

Testimony of Bill Williams
Deputy Executive Director
Maine Woodland Owners
In Support of LD 128

Senator Davis, Representative Dunphy and members of the Agriculture, Conservation and Forestry Committee, I am Bill Williams, Deputy Executive Director of the Maine Woodland Owners testifying in support of LD 128, An Act to Prohibit Foraging on Private Land Without Permission.

This legislation would require anyone harvesting edible wild food to have written permission of the landowner or bill of sale, and have that permission in their immediate possession. The language is the same that already exists for the commercial harvesting of Christmas trees and boughs to make Christmas wreaths. Both of those industries started out small but grew unregulated to the point where trees and boughs were being harvested indiscriminately without the knowledge or benefit of the landowner. We believe that the commercial harvesting of edible wild foods, especially mushrooms, has reached that point. We have no problem with the bill as written but see mushroom foraging as the important issue. This bill would also allow the Department of Health and Human Services to decline or revoke forager certification for violating the landowner permission requirement. We strongly support the state granting forager licenses with landowner permission as a requirement of the license.

The majority of private landowners are willing to share their land with the public. There is a long tradition of access to private land for hunting, fishing, hiking, snowmobiling, bird watching, ATV riding and a whole host of activities. In fact, about 90% of Maine's outdoor recreation economy is based on what is essentially free access to the land. In most other states, you do not step foot on private woodland without permission. Maine has perhaps the most open lands policy regarding public use of private land and traditions of any state in the country. However, among the challenges this generosity of private landowners has created is the perception that it is okay to take what you find, that no one really owns the land, or that no one really cares. Well, landowners do care.

There is a growing interest in wild mushrooms, among the public and woodland owners. This increased interest has created a burgeoning industry based on the

sale of wild mushrooms at farmers markets, restaurants, food co-ops, and sometimes out of the back of pickup trucks. This is great for the economy and we support it. Estimates indicate there are about 200 commercial wild mushroom foragers in Maine that can make as much as \$1,000 per day. There are also an unknown number of amateur foragers. The problem is, unless the forager is the landowner or has the permission of the landowner, the forager has no right to the wild mushrooms.

We would be pleased to see wild mushroom businesses thrive and grow in Maine. We don't think that growth should be based on taking something that belongs to the landowners. If money is being made from foraging, we think the landowner should have a chance to benefit too. Some may not care about any financial benefit but most certainly do not want something taken from their land without their knowledge. In addition to protecting woodland owners for what belongs to them, we see this bill as a way to protect the industry as no business wants to buy products that are "stolen." This bill would give some assurance to the buyer that the products they are purchasing are being sold by someone who has legal ownership. This bill also has the potential to help "foragers." Working with landowners, they would have access to their favorite sites, but this could also keep other foragers away. This structure has worked for the tippers collecting boughs for wreaths under the same standards called for in this legislation.

While technically the removal of any products that belong to the landowner from a person's property without their permission is a violation, we suggest that this bill only address where the harvesting is for commercial purposes. And, that there is no impact to a landowner harvesting commercially on his or her own property.

As you consider this bill, there are two additional suggestions we have for you. It might be appropriate to allow a landowner to provide a blanket exemption for foraging for those who do not care if commercial harvesting takes place on their property. We also ask that this bill be considered relative to the limited landowner liability law, and that a ruling is given to determine if there would still be landowner liability protection if a landowner provides permission for commercial foraging (or tipping) under that statute.

In closing, these are the two main points. First, landowners should not be taken for granted. The public has enjoyed great benefit from the willingness of landowners to share their property. But nobody should be taking something that belongs to landowners without their consent. Second, the State should not be certifying "foragers" for the purpose of facilitating the sale of products from the forest without some reasonable requirements to ensure landowner permission has been granted.