Maine Forest Products Council

The voice of Maine's forest economy

Testimony Neither For Nor Against

LD 417 "An Act Regarding the Confidentiality of Certain Records Belonging to the Department of Agriculture, Conservation and Forestry Related to the Bureau of Forestry"

February 27, 2025
Krysta West, Deputy Director

Good afternoon, Senator Talbot Ross, Representative Pluecker and members of the Agriculture, Conservation and Forestry Committee. My name is Krysta West. I live in Readfield, and I am the Deputy Director of the Maine Forest Products Council.

For 65 years, the Maine Forest Products Council has served as the voice of Maine's forest economy, representing more than 300 members from all facets of the forest products industry. Our members include pulp and paper mills, sawmills, secondary wood processors, foresters, loggers and truckers. We also represent commercial landowners managing more than 8 million acres of forestland.

While the Council agrees with the premise of this bill that certain records held by the Maine Forest Service should be kept confidential during investigations, we are presenting testimony neither for nor against the bill before you today because it is unclear to us what problem the bill is trying to solve. As an organization representing the big tent that includes all sectors of the industry, we have received zero complaints from our members regarding the manner in which the Maine Forest Service handles confidential information. For that reason, this bill seems to be a solution in search of a problem.

If the Committee does decide to move forward with legislation, we note that Section 8007(2)(B) in the bill has vague and overbroad language that should be deleted:

> B. The records are obtained in connection with providing a service to the public consistent with the bureau's duties pursuant to this Part.

This broad language goes beyond investigations of complaints or violations of law, as every record held by the Maine Forest Service is "in connection with providing a service to the public". It would potentially make our members liable for getting or disclosing any public records from the Maine Forest Service. We believe this level of confidentiality is unclear, confusing and unnecessary. It would also run counter to the Maine Freedom of Access Act (Title 1 M.R.S. Chapter 13).

For these reasons, the Council encourages the committee to limit this bill to investigations into violations by the Maine Forest Service, and to identify existing policies regarding the handling of confidential information during ongoing investigations.

It also seems unusual for a confidentiality law to apply to one bureau within a department. We would suggest broadening the scope of this provision to apply to all investigative records held by the Department of Agriculture, Conservation and Forestry.

An alternative option would be for ACF to utilize the same state law that the Department of Environmental Protections does to keep documents confidential under the Freedom of Access law for Maine Rules of Evidence.

> **[PL 1975, c. 758 (NEW).]**
> **B. Records that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding;**

A recent case challenged this approach, and it was upheld by the court.[1]

Thank you for your consideration. I would be happy to answer any questions you may have.

[1] Dubois v. Maine Department of Environmental Protection, Civil Action AP-15-0028 | Casetext Search + Citator