

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 1200

6  
7 S.P. 433

In Senate, April 2, 1985

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

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator McBreairty of Aroostook.

11 Cosponsored by Senator Usher of Cumberland, Representative Jacques of  
Waterville and Representative Dexter of Kingfield.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT to Further Protect Significant and  
18 Outstanding Rivers and to Equalize  
19 their Treatment in Organized  
20 Municipalities and Plantations.  
21

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

24 Sec. 1. 12 MRSA §4811, 2nd ¶, as enacted by PL  
25 1983, c. 458, §2, is amended to read:

26 It is further declared that, in accordance with  
27 section 402, certain river and stream segments, as  
28 identified in the Department of Conservation's 1982  
29 Maine Rivers Study and as specifically delineated in  
30 ~~section~~ sections 4811-B and 4811-C, are significant  
31 river segments and deserve special shoreland zoning  
32 controls designed to protect their natural and recre-  
33 ation features.

34 Sec. 2. 12 MRSA §4811-A, sub-§1-A is enacted to  
35 read:

1           1-A. Densely developed. "Densely developed"  
2 means any commercial, industrial or compact residen-  
3 tial area of 10 or more acres with an existing densi-  
4 ty of at least one principal structure per 2 acres.

5           Sec. 3. 12 MRSA §4811-B, as enacted by PL 1983,  
6 c. 458, §4, is amended to read:

7 §4811-B. Significant river segments identified

8           For purposes of this chapter, significant river  
9 segments include the following:

10           1. Aroostook River. The Aroostook River from  
11 St. Croix Stream in Masardis to the Masardis and  
12 T.10, R.6, W.E.L.S. townline and from the T.10, R.6,  
13 W.E.L.S. and Oxbow Plantation townline to the Oxbow  
14 Plantation and T.9, R.7, W.E.L.S. townline, exclud-  
15 ing segments in T.9, R.5, W.E.L.S.; including its  
16 tributary the Big Machias River from the Aroostook  
17 River in Ashland to the ~~Ashland~~ and Garfield  
18 Plantation and T.11, R.7, W.E.L.S. townlines;

19           1-A. Allagash River. The Allagash River from  
20 Gerald Brook in Allagash to the Allagash and T.15,  
21 R.11, W.E.L.S. townline;

22           2. Dennys River. The Dennys River from the  
23 railroad bridge in Dennysville Station to the dam at  
24 Meddybemps Lake, excluding the western shore in Ed-  
25 munds Township and ~~No. 14 Plantation;~~

26           3. East Machias River. The East Machias River  
27 from 1/4 of a mile above the Route 1 bridge in East  
28 Machias to the East Machias and T.18, E.D., B.P.P.  
29 townline, and from the T.19, E.D., B.P.P. and Wesley  
30 townline to the outlet of Crawford Lake in Crawford,  
31 excluding Hadley Lake;

32           4. Fish River. The Fish River from the bridge  
33 in Fort Kent Mills to the ~~Fort Kent~~ and Wallagrass  
34 Plantation and Eagle Lake townline, and from the Por-  
35 tagage Lake and T.14, R.6, townline to the Portage Lake  
36 and T.13, R.7, W.E.L.S. townline, excluding Eagle  
37 Lake and Portgage Lake;

- 1           4-A. Little Black River. The Little Black River  
2 from the bridge near the Little Black checkpoint to  
3 the Allagash T.18, R.11, W.E.L.S. townline;
- 4           5. Machias River. The Machias River from the  
5 Whitneyville and Machias townline to the Northfield  
6 T.19, M.D., B.P.P. townline;
- 7           6. Mattawamkeag River. The Mattawamkeag River  
8 from the outlet of Mattakeunk Stream in Winn to the  
9 Mattawamkeag and Kingman Township townline, and from  
10 the ~~Reed Plantation and Baneroff~~ Kingman Township and  
11 Drew Plantation townline to the East Branch, includ-  
12 ing its tributaries the West Branch from the  
13 Mattawamkeag River to the Haynesville T.3, R.3,  
14 W.E.L.S. townline and from its inlet into Upper  
15 Mattawamkeag Lake to the Route 2 bridge; the East  
16 Branch from the Mattawamkeag River to the Haynesville  
17 and Forkstown Township townline and from the T.4, R  
18 3, W.E.L.S. and Oakfield townline to Red Bridge in  
19 Oakfield; the Fish Stream from the Route 95 bridge in  
20 Island Falls to the Crystal-Patten townline; and the  
21 Baskehegan Stream from its inlet into Crooked Brook  
22 Flowage in Danforth to the Danforth and Brookton  
23 Township townline;
- 24           7. Narraguagus River. The Narraguagus River  
25 from the ice dam above the railroad bridge in  
26 Cherryfield to the Beddington and Devereaux Township  
27 townline, excluding Beddington Lake;
- 28           8. East Branch of Penobscot. The East Branch of  
29 the Penobscot from the Route 157 bridge in Medway to  
30 the East Millinocket and Grindstone Township  
31 townline;
- 32           9. Pleasant River. The Pleasant River from the  
33 railroad bridge in Columbia Falls to the Columbia and  
34 T.18, M.D., B.P.P. townline, and from the T.24, M.D.,  
35 B.P.P. and Beddington townline to the outlet of  
36 Pleasant River Lake;
- 37           10. Rapid River. The Rapid River from the  
38 Magalloway Plantation and Upton townline to the out-  
39 let of Pond in the River;

1           10-A. Saint John River. The Saint John River  
2 from Walker Brook in Allagash to the Allagash and  
3 T.16, R.12, W.E.L.S. townline.

4           11. West Branch Pleasant River. The West Branch  
5 Pleasant River from the East Branch to the Brownville  
6 and Williamsburg Township townline; and

7           12. West Branch of Union River. The West Branch  
8 of the Union River from the Route 9 bridge in Amherst  
9 to the outlet of Great Pond in the Town of Great  
10 Pond.

11           Sec. 4. 12 MRSA §4811-C is enacted to read:

12           §4811-C. Outstanding river segments identified

13           For purposes of this chapter outstanding river  
14 segments include the following:

15           1. Allagash River. The Allagash River from its  
16 confluence with the the Saint John River to Gerald  
17 Brook in Allagash;

18           2. Aroostook River. The Aroostook River from  
19 the Canadian border to the Saint Croix Stream in  
20 Masardis;

21           3. Carrabassett River. The Carrabassett River  
22 from the Kennebec River to the Carrabassett Valley  
23 and Mt. Abram Township townline;

24           4. Crooked River. The Crooked River from its  
25 inlet into Sebago Lake to the Waterford and Albany  
26 Township townline;

27           5. Damariscotta River. The Damariscotta River  
28 from the Route 1 bridge in Damariscotta to the dam at  
29 Damariscotta Mills;

30           6. Dead River. The Dead River from its conflu-  
31 ence with the Kennebec River to the West Forks  
32 Plantation and Lower Enchanted Township townline, ex-  
33 cluding the shoreline in Bowtown Township;

34           7. Dennys River. The Dennys River from the  
35 Route 1 bridge to the railroad bridge in Dennysville  
36 Station;

- 1           8. East Machias River. The East Machias River,  
2 from the Crawford and No. 21 Plantation townline to  
3 the outlet of Pocomoonshine Lake, excluding Crawford  
4 Lake, Lower Mud Pond and Upper Mud Pond;
- 5           9. Kennebago River. The Kennebago River from  
6 its inlet into Cupsuptic Lake to the Rangeley and  
7 Lower Cupsuptic Township townline;
- 8           10. Kennebec River. The Kennebec River from  
9 Thorns Head Narrows in North Bath to the Edwards Dam  
10 in Augusta, excluding Perkins Township and from the  
11 Route 148 bridge in Madison to the West Forks  
12 Plantation and T.1, R.6, B.K.P. townlines, excluding  
13 the western shore in Concord Township and Carrying  
14 Place Township and the eastern shore in Moxie Gore  
15 and excluding Wyman Lake;
- 16           11. Machias River. The Machias River from the  
17 Route 1 bridge to the Whitneyville and Machias  
18 townline;
- 19           12. Mattawamkeag River. The Mattawamkeag River  
20 from the Penobscot River to the outlet of Mattakeunk  
21 Stream in Winn;
- 22           13. Penobscot River. The Penobscot River, in-  
23 cluding the Eastern Channel, from Sandy Point in  
24 Stockton Springs to the Veazie Dam and its tributary  
25 the East Branch of the Penobscot from the Penobscot  
26 River to the Route 157 Bridge in Medway;
- 27           14. Piscataquis River. The Piscataquis River  
28 from the Penobscot River to the Monson and Blanchard  
29 Plantation townline;
- 30           15. The Pleasant River. The Pleasant River from  
31 the bridge in Addison to the railroad bridge in Co-  
32 lumbia Falls;
- 33           16. Saco River. The Saco River from the Little  
34 Ossipee River to the New Hampshire border;
- 35           17. St. Croix River. The St. Croix River from  
36 the Route 1 bridge in Calais to the Baileyville and  
37 Fowler Township townline, and from the Lambert Lake  
38 Township and Vanceboro townline to the outlet of

1 Spednik Lake, excluding Woodland Lake and Grand Falls  
2 Flowage;

3 18. St. George River. The St. George River from  
4 the Route 1 bridge in Thomaston to the outlet of Lake  
5 St. George in Liberty, excluding White Oak Pond, Sev-  
6 en Tree Pond, Round Pond, Sennebec Pond, Trues Pond,  
7 Stevens Pond and Little Pond;

8 19. St. John River. The St. John River from the  
9 Canadian border to Walker Brook in Allagash;

10 20. Sandy River. The Sandy River from the Ken-  
11 nebec River to the Madrid and Township E townline;

12 21. Sheepscot River. The Sheepscot River from  
13 the railroad bridge in Wiscasset to the Halldale Road  
14 in Montville, excluding Long Pond and Sheepscot Pond,  
15 including its tributary the West Branch of the  
16 Sheepscot from its confluence with the Sheepscot Riv-  
17 er in Whitefield to the outlet of Branch Pond in  
18 China; and

19 22. West Branch Union River. The West Branch  
20 Union River from the Route 181 bridge in Mariaville  
21 to the Route 9 bridge in Amherst.

22 Sec. 5. 12 MRSa §4816, as enacted by PL 1983, c.  
23 458, §5, is repealed and the following enacted in its  
24 place:

25 §4816. Guidelines for shoreland zoning along signif-  
26 icant and outstanding river segments

27 1. Significant river segments. In addition to  
28 the guidelines adopted under section 4812, the fol-  
29 lowing guidelines for the protection of the shore-  
30 lands shall apply along significant river segments  
31 identified in section 4811-B. These guidelines are  
32 intended to maintain the special values of these par-  
33 ticular river segments by protecting their scenic  
34 beauty and undeveloped character.

35 A. New principal structures, except for struc-  
36 tures related to hydropower facilities, shall  
37 have a minimum of lot shore frontage of 150 feet,  
38 shall be set back a minimum of 125 feet from the

1 normal high-water mark of the river and shall be  
2 located on a lot which is at least 40,000 square  
3 feet in area. The frontage, set-back and lot  
4 size requirements of this paragraph shall not ap-  
5 ply to lots in existence before July 1, 1985,  
6 which meet the frontage, set-back and lot size  
7 requirements in existence prior to that date.  
8 These structures shall be screened from the river  
9 by existing vegetation.

10 B. Developers of new permanent roads, except for  
11 those providing access to a structure or facility  
12 allowed in the 250-foot zone, shall demonstrate  
13 that no reasonable alternative route outside of  
14 the zone exists. When roads must be located  
15 within the zone, they shall be set back as far as  
16 practicable from the normal high-water mark and  
17 screened from the river by existing vegetation.

18 C. Developers of new gravel pits shall demon-  
19 strate that no reasonable mining site outside of  
20 the zone exists. When gravel pits must be lo-  
21 cated within the zone, they shall be set back as  
22 far as practicable from the normal high-water  
23 mark and no less than 75 feet and screened from  
24 the river by existing vegetation.

25 2. Outstanding river segments. In addition to  
26 the guidelines adopted under section 4812, the guide-  
27 lines described in this section for the protection of  
28 the shorelands shall apply along outstanding river  
29 segments identified in section 4811-C.

30 New principal structures, except for structures re-  
31 lated to hydropower facilities, shall have a minimum  
32 lot shore frontage of 125 feet, shall be set back a  
33 minimum of 100 feet from the normal high-water mark  
34 of the river and shall be located on a lot which is  
35 at least 30,000 square feet in area. These frontage,  
36 set-back and lot size provisions shall not apply ei-  
37 ther within areas zoned as general development or its  
38 equivalent under section 4813, or within areas desig-  
39 minated by ordinance as densely developed. The deter-  
40 mination of which areas are densely developed shall  
41 be based on a finding that, as of July 1, 1985, ex-  
42 isting development meets the requirements of section  
43 4811-A, subsection 1. The frontage, set-back and lot



1 size requirements of this subsection shall not apply  
2 to lots in existence before July 1, 1985, which meet  
3 the frontage, set-back and lot size requirements in  
4 existence prior to that date.

5 3. Zoning guidelines for shoreland within Maine  
6 Land Use Regulation Commission jurisdiction. If the  
7 Maine Land Use Regulation Commission adopts special  
8 zoning regulations along segments of significant riv-  
9 ers designated in section 4811-B or outstanding riv-  
10 ers designated in section 4811-C, which are located  
11 in plantations and municipalities subject to commis-  
12 sion jurisdiction, those regulations shall not be  
13 more restrictive than the regulations provided by  
14 this section for significant and outstanding rivers  
15 which are located in municipalities not subject to  
16 commission jurisdiction. The commission may adopt  
17 more restrictive zoning regulations for segments of  
18 significant or outstanding rivers located in planta-  
19 tions and municipalities subject to its jurisdiction  
20 when those regulations have been approved by the vot-  
21 ers of the plantation or municipality.

22 Sec. 6. 12 MRSA §4817, as enacted by PL 1983, c.  
23 458, §5, is amended by adding at the end a new para-  
24 graph to read:

25 Each municipality with shorelands along outstand-  
26 ing river segments, as identified in section 4811-C,  
27 shall review the adequacy of the zoning on these  
28 shorelands to protect the special values cited for  
29 these river segments by the Department of Conserva-  
30 tion 1982 Maine Rivers Study and for consistency with  
31 the guidelines established under section 4816, sub-  
32 section 2. Prior to December 15, 1986, each such mu-  
33 nicipality shall certify to the State Planning Office  
34 either that its existing zoning for these areas is at  
35 least as restrictive as the guidelines established  
36 under section 4816, subsection 2, or that it has  
37 amended its zoning for this purpose. This certifica-  
38 tion shall be accompanied by the ordinances and zon-  
39 ing maps covering these areas. Failure to accomplish  
40 the purposes of this subsection shall result in adop-  
41 tion of suitable ordinances for these municipalities,  
42 as provided for in section 4813.

43 Sec. 7. 12 MRSA §7776-A, sub-§1, as enacted by  
44 PL 1983, c. 458, §6, is amended to read:

1           1. Aroostook River. The Aroostook River from  
2 the Canadian border to the Masardis and T.10, R.6,  
3 W.E.L.S. townline and from the T.10, R.6, W.E.L.S.  
4 and Oxbow Plantation townline to the Oxbow Plantation  
5 and T.9, R.7, W.E.L.S. townline, excluding the seg-  
6 ment in T.9, R.5, W.E.L.S., including its tributaries  
7 the Big Machias River from the Aroostook River to the  
8 Ashland and Garfield Plantation and T.11, R.7,  
9 W.E.L.S. townline and the St. Croix Stream from the  
10 Aroostook River in Masardis and T.9, R.5, W.E.L.S.  
11 townline;

12           Sec. 8. 12 MRSA §7776-A, sub-§1-A is enacted to  
13 read:

14           1-A. Allagash River. The Allagash River from  
15 its confluence with the St. John River to the T.15,  
16 R.11, W.E.L.S. townline;

17           Sec. 9. 12 MRSA §7776-A, sub-§19, as enacted by  
18 PL 1983, c. 458, §6, is amended to read:

19           19. St. John River. The St. John River from the  
20 Hamlin Plantation and Van Buren townline to the ~~Fert~~  
21 ~~Kent and St. John Plantation townline,~~ and from the  
22 ~~St. John Plantation and St. Francis townline to the~~  
23 Allagash and St. Francis T.16, R.12, W.E.L.S.  
24 townline;

25           Sec. 10. 30 MRSA §4956, sub-§1, as amended by PL  
26 1983, c. 458, §10, is further amended to read:

27           1. Defined. A subdivision is the division of a  
28 tract or parcel of land into 3 or more lots within  
29 any 5-year period, which period begins after Septem-  
30 ber 22, 1971, whether accomplished by sale, lease,  
31 development, buildings or otherwise, provided that a  
32 division accomplished by devise, condemnation, order  
33 of court, gift to a person related to the donor by  
34 blood, marriage or adoption, unless the intent of  
35 such gift is to avoid the objectives of this section,  
36 or by transfer of any interest in land to the owner  
37 of land abutting thereon, shall not be considered to  
38 create a lot or lots for the purposes of this sec-  
39 tion.

1 In determining whether a tract or parcel of land is  
2 divided into 3 or more lots, the first dividing of  
3 such tract or parcel, unless otherwise exempted here-  
4 in, shall be considered to create the first 2 lots,  
5 and the next dividing of either of said first 2 lots,  
6 by whomever accomplished, unless otherwise exempted  
7 herein, shall be considered to create a 3rd lot, un-  
8 less both such dividings are accomplished by a subdi-  
9 vider who shall have retained one of such lots for  
10 his own use as a single family residence for a period  
11 of at least 5 years prior to such 2nd dividing. Lots  
12 of 40 or more acres shall not be counted as lots.

13 For the purposes of this section, a tract or parcel  
14 of land is defined as all contiguous land in the same  
15 ownership, provided that lands located on opposite  
16 sides of a public or private road shall be considered  
17 each a separate tract or parcel of land unless such  
18 road was established by the owner of land on both  
19 sides thereof.

20 A "densely developed area" is defined as any commer-  
21 cial, industrial or compact residential area of 10 or  
22 more acres with an existing density of at least one  
23 principal structure per 2 acres. A principal struc-  
24 ture is defined as any building other than one which  
25 is used for purposes wholly incidental or accessory  
26 to the use of another building on the same premises.

27 Sec. 11. 30 MRSA §4956, sub-§1-A, as enacted by  
28 PL 1983, c. 458, §11, is repealed.

29 Sec. 12. 30 MRSA §4956, sub-§3, ¶L, as amended  
30 by PL 1983, c. 458, §12, is repealed.

31 STATEMENT OF FACT

32 The purposes of this bill are to enhance the pro-  
33 tection of significant and outstanding rivers identi-  
34 fied in the rivers bill in 1983 and to provide for  
35 treatment of segments of rivers which are located in  
36 plantations and municipalities subject to the Maine  
37 Land Use Regulation Commission jurisdiction which is  
38 equal to that provided for river segments which are  
39 in municipalities not subject to the Maine Land Use  
40 Regulation Commission jurisdiction.

1           Section 1 makes cross references which are made  
2 necessary by this bill.

3           Section 2 adds the definition of "densely devel-  
4 oped," previously in the municipal subdivision law,  
5 to the shoreland zoning law for application to out-  
6 standing rivers under the provisions of section 4 of  
7 the bill.

8           Section 3 adds segments of rivers which are in  
9 plantations and organized towns subject to the Maine  
10 Land Use Regulation Commission jurisdiction to the  
11 list of significant rivers.

12           Section 4 relocates the list of outstanding riv-  
13 ers from the municipal subdivision law to the shore-  
14 land zoning law; adds segments of rivers which are in  
15 plantations and organized towns subject to the Maine  
16 Land Use Regulation Commission jurisdiction to the  
17 list of outstanding rivers; and deletes segments  
18 which overlap with segments designated as significant  
19 in section 2.

20           Section 5 accomplishes the following:

21           Amends the shoreland zoning restrictions for sig-  
22 nificant rivers by adding a 150 foot minimum  
23 shore lot frontage and a 40,000 square foot mini-  
24 mum lot size;

25           Adds shoreland zoning restrictions of 125 foot  
26 minimum shore lot frontage and 30,000 square foot  
27 minimum lot size for outstanding rivers; and

28           Requires that the Maine Land Use Regulation Com-  
29 mission regulations for segments of significant  
30 and outstanding rivers within the Maine Land Use  
31 Regulation Commission jurisdiction be no more re-  
32 strictive than the shoreland zoning standards un-  
33 less approved by the voters.

34           Section 6 grants towns with outstanding river  
35 segments until December 15, 1986, to certify to the  
36 State Planning Office that its shoreland zoning re-  
37 strictions are at least as restrictive as the statu-  
38 tory standards.

1           Sections 7, 8 and 9 add segments of the Allagash,  
2 Aroostook and St. John Rivers to the rivers listed in  
3 the rivers bill for stream alteration law purposes.

4           Sections 10, 11 and 12 repeal the municipal sub-  
5 divisions provisions of the rivers bill which apply  
6 to outstanding river segments. Those segments have  
7 been relocated to the shoreland zoning law in section  
8 3.

9

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