

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

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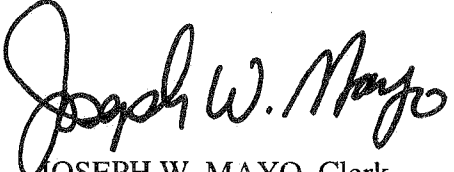
H.P. 595

House of Representatives, February 4, 1997

**An Act to Increase the Department of Marine Resources' Involvement in  
Dredge Permitting.**

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Reference to the Committee on Marine Resources suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative ETNIER of Harpswell.  
Cosponsored by Senator BUTLAND of Cumberland and  
Representative LEMONT of Kittery, Senator: SMALL of Sagadahoc.

Be it enacted by the People of the State of Maine as follows:

2  
4       **Sec. 1. 38 MRSA §352, sub-§3**, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §11, is further amended to read:

6       **3. Maximum fee.** Except as provided in this subsection and  
8       subsection 3-A, no fee may exceed the maximum established in  
10       Table I. The commissioner shall set the actual fees. If the  
12       commissioner determines that a particular application, by virtue  
14       of its size, uniqueness, complexity or other relevant factors, is  
16       likely to require significantly more costs than those listed on  
18       Table I, the commissioner may designate that application as  
20       subject to special fees. A special fee may not exceed \$40,000.  
22       Such a designation must be made at, or prior to, the time the  
      application is accepted as complete and may not be based solely  
      on the likelihood of extensive public controversy. All  
      department staff who have worked on the review of the application  
      must submit quarterly reports to the commissioner detailing the  
      time spent on the application and all expenses attributable to  
      the application. The processing fee for that application must be  
      the actual cost to the department. The applicant shall must be  
      billed quarterly and all fees paid prior to receipt of the permit.

24       **Sec. 2. 38 MRSA §352, sub-§3-A** is enacted to read:

26       **3-A. Dredging applications and special fees.** Any permit  
28       requiring approval by the Commissioner of Marine Resources under  
30       section 480-D, subsection 10 is subject to special fees under  
32       subsection 3 for the purpose of reimbursing the Commissioner of  
34       Marine Resources for actual review costs incurred by the  
36       Commissioner of Marine Resources. The Commissioner of Marine  
38       Resources shall submit quarterly reports to the Commissioner of  
      Environmental Protection detailing the time spent on the  
      application and all expenses attributable to the application.  
      The Commissioner of Environmental Protection shall bill the  
      applicant quarterly. All special fees collected for review costs  
      incurred by the Commissioner of Marine Resources must be credited  
      to the Department of Marine Resources.

40       **Sec. 3. 38 MRSA §480-D, sub-§9**, as enacted by PL 1989, c. 656,  
42       §3, is repealed.

44       **Sec. 4. 38 MRSA §480-D, sub-§§10 and 11** are enacted to read:

46       **10. Dredging and marine fishing.** If the proposed activity  
48       involves dredging, dredge spoils disposal or transporting dredge  
      spoils by water, a permit may not be issued unless the applicant  
      demonstrates to and receives the approval of the Commissioner of  
      Marine Resources that the transportation route minimizes adverse

2 impacts on the marine fishing industry. The Commissioner of  
3 Marine Resources shall hold a public hearing on the  
4 transportation route before making a decision. The permit may  
5 not allow dredging, dredge spoils disposal or transporting dredge  
6 spoils by water from April 1st to October 31st. The Commissioner  
7 of Marine Resources may grant an exception to the closed period  
8 under this subsection if the Commissioner of Marine Resources  
9 determines an exception would not adversely impact the marine  
10 fishing industry or migrating marine organisms. The permit must  
11 contain a description of the legal process a person may pursue to  
12 seek compensation for the loss or destruction of fishing gear as  
13 a result of dredging activities when that loss or destruction  
14 occurs outside of an area marked pursuant to paragraph A and the  
15 dredging activities of the permit holder caused the loss or  
16 destruction. The Commissioner of Marine Resources may also  
17 require an applicant to:

18 A. Clearly mark the dredging area, the dredge spoils  
19 disposal area and the transportation route;

20 B. Publish in a newspaper of general circulation in the  
21 area adjacent to the route the approved transportation route  
22 of the dredge spoils; and

23 C. Publish in a newspaper of general circulation in the  
24 area adjacent to the route a description of the legal  
25 process a person may pursue to seek compensation for the  
26 loss or destruction of fishing gear as a result of dredging  
27 activities when that loss or destruction occurs outside of  
28 an area marked pursuant to paragraph A and the dredging  
29 activities of the permit holder caused the loss or  
30 destruction.

31 11. Dredging disposal sites. If the proposed activity  
32 involves dredging, dredge spoils disposal or transporting dredge  
33 spoils by water, the applicant shall demonstrate that the  
34 disposal site is geologically suitable.

35 **Sec. 5. Application.** This Act applies to permit applications  
36 filed with the Department of Environmental Protection on or after  
37 the effective date of this Act.

#### 44 SUMMARY

45 The bill requires transportation routes associated with  
46 dredging operations be approved by the Commissioner of Marine  
47 Resources. It prohibits dredging from April 1st to October 31st,  
48 unless an exception is granted by the Commissioner of Marine  
49 Resources. It authorizes the Commissioner of Marine Resources to

2 require dredging transportation routes be clearly marked. It  
also authorizes the Commissioner of Marine Resources to require a  
4 dredge operator to publish in a newspaper the dredge spoils  
transportation route and the process a person can pursue to seek  
6 compensation for lost or damaged fishing gear caused by  
dredging-related activities outside of marked areas.