

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 385

H. P. 267

House of Representatives, February 7, 1979

Mr. Dow of West Gardiner withdrew motion to refer to the Committee on Fisheries and Wildlife and subsequently referred to the Committee on Energy and Natural Resources. Sent up for concurrence and 1,800 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Dow of West Gardiner.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Amend the Stream Alteration Act.

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

Sec. 1. 12 MRSA § 2205-A is enacted to read:

§ 2205-A. Legislative intent

The Legislature finds, declares and recognizes that the rivers, streams and brooks of the State have great scenic beauty and unique characteristics, unsurpassed recreational, cultural, historical and environmental value of present and future benefit to the citizens of the State, and that uses are threatening the well-being of these bodies of water and, therefore, the health, safety and general welfare of the citizens of Maine.

The Legislature further finds and declares that the protection and enhancement of the environment of rivers, streams and brooks is a matter of high urgency and priority and that this environment is being endangered by unwise uses.

The Legislature further finds and declares that the cumulative effect and impact of frequent minor alterations and occasional major alterations requires evaluation and scrutiny consistent with that potential impact.

Sec. 2. 12 MRSA § 2206, as amended by PL 1975, c. 388, § 1, is further amended to read:

§ 2206. Prohibitions

No individual person, firm, corporation, municipality, state agency or other legal entity shall dredge or cause to be dredged, fill or cause to be filled, or erect or cause to be erected a causeway, bridge, marina, wharf, dock or other permanent structure, above head of tide, in, on or over any river, stream or brook; or **deposit dredged spoil or fill or excavate or scrape** on the land adjacent to any river, stream or brook in such a manner that any dredged spoil, fill, **soil, material** or structure may fall or be washed into such waters, without first obtaining a permit therefor from the commissioner.

Sec. 3. 12 MRSA § 2207, first ¶, as enacted by PL 1973, c. 786, § 1, is amended to read:

If the applicant for the permit demonstrates to the satisfaction of the commissioner that the proposed activity will not unreasonably interfere with existing **scenic beauty** or recreational and navigational uses; nor cause unreasonable soil erosion; nor unreasonably interfere with the natural flow of any waters; nor unreasonably harm any fish habitat or wildlife habitat; nor lower the quality of any waters, the commissioner shall grant the permit upon such terms as he deems necessary to insure that the proposed activity will comply with the foregoing standards.

Sec. 4. 12 MRSA § 2210, as amended by PL 1975, c. 388, § 2, is repealed and the following enacted in its place:

§ 2210. Penalties

Any individual person, firm, corporation, municipality, state agency or other legal entity who violates the prohibitions of section 2206 or who does or causes to be done any action in violation of the terms or conditions of a permit granted by the commissioner, shall be guilty of a Class E crime for each day of the violation.

Sec. 5. 12 MRSA § 2212, as last amended by PL 1975, c. 623, § 9, is repealed and the following enacted in its place:

§ 2212. Exemptions

This subchapter shall not apply to river, stream or brook crossings in connection with public works projects which shall alter not more than a total of 300 feet in any mile of shore nor to private crossings which shall alter not more than a total of 100 feet in any mile of shore. Alterations to both shores of the river, stream or brook shall be combined in arriving at a total shore footage.

Maintenance and minor repair of existing permanent structures which do not increase the dimensions of those structures are exempt from this subchapter.

This subchapter shall not apply to emergency repairs, maintenance of railroad structures, track or roadbed within the located right-of-way of any railroad.

STATEMENT OF FACT

In 1974 the stream alteration laws were enacted to provide for the regulation of activities affecting the rivers, streams and brooks of the State in the same manner as identical activities are regulated in great ponds under the Great Ponds Act. Section 1, 2, 3 and 4 of this bill are designed to once again bring the stream alteration laws into substantial conformity with the Great Ponds Act which was amended in significant part by the last Legislature.

Section 5 of this bill extends the powers of the Commissioner of Inland Fisheries and Wildlife to the regulation of previously exempt public and private crossing projects. The bill does not require permits for the construction of those projects, but it does empower the commissioner to enact regulations governing the manner in which they are carried out to control sedimentation. All exemptions for dam projects are eliminated and an exemption for minor repairs of existing structures is added.