

# MAINE STATE LEGISLATURE

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of S.

L.D. 2194

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STATE OF MAINE  
SENATE  
114TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " A " to S.P. 858, L.D. 2194, Bill, "An Act Allowing Affected Citizens to Sue for Injunctive Relief Regarding Lake Water Quality"

Amend the bill by striking out all of the title and inserting in its place the following:

'An Act Allowing Water Utilities to Sue for Injunctive Relief Regarding Lake Water Quality'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 35-A MRSA §6109 is enacted to read:

§6109. Injunctive relief for violations of municipal shoreland zoning ordinances

Pursuant to Title 38, section 444-A, any water utility may commence a civil action for a violation of municipal shoreland zoning ordinances.

Sec. 2. 38 MRSA §444-A is enacted to read:

§444-A. Civil suit

1. Suit authorized. Any water utility, as defined in Title 35-A, section 102, may commence a civil action for injunctive relief against an owner of property in the shoreland zone when the following conditions are met.

A. A violation of a municipal shoreland zoning ordinance is alleged to have occurred.

B. The water utility bringing the civil action has a water supply that is directly affected by the alleged violation.

2. Suit prohibited. An action may not be brought under

5. of 5.

COMMITTEE AMENDMENT "A" to S.P. 858, L.D. 2194

2 this section if the Federal Government, State Government or a  
3 municipality of the State has commenced and is pursuing an  
4 administrative, civil or criminal action to remedy the alleged  
5 violation.

6 3. Notice. An action may not be commenced under this  
7 section unless the plaintiff has given at least 60 days' notice  
8 to the alleged violator, the department, the Attorney General,  
9 and the municipality or municipalities in which the violation is  
10 alleged to have occurred. If the violation occurs within the  
11 jurisdiction of the Maine Land Use Regulation Commission, the  
12 commission must be given notice in place of the department and  
13 the municipality.

14 4. Jurisdiction. An action may be commenced in the  
15 District Court or Superior Court in the county in which the  
16 violation is alleged to have occurred.

17 5. Intervention. The Attorney General may intervene in any  
18 case brought under this section.

22 **FISCAL NOTE**

23 Enactment of this bill will allow water utilities to sue for  
24 relief relating to violations of municipal shoreland zoning  
25 ordinances. This bill establishes a notification procedure which  
26 would have no financial impact on State Government. Furthermore,  
27 the Department of the Attorney General and the Judicial  
28 Department will incur some additional costs from the bill. These  
29 costs, however, can be absorbed within the existing budgeted  
30 resources of the respective departments.  
31

34 **STATEMENT OF FACT**

35 This amendment replaces the original bill to allow only  
36 water utilities to sue for injunctive relief in shoreland zoning  
37 violations.

38 Several requirements of the original provision for bringing  
39 a civil suit are strengthened:

40 1. The prohibition on bringing a suit is expanded to  
41 include those instances in which a municipality is pursuing the  
42 violation;

43 2. A water utility commencing a civil action must notify  
44 the Department of Environmental Protection and the municipality  
45 in addition to the violator. The Maine Land Use Regulation  
46 Commission must be notified if the violation allegedly occurred  
47 within its jurisdiction;

