

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 261

H. P. 201

House of Representatives, February 3, 1977

Referred to Committee on Natural Resources. Sent up for concurrence and 1,800 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Burns of Anson.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Amending the Great Ponds Alteration Statute.

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

Sec. 1. 38 MRSA § 380, as enacted by PL 1973, c. 608, § 1, is amended by inserting after the 3rd paragraph the following new paragraph:

The Legislature further finds and declares that the cumulative effect of numerous minor alterations over a period of time is of equal concern and impact as the occasional major alteration and requires evaluation and scrutiny consistent with that potential impact. Moreover, the well-being of the citizens of Maine requires the development and maintenance of an efficient and rapid system of administering this chapter so as to minimize delays and difficulties in evaluating these alterations.

Sec. 2. 38 MRSA c. 3, Art. 1-B is enacted to read:

ARTICLE 1-B. GREAT PONDS ALTERATION PROGRAM

§ 391. Prohibitions

No person shall perform or cause to be performed any of the following activities without first obtaining a permit from the Board of Environmental Protection: Dredging or removing materials from below the normal high water line in a great pond; constructing or repairing any permanent structure below the normal high water line in a great pond; or depositing any dredged spoil or fill below the normal high water line in a great pond or on the land adjacent thereto in such a manner that the material may fall or be washed into the great pond. Any action taken in violation of the terms or conditions of a permit issued by the board is also prohibited.

§ 392. Definitions

As used in this subchapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. **Great pond.** For the purposes of this subchapter, "great pond" shall include any inland body of water which in its natural state has a surface area in excess of 10 acres, and any body of water artificially formed or increased which has a surface area in excess of 30 acres, the shore of which is owned by 2 or more persons, firms or other legal entities.

2. **Normal high water line.** "Normal high water line" shall mean that line which is apparent because of the different character of the soils, or vegetation, or visible markings due to the prolonged action of the water. All land below the normal high water line shall be considered the bottom of the great pond.

3. **Permanent structure.** "Permanent structure" shall mean any structure, including but not limited to causeways, piers, docks, concrete slabs, piles, marinas, retaining walls and buildings, which is permanently fixed in the water for a period exceeding 7 months each year.

§ 393. Permit; standards

The board shall grant a permit upon proper application and upon such terms as it deems necessary to fulfill the purposes of this article when it finds that a proposed activity shall not unreasonably:

1. **Various uses.** Interfere with existing recreational, navigational or scenic uses;

2. **Harm to environs.** Harm the natural environs of the great pond or any adjacent stream;

3. **Cause soil erosion.** Cause soil erosion;

4. **Harm to habitat.** Harm any fish or wildlife habitat;

5. **Interference of flow.** Interfere with the natural flow of any waters; and

6. **Lower water quality.** Lower the quality of the water.

The board shall issue no permit without first causing the municipality in which the proposed alteration is to occur to be notified of the application and without considering any comments filed within a reasonable period by the municipality.

When winter conditions prevent the board from evaluating a permit application, the board may, upon notifying the applicant, defer action on the application for a reasonable period.

§ 394. Exemptions and procedural waivers

The Board of Environmental Protection shall promulgate regulations designed to reduce procedural requirements and establish specific standards for those alterations, the proper execution of which are deemed to have no significant impact upon the great ponds and which are not inconsistent with the

purposes of this chapter. Such alterations shall include, but not be limited to: The placement of water lines to serve a single family house; the movement of rocks or vegetation by hand over a shorefront length not to exceed 10 feet; the placement of sand above the high water line, when properly stabilized; the construction or rock riprap erosion control devices above the high water line; the installation of anchoring devices for mooring small boats or holding floating structures; and the installation of cables for utilities such as telephone and power. The board shall promulgate such regulations within 90 days of the effective date of this Act and may thereafter amend them as it deems necessary.

Maintenance and minor repair of existing structures where no additional intrusion into the great pond shall occur is exempt from this article.

§ 395. Penalties

Any person found to have violated section 391 shall be assessed a civil penalty of not more than \$200 for each day of violation. Any such dredging or removing of materials, construction of a permanent structure or deposit of fill in or on the land adjacent to a great pond shall be prima facie evidence that the activity was performed or caused to be performed by the owner of the property upon which, or immediately adjacent to which, the violation is found to have occurred.

§ 396. Enforcement

Inland fish and game wardens, coastal wardens and all other law enforcement officers enumerated in Title 12, section 2003, shall have authority to enforce this chapter.

§ 397. Injunction; restoration

In the event of the violation of this article, the Attorney General may institute proceedings to enjoin further violations and to compel restoration of the affected area to its condition prior to the occurrence of the violation.

Sec. 3. 38 MRSA § 422, as last amended by PL 1975, c. 388, § 34, is repealed.

STATEMENT OF FACT

This bill clarifies the Great Ponds Alteration statute. Citizens of Maine will be able to better understand the purpose of the program and what is required to satisfy the law. Purpose, definitions, specific exemptions and provisions for reduced procedural requirements are included in this bill, but are lacking in the existing statute.

Section 1 provides a statement of purpose.

Section 2 contains the new Great Ponds Alteration Program legislation.

Section 3 repeals the existing statute which relates to dredging permits.