

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out all of section 1 and inserting the following:

‘Sec. 1. 30-A MRSA §4452, sub-§3, ¶C-2, as enacted by PL 2007, c. 92, §2, is amended to read:

C-2. Notwithstanding paragraph C, for violations of the laws and ordinances set forth in subsection 5, paragraph Q, the provisions of this paragraph apply. The court must order the violator to correct or mitigate the violation unless the correction or mitigation would result in a threat or hazard to public health or safety, substantial environmental damage or a substantial injustice.

(1) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of a tree or trees must include, but is not limited to, replacement of each tree cut with a tree of substantially similar size and species to the extent available and feasible or trees of varying size and species such that the visual impact from the cutting will be remediated, the tree canopy that was cut will be restored within a reasonable time period and a total basal area equal to at least 50% of the basal area cut will be replanted.

(2) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of understory vegetation must include, but is not limited to, replacement of the understory vegetation with understory vegetation of substantially similar size and species to the extent reasonably available and feasible.

(3) For violations requiring correction or mitigation pursuant to subparagraph (1) or (2), the violator shall submit to the municipality a reforestation plan and 5year management plan developed with and signed by a forester licensed pursuant to Title 32, chapter 76 or other qualified professional. The reforestation plan must include consideration of specified site conditions and address habitat and other riparian restoration, visual screening, understory vegetation and erosion and sedimentation control. The management plan must address how the replacement trees must be maintained to enable the trees to grow to a healthy, mature height.

For purposes of this paragraph, "timber harvesting" has the same meaning as in Title 38, section 438-B, subsection 1, paragraph C.

For purposes of this paragraph, "understory vegetation" means all saplings that measure less than 2 inches in diameter at 4.5 feet above ground level and all shrubs.’

SUMMARY

The amendment replaces the bill. The bill proposes to give the court discretion to order the replacement of trees or vegetation when a person cuts down a tree or understory vegetation in violation of the shoreland zoning laws. Under current law, except for timber harvesting, a person is required to replace each tree with a tree of substantially similar size and species to the extent available and feasible.

The amendment requires the replacement of each tree cut with a tree or trees of varying size and species such that the visual impact from the cutting will be remediated, the tree canopy that was cut will be restored within a reasonable time period and a total basal area equal to at least 50% of the basal area cut will be replanted. The amendment requires the replacement of understory vegetation with understory vegetation of substantially similar size and species to the extent reasonably available and feasible. The amendment requires a 5year management plan to be developed, which must address how the replacement trees must be maintained to enable them to grow to a healthy, mature height.