

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1362

S. P. 479

In Senate, March 18, 1981

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

MAY M. ROSS, Secretary of the Senate

Presented by Senator Redmond of Somerset.

Cosponsors: Senator Pierce of Kennebec and Representative Dexter of Kingfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Protect Public and Private Property from Ice Jams.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period may not elapse until after the next spring flood season; and

Whereas, there is a necessity for an established procedure to remove ice jams and debris from the rivers and streams; and

Whereas, these ice jams may pose a grave threat to public safety and public and private property; and

Whereas, it is essential to have these procedures in place before the next spring flood season; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 35 MRSA § 14 is repealed.

Sec. 2. 37-A, chapter 7-A is enacted to read:

**CHAPTER 7-A
REMOVAL OF ICE JAMS**

§ 191. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Director.** "Director" means the Director of the Bureau of Civil Emergency Preparedness.

2. **Ice jams.** "Ice jams" means the accumulation of ice or other debris in the bed of any river or stream above the head of tide.

3. **Local organizations for civil emergency preparedness.** "Local organizations for civil emergency preparedness" means an organization created in accordance with chapter 3 by state, county or local authority to perform local civil emergency preparedness functions.

§ 192. Duties of the director

The director shall establish procedures for protecting the public safety and public and private property from ice jams or other flooding. These procedures shall contain as a minimum the following:

1. **Contingency plans.** State and local contingency plans for dealing with emergencies caused by ice jams and other flooding;

2. **Reviewing agencies.** Designation of those state agencies that shall review requests to remove ice jams and procedures to expedite this review; and

3. **Rules.** Rules promulgated in accordance with Title 5, chapter 375, subchapter I, to carry out the purposes of this chapter.

§ 193. Duties of local organizations for civil emergency preparedness

1. **Monitoring.** The local organization designated under section 59 shall monitor water levels, accumulation of ice and debris, and other conditions related to flooding in rivers and streams in the area of their jurisdiction.

2. **Permission to remove ice jams.** If he deems it necessary, the director of this local organization shall request permission from the Director of the Bureau of Civil Emergency Preparedness to remove ice jams and other similar hazards. This request shall be in writing, or, if necessary, orally with written confirmation sent within 24 hours.

3. **Emergency.** If the accumulation of ice or other debris creates an imminent hazard to public safety, the director of the local organization may order the immediate removal of these obstructions.

§ 194. Procedure

1. **Requests.** The director shall accept requests from local organizations to remove ice jams and other accumulation of debris.

2. **Review of requests.** The director shall designate those agencies that shall review requests for removing ice jams. Each agency so designated shall identify the person in the agency responsible for this review, and procedures for conducting the review in a timely manner.

3. **Notice.** Prior to removing any ice jam, the director of the local organization shall notify the directors of the local organizations in any area that may be affected by the removal of an ice jam. Under no circumstances may any ice jams be removed without fulfilling this requirement.

4. **Methods.** The local organization may employ any method, including mechanical removal, dusting, icebreaking vessels or explosives to remove ice jams.

§ 195. Project review

If practical, a representative from the Bureau of Civil Emergency Preparedness shall be present during ice jam and debris removal operations. Information that may be useful in future ice jam and debris removal operations shall be recorded. A follow-up report on the specific measures employed and the effectiveness of the removal operation in abating public danger and damage by flood for each removal operation shall be formulated and maintained by the bureau.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

This bill establishes a reasonable system for local emergency officials to remove ice jams that threaten public safety and property. Currently, the Public Utilities Commission reviews requests for removal of ice jams. The Public Utilities Commission has neither the time nor expertise to adequately review the requests.

The bill establishes coordinated procedures among the local and state civil emergency preparedness officials to initiate and review requests to remove ice jams.