

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND FOURTH LEGISLATURE

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**Legislative Document**

**No. 431**

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S. P. 150

In Senate, January 29, 1969

Referred to Committee on Natural Resources. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Berry of Cumberland.

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## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-NINE

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### **AN ACT** Revising the Law Regulating the Alteration of Wetlands.

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

**Sec. 1. R. S., T. 12, § 4701, amended.** The 2nd sentence of section 4701 of Title 12 of the Revised Statutes, as enacted by chapter 348 of the public laws of 1967, is amended to read as follows: Such notice shall be sent to each body by registered mail at least ~~60~~ 30 days before such alteration is proposed to commence.

**Sec. 2. R. S., T. 12, § 4701, amended.** Section 4701 of Title 12 of the Revised Statutes, as enacted by chapter 348 of the public laws of 1967, is amended by adding at the end the following new sentence:

**The results of the public hearing shall be reported to the Wetlands Control Board by the municipal officers within 7 days of such hearing.**

**Sec. 3. R. S., T. 12, § 4701, amended.** Section 4701 of Title 12 of the Revised Statutes, as enacted by chapter 348 of the public laws of 1967, is amended by adding at the end the following new paragraph:

For purposes of this chapter, coastal wetlands are defined as all land above low water, including any swamp, marsh, bog, beach, flat or other contiguous lowland, which is subject to tidal action or coastal storm flowage at any time including periods of maximum tire action or unusual storm activity.

When winter conditions prevent a municipality or the Wetlands Control Board from evaluating a permit application, the municipality or board upon notifying the applicant of such fact may defer action on the application for up to 120 days. Since no permit will have been issued in this situation,

the applicant shall not during the period of deferral remove material from, fill, dredge, drain sanitary sewage into, or in any other way alter a coastal wetland.

Each such notice of intention filed with the municipality shall be accompanied by a permit fee of \$30 to cover the administrative costs of the municipality in processing the permit application.

**Sec. 4. R. S., T. 12, § 4702, amended.** The first and 2nd sentences of section 4702 of Title 12 of the Revised Statutes, as enacted by chapter 348 of the public laws of 1967, are amended to read as follows:

Permit to undertake the proposed alteration shall be issued by the municipal officers within ~~7~~ 30 days of such hearing providing the Wetlands Control Board approves. Such permit may be conditioned by either the municipality or the Wetlands Control Board upon the applicant amending his proposal to take whatever measures are necessary to protect the public interest.

**Sec. 5. R. S., T. 12, § 4702, amended.** Section 4702 of Title 12 of the Revised Statutes, as enacted by chapter 348 of the public laws of 1967, is amended by adding at the end a new paragraph, to read as follows:

Every permit issued by municipal officers shall be recorded in the registry of deeds for the county in which the wetlands lie. If a permit is conditioned upon the applicant amending his proposal as provided in the previous paragraph, said permit shall be recorded with the conditions which lead to its issuance attached. Any permit not recorded within 30 days of its issuance shall have no legal effect and any alteration of coastal wetlands relying on an unrecorded permit is impermissible and if undertaken is a violation of this chapter and may be dealt with as provided in section 4709.

**Sec. 6. R. S., T. 12, § 4705, amended.** Section 4705 of Title 12 of the Revised Statutes, as enacted by chapter 348 and as amended by section 32 of chapter 544, both of the public laws of 1967, is further amended to read as follows:

#### § 4705. Wetlands Control Board

The Wetlands Control Board shall be composed of the Commissioners of Sea and Shore Fisheries and of Inland Fisheries and Game, the Chairman of the Water and Air Environmental Improvement Commission, the Chairman of the State Highway Commission ~~and~~, the Forest Commissioner, and the Commissioner of Health and Welfare or their delegates.

**Sec. 7. R. S., T. 12, § 4709, repealed and replaced.** Section 4709 of Title 12 of the Revised Statutes, as enacted by chapter 348 of the public laws of 1967, is repealed and the following enacted in place thereof:

#### § 4709. Violation

Whoever violates any provision of this chapter shall be punished by a fine of not more than \$100.

The Superior Court shall have jurisdiction to restrain a continuing violation of this chapter at the suit of any person and, if necessary to preserve any of the values and purposes for which this chapter was passed, as outlined in section 4702, shall order a restoration of the affected area to as near its original condition as possible; said restoration to be undertaken and costs borne by the property owner.

A continuing violation is defined as any filling, dredging, draining, altering or removal of materials which takes place and thus permanently changes the landscape in coastal wetland areas as defined in section 4701 after the effective date of this Act, contrary to a permit or without a permit having been issued, and without regard to whether these physical acts were witnessed as they were being carried out or whether the action was willfully undertaken to avoid the intent of this chapter or only innocent undertaken.

Inland fish and game wardens, coastal wardens and all other law enforcement officers enumerated in section 2003 shall enforce this chapter.