

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 2149
6

7 S.P. 848

In Senate, March 5, 1986

8 Submitted by the Department of Conservation pursuant to Joint Rule 24.
9 Referred to the Committee on Fisheries and Wildlife. Sent down for
concurrence and ordered printed.

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

Presented by Senator Diamond of Cumberland.

Cosponsored by Representative Rolde of York, Representative Erwin of
Rumford and Representative McPherson of Eliot.

11
12 STATE OF MAINE
13

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

17 AN ACT to Improve Boating Safety and Public
18 Access to the State's Public Waters.
19

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

22 Sec. 1. 36 MRSA §2903-A, as amended by PL 1985,
23 c. 481, Pt. A, §81, is further amended to read:

24 §2903-A. Finding of fact

25 The Legislature makes a finding of fact that the
26 percentage relationship of "gasoline tax" paid by
27 that segment of the nonhighway gasoline user, the mo-
28 torboat user, is not less than 1.25% of the total
29 "gasoline tax" revenue, but certainly is more than
30 the 1.25% referred to. Based on this legislative
31 "finding of fact" there is set aside 1.25% of the to-
32 tal excise tax on internal combustion engine fuel
33 sold or used within the State, but not including in-
34 ternal combustion engine fuel sold for use in the
35 propulsion of aircraft. From this 1.25% allocation

1 shall be deducted the refunds paid out under section
2 2908 to purchasers and users of internal combustion
3 engine fuel for commercial motorboats; ~~20% of the~~
4 The balance of 1.25% after paying out such those re-
5 funds shall be paid to the Treasurer of State to be
6 made available as follows: Twenty percent to the
7 Commissioner of Marine Resources for the purpose of
8 conducting research, development and propagation ac-
9 tivities by the department, and it is the responsi-
10 bility of the Commissioner of Marine Resources to se-
11 lect activities and projects that will be most bene-
12 ficial to the commercial fisheries of the State as
13 well as the development of sports fisheries activi-
14 ties in the State; the remaining 80% of the balance
15 of 1.25% after paying out such refunds shall be
16 credited 5% to the Commissioner of Inland Fisheries
17 and Wildlife for the purpose of promoting safety for
18 persons and property in connection with the use and
19 operation of watercraft as authorized under Title 12,
20 section 7793, subsection 2, and for regulating the
21 marking of, removing hazards from and charting the
22 inland waters as authorized under Title 39, section
23 330; and 75% to the Boating Facilities Fund, estab-
24 lished under Title 38, section 322, within the Maine
25 State Bureau of Parks and Recreation. The State Tax
26 Assessor shall certify to the State Controller, on or
27 before the 15th day of each month, the amounts to be
28 credited under the previous sentence, as of the close
29 of the State Controller's records for the previous
30 month. When refunds paid to purchasers and users of
31 internal combustion engine fuel for commercial motor-
32 boats in any month exceed 1.25% of gasoline tax reve-
33 nuues for that month, such the excess shall be carried
34 forward in computing amounts to be credited to the
35 Department of Marine Resources and to the Boating Fa-
36 ilities Fund under this section for the succeeding
37 month or months. Funds credited to the Department of
38 Marine Resources shall be allocated by the joint
39 standing committee of the Legislature having juris-
40 isdiction over appropriations and financial affairs.

41 Sec. 2. 38 MRSA §321, as amended by PL 1973, c.
42 460, §19, is repealed and the following enacted in
43 its place:

44 §321. Director of the Bureau of Parks and Recre-
45 ation; duties

1 The Director of the Bureau of Parks and Recreation,
2 with the advice and consent of the Commissioner
3 of Conservation, shall acquire, construct and
4 maintain, within the funds available, public facilities
5 for boats in the waters of the State, including,
6 but not limited to, launching ramps, parking sites
7 and access roads. "Waters of the State" means any waters
8 within the territorial limits of the State and
9 the marginal sea adjacent to the State.

10 The Director of the Bureau of Parks and Recreation
11 with the consent of the Commissioner of Conservation,
12 shall decide where the facilities shall be
13 located and which facilities shall be constructed by
14 the Department of Transportation.

15 In carrying out the purposes of this chapter, the
16 Bureau of Parks and Recreation, its authorized agents
17 and employees, may enter upon any lands, waters and
18 premises in the State for the purpose of making surveys
19 and examinations as it may deem necessary or
20 convenient in the discharge of its duties and the entry
21 shall not be deemed a trespass.

22 Sec. 3. 38 MRSA §323, as amended by PL 1973, c.
23 460, §19, is further amended to read:

24 §323. Fees

25 The Director of the Bureau of Parks and Recreation
26 may charge reasonable fees for the services
27 provided by this subchapter. ~~Such~~ These fees shall be
28 used to supervise the facilities constructed. The Director
29 of the Bureau of Parks and Recreation may set
30 aside no more than 10% of ~~said~~ the fees ~~per~~ each year
31 as a reserve fund for repairs and maintenance of the
32 facilities ~~and for marking the waters where in its~~
33 ~~opinion a hazard to boating exists.~~

34 The Director of the Bureau of Parks and Recreation
35 may, when in his opinion it is essential for
36 public safety, prepare, print and distribute
37 navigational charts and publications, and he may
38 charge a reasonable fee for same.

39 Sec. 4. 38 MRSA §326, as repealed and replaced
40 by PL 1977, c. 696, §340, is amended to read:

1 §326. Violation of rules

2 Whoever violates any of the rules ~~and regulations~~
3 or any notices posted by the Bureau of Parks and
4 Recreation in conformity with this subchapter or who
5 intentionally mutilates, defaces or destroys any mon-
6 ument or marker lawfully erected within the borders
7 of these public facilities shall be guilty of a Class
8 E crime. ~~For the purposes of this section the words~~
9 ~~monument or marker shall not include monuments or~~
10 ~~markers placed by the State as aids to navigation or~~
11 ~~for the purpose of regulating watercraft.~~

12 Sec. 5. 38 MRSA §329, as repealed and replaced
13 by PL 1977, c. 696, §341, is repealed.

14 Sec. 6. 38 MRSA §§330 and 331 are enacted to
15 read:

16 §330. Commissioner of Inland Fisheries and Wildlife;
17 duties

18 The Commissioner of Inland Fisheries and Wildlife
19 may make rules for the uniform marking of the water
20 areas of this State not otherwise regulated. No mu-
21 nicipality, county or person may mark the waters of
22 this State in any manner in conflict with the marking
23 system prescribed by the Commissioner of Inland Fish-
24 eries and Wildlife.

25 The Commissioner of Inland Fisheries and Wildlife
26 may remove or cause to be removed minor hazards to
27 boating when, in his opinion, removal of the minor
28 hazards or obstacles is necessary for the safe pas-
29 sage of watercraft. The Commissioner of Inland Fish-
30 eries and Wildlife, his authorized agents and employ-
31 ees, in carrying out the purpose of this paragraph,
32 may enter upon any lands with the owner's permission,
33 waters and premises in the State for the purpose of
34 removing hazards or obstacles as he may deem neces-
35 sary or convenient in the discharge of his duties and
36 that entry shall not be deemed a trespass.

37 The Commissioner of Inland Fisheries and Wildlife
38 may, when in his opinion it is essential for public
39 safety, prepare, print and distribute navigational
40 charts and publications and he may charge reasonable
41 fees for the navigational charts and publications.

1 This bill shifts the Boating Facility Fund money
2 which is currently used to mark navigational hazards
3 to providing boater safety education and additional
4 public access to public water bodies. The bill also
5 consolidates the authority to regulate the marking of
6 the State's inland waters within the Department of
7 Inland Fisheries and Wildlife.

8 Section 1 transfers gasoline tax funds from the
9 Boating Facilities Fund within the Department of Con-
10 servation to the Department of Inland Fisheries and
11 Wildlife for boating safety education and regulating
12 the marking of the inland waters.

13 Sections 2 to 5 remove the responsibility for
14 marking and regulating the inland waters from the De-
15 partment of Conservation, Bureau of Parks and Recre-
16 ation.

17 Section 6 authorizes the Department of Inland
18 Fisheries and Wildlife to regulate the marking of,
19 remove hazards from and chart the inland waters. The
20 department has some existing authority for regulation
21 of the use and marking of inland waters under the
22 Maine Revised Statutes, Title 12.

23 Section 6 also provides penalties for marking wa-
24 ters contrary to rules established by the commission-
25 er.

26 Section 7 deallocates money from the Boating Fa-
27 cility Fund and reallocates it to the Department of
28 Inland Fisheries and Wildlife to carry out the pur-
29 poses of this Act. The remaining funds used for
30 marking navigational hazards will be used by the
31 Boating Facilities Fund to provide additional public
32 boat access to the State's waters.

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