

# MAINE STATE LEGISLATURE

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(EMERGENCY)  
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SECOND REGULAR SESSION

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ONE HUNDRED AND THIRTEENTH LEGISLATURE

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Legislative Document

NO. 2113

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H.P. 1553 House of Representatives, January 21, 1988

Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on Energy and Natural  
Resources suggested and ordered printed.

EDWIN H. PERT, Clerk  
Presented by Representative COLES of Harpswell.

Cosponsored by Representatives JACQUES of Waterville,  
ALLEN of Washington and Senator BLACK of Cumberland.

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STATE OF MAINE

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

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1           **AN ACT to Protect Maine's Outstanding Rivers**  
2                                   **from Water Diversion Projects.**  
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4           **Emergency preamble.**       Whereas, Acts of the  
5 Legislature do not become effective until 90 days  
6 after adjournment unless enacted as emergencies; and

7           Whereas, the Legislature enacted Public Law 1983,  
8 chapter 458, "AN ACT to Promote the Wise Use and  
9 Management of Maine's Outstanding River Resources.",

1 otherwise known as the Maine Rivers Act, a  
2 comprehensive legislative program, which sought to  
3 strike a carefully considered and well-reasoned  
4 balance among the competing uses of the State's rivers  
5 and streams; and

6 Whereas, an integral part of that Act was the  
7 special protection afforded to approximately 1100  
8 miles of the State's most outstanding river stretches,  
9 because of their unparalleled natural and recreational  
10 values, out of a total of 32,000 miles of rivers and  
11 streams in the State; and

12 Whereas, the Legislature recognized in 1983 that  
13 construction of new dams and reconstruction of  
14 existing dams on these particular outstanding river  
15 stretches could jeopardize their unparalleled natural  
16 and recreational values. Therefore, the Legislature  
17 prohibited the construction of new dams without  
18 specific Legislative approval and permitted the  
19 redevelopment of existing dams only if the significant  
20 resource values of these river segments would not be  
21 diminished; and

22 Whereas, since the passage of the Maine Rivers Act  
23 it has become clear to the Legislature that water  
24 diversion projects at or near these outstanding river  
25 stretches are technically possible as an alternative  
26 to the construction of new dams on or near the river  
27 segments; and

28 Whereas, the water diversions jeopardize the  
29 unparalleled natural and recreational values of the  
30 State's outstanding river segments in the same way as  
31 do new dams, by changing the water flow regime and  
32 otherwise altering the natural river ecosystem; and

33 Whereas, in passing the Maine Rivers Act it was  
34 always the Legislature's intent to fully protect these  
35 river segments from the harmful environmental effects  
36 of the projects, whether they arise from dams or water  
37 diversions; and

38 Whereas, in the judgment of the Legislature, these  
39 facts create an emergency within the meaning of the

1 Constitution of Maine and require the following  
2 legislation as immediately necessary for the  
3 preservation of the public peace, health and safety;  
4 now, therefore,

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

7 12 MRSA §403, first and 2nd ¶¶, as enacted by  
8 PL 1983, c. 458, §1, are amended to read:

9 The Legislature declares that certain rivers,  
10 because of their unparalleled natural and recreational  
11 values, provide irreplaceable social and economic  
12 benefits to the people in their existing state. It is  
13 the Legislature's intent that no new dams be  
14 constructed on these river and stream segments without  
15 the specific authorization of the Legislature, that no  
16 new water diversion projects on or affecting the flow  
17 regime of these river and stream segments be  
18 constructed without the specific authorization of the  
19 Legislature and that additional development or  
20 redevelopment of dams existing on these segments, as  
21 of the date of the enactment of this section  
22 September 23, 1983, shall be designed and executed in  
23 a manner that either enhances or does not diminish the  
24 significant resource values of these river segments  
25 identified by the 1982 Maine Rivers Study. No license  
26 or permit under Title 38, sections 630 to 636 may be  
27 issued for construction of new dams on the river and  
28 stream segments subject to this special protection  
29 without the specific authorization of the Legislature,  
30 for the construction of water diversion projects on or  
31 affecting the flow regime of the river and stream  
32 segments subject to this special protection or for  
33 additional development or redevelopment of existing  
34 dams on the river and stream segments subject to this  
35 special protection where the additional development or  
36 redevelopment diminishes the significant resource  
37 values of these river and stream segments.

38 Further, the Legislature finds that projects  
39 inconsistent with this policy on new dams and  
40 diversion projects and redevelopment of existing dams

1 will alter the physical and chemical characteristics  
2 and designated uses of the waters of these river and  
3 stream segments. It finds that these impacts are  
4 unacceptable and constitute violations of the  
5 state's State's water quality standards. The  
6 Legislature directs that no project which fails to  
7 meet the requirements of this section may be certified  
8 under the United States Clean Water Act, Section 401.

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

12 **STATEMENT OF FACT**

13 This bill makes a technical clarification to  
14 Public Law 1983, chapter 458, passed by the  
15 Legislature in 1983, to ensure that those particular  
16 rivers declared by the Legislature to be "outstanding"  
17 are truly given the special protection intended. The  
18 additional wording in the Maine Revised Statutes,  
19 Title 12, section 403, emphasizes that the Legislature  
20 not only intended to protect these outstanding rivers  
21 from the harmful effects that dams would cause to  
22 these rivers, but also from the harmful effects of  
23 water diversion projects which often have the same  
24 purpose and consequences as damming a river.

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