7 (AFF).]

B. The gross weight of the wild blueberries shipped. [PL 2019, c. 222, §2 (NEW); PL 2019, c. 222, §7 (AFF).]

[PL 2019, c. 222, §2 (NEW); PL 2019, c. 222, §7 (AFF).]

2. Report to commission. The State Tax Assessor annually shall forward a report with a summary of the data collected under this section to the Wild Blueberry Commission of Maine, including the total number of pounds of the following:

A. Wild blueberries grown in the State; [PL 2019, c. 222, §2 (NEW); PL 2019, c. 222, §7 (AFF).]

B. Wild blueberries processed in the State; [PL 2019, c. 222, §2 (NEW); PL 2019, c. 222, §7 (AFF).]

C. Unprocessed wild blueberries imported into the State; and [PL 2019, c. 222, §2 (NEW); PL 2019, c. 222, §7 (AFF).]

D. Unprocessed wild blueberries exported from the State. [PL 2019, c. 222, §2 (NEW); PL 2019, c. 222, §7 (AFF).]

[PL 2019, c. 222, §2 (NEW); PL 2019, c. 222, §7 (AFF).]

SECTION HISTORY

PL 1971, c. 425, §3 (AMD). PL 1977, c. 533, §3 (AMD). PL 1979, c. 378, §28 (AMD). PL 1979, c. 392, §4 (AMD). PL 1981, c. 364, §44 (AMD). PL 1983, c. 836, §6 (AMD). PL 1997, c. 511, §16 (AMD). PL 2001, c. 147, §4 (AMD). PL 2013, c. 331, Pt. C, §28 (AMD). PL 2019, c. 222, §2 (AMD). PL 2019, c. 222, §7 (AFF).

§4308. Inspection

The State Tax Assessor, the assessor's duly authorized agents, the Commissioner of Agriculture, Conservation and Forestry and the commissioner's deputies, agents or employees have authority to enter any place of business of any processor or shipper or any car, boat, truck or other conveyance in which wild blueberries are to be or are being transported, including on a public way, and to inspect any books or records of any processor or shipper, or any premises where wild blueberries are stored, handled, transported or merchandised, for the purpose of determining what wild blueberries are taxable under this chapter or for the purpose of determining the truth or falsity of any statement or return made

by any processor or shipper. The Commissioner of Agriculture, Conservation and Forestry, or the commissioner's deputies, agents or employees, shall conduct periodic random inspections of processors and shippers under this section and section 4316, subsection 4. [PL 2019, c. 222, §3 (AMD); PL 2019, c. 222, §7 (AFF).]

SECTION HISTORY

PL 1979, c. 731, §19 (AMD). PL 1997, c. 511, §17 (AMD). PL 2011, c. 657, Pt. W, §6 (REV). PL 2019, c. 222, §3 (AMD). PL 2019, c. 222, §7 (AFF).

§4309. Records available on limited basis

(REPEALED)

SECTION HISTORY

PL 1977, c. 668, §4 (RP).

§4310. False returns; violations; civil action for collection

(REPEALED)

SECTION HISTORY

PL 1973, c. 6 (AMD). PL 1977, c. 679, §27 (AMD). PL 1981, c. 364, §45 (RP).

§4311. Appropriation of moneys received

(REPEALED)

SECTION HISTORY

PL 1971, c. 425, §4 (AMD). PL 1977, c. 533, §§4,5 (AMD). PL 1983, c. 836, §7 (RP).

§4311-A. Appropriations of money received

Money received from the tax levied by section 4303 must be appropriated for the following purposes: [PL 2013, c. 331, Pt. C, §29 (AMD).]

1. Collection and enforcement. The commission shall pay a sum to the State Tax Assessor representing the cost incurred by the State in collection of the taxes imposed by this chapter and the enforcement of this chapter;
[PL 1997, c. 511, §18 (AMD).]

1-A. Transfer, allocation and appropriation. Money received by the Treasurer of State under this chapter, including all receipts of taxes levied under section 4303, must be transferred to the Wild Blueberry Commission of Maine in its capacity as an independent agency on a monthly basis by the 15th of the month following collection and be used for all activities of the commission authorized under this chapter. All money received by the Treasurer of State under this chapter, including all receipts of taxes levied under section 4303, must be allocated or appropriated to the commission by the Legislature. Money received by the commission does not lapse and may be invested until expended for activities authorized under this chapter;
[PL 2013, c. 331, Pt. C, §30 (AMD).]

2. Promotion and advertising. The Wild Blueberry Commission of Maine may implement programs and activities to promote and advertise wild blueberries; and join with any local, state, federal or private agency, department, firm, corporation or association to implement the purposes of this section;
[PL 1997, c. 511, §18 (AMD).]

3. Research and extension educational programs. Thirty percent of the funds collected, but not to exceed $85,000, must be dedicated to the University of Maine System for the purpose of supplementing its research and extension programs related to improved methods of growing,

harvesting, processing, product development and marketing of wild blueberries. The Wild Blueberry Commission of Maine may allocate additional funds to the University of Maine System or other organizations for research and extension programs as may be appropriate to implement the purposes of this section;
[PL 1997, c. 511, §18 (AMD).]

4. Administration and other activities. The commission may allocate funds necessary for the administration of this chapter and for other activities related to the economic viability of the Maine wild blueberry industry; and
[PL 1997, c. 511, §18 (AMD).]

5. Balance of funds. Any funds remaining over and above the expenses incurred under subsection 3 do not lapse, but must be carried forward to the same fund and for the same purposes for the next fiscal year.
[PL 1997, c. 511, §18 (AMD).]

SECTION HISTORY

PL 1983, c. 836, §8 (NEW). PL 1985, c. 779, §81 (AMD). PL 1997, c. 511, §18 (AMD). PL 2013, c. 331, Pt. C, §§29, 30 (AMD).

§4312. Advisory committee

The University of Maine System Wild Blueberry Advisory Committee, as authorized by Title 5, chapter 379, is appointed by the Wild Blueberry Commission of Maine. The committee consists of 7 members who are active in and representative of the wild blueberry industry. The duty of the committee is to advise and work with the University of Maine System to develop and approve a plan of work and budgets for research and extension programs related to the production and use of wild blueberries. [PL 1997, c. 511, §19 (AMD).]

Current members of the advisory committee shall continue to serve for the duration of their current appointments. New appointments to the advisory committee must be for terms of 4 years, and members may be reappointed for additional terms. [PL 2019, c. 186, §1 (AMD).]

SECTION HISTORY

PL 1977, c. 533, §6 (AMD). PL 1983, c. 836, §9 (RPR). PL 1985, c. 75 (AMD). PL 1985, c. 295, §55 (AMD). PL 1985, c. 737, §A99 (AMD). PL 1985, c. 779, §82 (AMD). PL 1987, c. 402, §A186 (AMD). PL 1989, c. 503, §B166 (AMD). PL 1997, c. 511, §19 (AMD). PL 2019, c. 186, §1 (AMD).

§4312-A. Appropriation of moneys received

(REPEALED)

SECTION HISTORY

PL 1971, c. 425, §5 (NEW). PL 1977, c. 533, §7 (AMD). PL 1989, c. 29, §4 (RP).

§4312-B. Maine Blueberry Commission

(REPEALED)

SECTION HISTORY

PL 1971, c. 425, §5 (NEW). PL 1977, c. 533, §8 (RPR). PL 1983, c. 812, §272 (AMD). PL 1983, c. 836, §10 (RPR). PL 1985, c. 737, §A100 (RPR). P&SL 1987, c. 130 (AMD). PL 1989, c. 503, §B167 (AMD). PL 1995, c. 331, §2 (AMD). PL 1997, c. 511, §20 (RP).

§4312-C. Wild Blueberry Commission of Maine

1. Commission established as a public instrumentality. The Wild Blueberry Commission of Maine, as established by Title 5, section 12004-H, subsection 13-A and referred to in this section as the "commission," is established as a public body corporate and politic and an incorporated public instrumentality of the State. The exercise of powers conferred by this chapter is held to be the performance of essential government functions.

A. Employees of the commission may not be construed to be state employees for any purpose, including the state civil service provisions of Title 5, Part 2 and Title 5, chapter 372. [PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

B. The commission may not be construed to be a state agency for any purpose, including the budget, accounts and control, auditing, purchasing or other provisions of Title 5, Part 4. [PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

C. Notwithstanding paragraphs A and B:

(1) Employees of the commission may be state employees for the purposes of the state retirement provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter II;

(2) For the purposes of the Maine Tort Claims Act, the commission is a governmental entity and its employees and members are employees as those terms are defined in Title 14, section 8102;

(3) Funds received by the commission pursuant to this chapter must be allocated to the commission by the Legislature in accordance with Title 5, section 1673; and

(4) All meetings and records of the commission are subject to the provisions of Title 1, chapter 13, subchapter I, except that by majority vote of those members present, records and meetings of the commission may be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the wild blueberry industry of the State or segments of that industry. The Commissioner of Agriculture, Conservation and Forestry and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over agricultural, conservation and forestry matters have access to all material designated confidential by the commission. [PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF); PL 2011, c. 657, Pt. W, §6 (REV).]

D. An employee of the commission who leaves commission employment may not be a paid lobbyist as defined by Title 3, section 312-A, subsection 10 for a wild blueberry business for a period of one year after leaving commission employment. [PL 2019, c. 186, §2 (NEW).]

[PL 2019, c. 186, §2 (AMD).]

2. Appointment. Appointments to the commission are made by the Commissioner of Agriculture, Conservation and Forestry. The commissioner shall call for and consider nominations for grower representative appointments to the commission from the wild blueberry grower community in the State. The commissioner shall call for nominations by January 15th of any year in which a grower representative term will expire and shall announce the call for nominations at a statewide agricultural trade show held in Augusta in January.

[PL 2019, c. 186, §3 (AMD).]

3. Membership. The commission consists of 10 members who are active in and representative of the wild blueberry industry, appointed by the Commissioner of Agriculture, Conservation and Forestry.

A. Five members must be grower representatives. For the purposes of this section, "grower representative" means a person, firm, partnership, association or corporation engaged in the growing of wild blueberries in the State, including but not limited to those who engage in organic

growing, other integrated crop management growing, fresh pack sales, wild blueberry business cooperative activities and wild blueberry value-added production and those representing a federally recognized Indian nation, tribe or band in the State. "Grower representative" does not include a processor representative. Grower representative members must be selected to represent grower representatives who pay both the processor and grower portions of the wild blueberry tax under this chapter and grower representatives who pay only the grower portion of the wild blueberry tax under this chapter. [PL 2019, c. 186, §4 (NEW).]

B. Five members must be processor representatives. For purposes of this section, "processor representative" means a person, firm, partnership, association or corporation that processes 1,000,000 pounds or more of wild blueberries grown in the State in a calendar year. [PL 2019, c. 186, §4 (NEW).]

[PL 2019, c. 186, §4 (RPR).]

4. Term. Members are appointed to staggered 4-year terms so that the terms of at least 2 but not more than 3 members expire on August 31st of every year. If the Commissioner of Agriculture, Conservation and Forestry fails to make an appointment prior to the expiration of a member's term, that member continues to serve until the commissioner makes an appointment for the remainder of that term. If a vacancy occurs prior to the expiration of a specified term, the Commissioner of Agriculture, Conservation and Forestry shall appoint an individual to serve only the remainder of that term.
[PL 2019, c. 186, §5 (AMD).]

5. Organization. Members of the commission shall elect annually by majority vote one member of the commission to serve as chair and one member to serve as vice-chair. The commission may appoint by majority vote an executive director who is the commission's chief administrator and such personnel as the commission considers necessary to administer policies and programs established by the commission. The executive director and other staff serve at the pleasure of the commission. The salaries paid to the executive director and other staff of the commission are fixed by the commission. The executive director and other staff are not subject to the personnel laws of the State.
[PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

6. Compensation of commissioners. Members of the commission are entitled to compensation in accordance with Title 5, chapter 379.
[PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

7. Function of commission. It is the responsibility of the commission to utilize and allocate such funds as may be available from the funds collected under section 4307. The commission may make contracts or enter into contracts with any local, state, federal or private agency, department, firm, corporation or association as may be necessary to carry out the purposes of this chapter.
[PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

8. Debt. A debt or obligation incurred by the commission is not a debt or obligation of the State.
[PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

9. Books and records. The commission shall keep books, records and accounts of all its activities, which must be open to inspection and audit by the State at all times. An independent certified public accountant shall conduct an annual audit of the financial records of the commission and report the results of the audit to the commission, the Commissioner of Agriculture, Conservation and Forestry, the Treasurer of State and the Legislature.
[PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF); PL 2011, c. 657, Pt. W, §6 (REV).]

10. Funding. The commission may receive and expend funds from any source, public or private, that it determines necessary to carry out its purposes.
[PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

11. Appropriation and use of money received. The commission may accept grants or contributions of money or other things of value from any source, public or private. Those grants or other contributions must be held by the commission and used to carry out the purposes of this chapter, subject to any condition under which the grant or contribution was accepted by the commission.
[PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

12. Bylaws. The commission may adopt bylaws to govern its functions.
[PL 1997, c. 511, §21 (NEW); PL 1997, c. 511, §25 (AFF).]

SECTION HISTORY

PL 1997, c. 511, §21 (NEW). PL 1997, c. 511, §25 (AFF). PL 2011, c. 579, §2 (AMD). PL 2011, c. 657, Pt. W, §6 (REV). PL 2019, c. 186, §§2-5 (AMD).

§4313. Tax as additional

(REPEALED)

SECTION HISTORY

PL 1981, c. 364, §46 (RP).

§4314. Permission required

1. Possession or removal unlawful. It is unlawful for a person to harvest, pick, rake, possess or remove wild blueberries from the land of an owner without first securing written permission from the owner or the owner's authorized agent. This section does not apply to members of an organized crew, if the crew leader has first secured the written permission of the owner. The written permission must identify the land by reference to tax map, lot number and town, township or plantation or to global positioning coordinates for the area where wild blueberries are managed. A person authorized to make inspections under this chapter may require a person on the land of an owner who has possession of wild blueberries or is found harvesting, raking, picking or removing wild blueberries to show valid written permission. Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.
[PL 2007, c. 694, §6 (AMD).]

2. No effect on other laws. Nothing in this section may be construed:

A. To relieve any person of any obligation to obtain permission to enter upon the land or premises of another; or [PL 1989, c. 214, §2 (NEW).]

B. To affect any criminal or civil liability which may exist for unauthorized entry, trespass, theft or conversion. [PL 1989, c. 214, §2 (NEW).]
[PL 1989, c. 214, §2 (NEW).]

3. Violation; first offense. A person who violates subsection 1 commits a Class E crime.
[PL 2007, c. 694, §7 (RPR).]

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 D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.
[PL 2007, c. 694, §8 (NEW).]

SECTION HISTORY

PL 1989, c. 214, §2 (NEW). PL 1997, c. 511, §22 (AMD). PL 2007, c. 694, §§6-8 (AMD). PL 2023, c. 18, §2 (AMD).

§4315. Transportation of wild blueberries

1. Transportation of wild blueberries; permit required.
[PL 2023, c. 18, §3 (RP).]

1-A. Records of permits; confidentiality.
[PL 2023, c. 18, §4 (RP).]

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.
[PL 2007, c. 694, §9 (NEW).]

2. Permits subject to forgery laws.
[PL 2023, c. 18, §5 (RP).]

3. Violation. The following penalties apply to violations of this section.

A. A person who transports wild blueberries in violation of this section commits:

(1) A Class E crime; or

(2) A Class D crime if the person has 2 or more prior convictions under this paragraph. [PL 2023, c. 18, §6 (AMD).]

B. [PL 2023, c. 18, §7 (RP).]
[PL 2023, c. 18, §§6, 7 (AMD).]

4. Exceptions.

[PL 2023, c. 18, §8 (RP).]

SECTION HISTORY

PL 1989, c. 214, §2 (NEW). PL 1989, c. 859, §1 (AMD). PL 1997, c. 511, §23 (AMD). PL 1999, c. 194, §1 (AMD). PL 2003, c. 452, §§U6-8 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2007, c. 694, §9 (AMD). PL 2023, c. 18, §§3-8 (AMD).

§4316. Receivers of wild blueberries

1. Record keeping required. A shipper or processor who transports or receives wild blueberries shall keep a permanent record of each lot or load of wild blueberries. The record must include the name of the driver of the vehicle used to deliver the wild blueberries, the date of delivery, the delivery point, the total pounds of wild blueberries delivered, the origin of the delivery and, if the origin is a location in the State, the name and address of the grower or seller and the grower's or seller's certificate number if the grower or seller is certified under section 4305.
[PL 2023, c. 18, §9 (AMD).]

2. Inspection of permit required.
[PL 2023, c. 18, §10 (RP).]

2-A. Tracking. Wild blueberries must be uniquely identified during transportation to a receiving facility by the field from which they were harvested.
[PL 2019, c. 222, §5 (NEW); PL 2019, c. 222, §7 (AFF).]

3. Violation; civil. The failure to keep the permanent records of wild blueberries transported or received as required in this section or any other violation of this section is a civil violation punishable by a fine of not more than $5,000 for a first-time violation and punishable by a fine of not more than $10,000 when the person is found to have committed a prior civil violation of this section within the prior 5 years.
[PL 2023, c. 18, §11 (AMD).]

3-A. Violation; criminal. A shipper or processor who violates this section when the shipper or processor is found to have committed 2 prior civil violations of this section commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.
[PL 2007, c. 694, §10 (NEW).]

3-B. Strict liability crime. Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.
[PL 2007, c. 694, §10 (NEW).]

4. Audits. The Wild Blueberry Commission of Maine may request the Department of Agriculture, Conservation and Forestry to conduct, and the department at its own discretion may conduct, an audit of the records of a shipper or a processor for the purpose of ascertaining compliance with this section. The Commissioner of Agriculture, Conservation and Forestry, or a duly authorized agent, has free access, during normal business hours, to all records required to be kept by shippers or processors pursuant to this section and also to shippers' or processors' accounts payable, accounts receivable, records of inventories, actual inventories, records of shipments and such other business records as are needed to ascertain compliance with this section. Any documents inspected or taken by the department in furtherance of the audit functions or any other information collected by the department pursuant to the audit must be kept confidential notwithstanding any provision to the contrary contained in Title 1, chapter 13, subchapter 1. This confidential status does not apply to any documents, records or information that is needed as evidence in any civil or criminal proceeding to enforce any law under this chapter or any other criminal law.
[PL 2019, c. 222, §6 (AMD); PL 2019, c. 222, §7 (AFF).]

SECTION HISTORY

PL 1989, c. 214, §2 (NEW). PL 1989, c. 859, §§2,3 (AMD). PL 1997, c. 511, §24 (AMD). PL 2007, c. 694, §10 (AMD). PL 2011, c. 657, Pt. W, §5 (REV). PL 2019, c. 222, §§4-6 (AMD). PL 2019, c. 222, §7 (AFF). PL 2023, c. 18, §§9-11 (AMD).

§4317. Authorized law enforcement

State police, county sheriffs and their deputies, municipal enforcement officers, state forest rangers and game wardens are authorized to make inspections, conduct investigations, make arrests and otherwise enforce this chapter. [PL 1989, c. 214, §2 (NEW).]

SECTION HISTORY

PL 1989, c. 214, §2 (NEW).

§4318. Sunset provision

(REPEALED)

SECTION HISTORY

PL 1989, c. 214, §2 (NEW). PL 1991, c. 506, §6 (RP).

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