

MAINE STATE LEGISLATURE

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of S.

L.D. 2276

(Filing No. S-594)

STATE OF MAINE
SENATE
114TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A " to S.P. 894, L.D. 2276, Bill, "An Act to Amend the Natural Resources Protection Act"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

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

Whereas, the current review process for Department of Transportation permits under the natural resources protection laws is lengthy and duplicative; and

Whereas, limited funds and resources can be used more efficiently to serve the public interest; 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. 38 MRSA §480-B, sub-§8-A is enacted to read:

8-A. Reconstruction or replacement project.
"Reconstruction or replacement project" means the improvement of an existing transportation facility to modern design standards without expanding its function or creating any additional roadways, facilities or structures. These projects are limited to:

2 A. Highway or bridge alignment changes not exceeding a
4 distance of 200 feet between the old and new center lines in
 any protected natural resource;

6 B. Replacement or rehabilitation of the roadway base,
 pavement and drainage;

8 C. Replacement or rehabilitation of bridges or piers;

10 D. The addition of climbing lanes, and turning lanes of
12 less than 1,000 feet in length in a protected natural
14 resource; and

16 E. Rehabilitation or repair of state-owned railroads.

18 Sec. 2. 38 MRSA §480-H, as enacted by PL 1987, c. 809, §2,
 is amended to read:

20 **§480-H. Rules; performance and use standards**

22 In fulfilling its responsibilities to adopt rules pursuant
24 to section 343-A, the board shall, to the extent practicable,
 adopt performance and use standards for activities regulated by
26 this article. These standards, at a minimum, must include:

28 1. Department of Transportation projects. By February 15,
30 1991, requirements for projects that are under the direction and
 supervision of the Department of Transportation that involve only
32 maintenance or repair of public transportation facilities or
 structures, or reconstruction, or replacement projects that do
 not affect coastal wetlands or coastal sand dune systems.

34 A. The Department of Transportation requires that the
36 following conditions are met for any project undertaken
 pursuant to this subsection after February 15, 1991.

38 (1) All projects must be performed in a manner
40 consistent with this article and in compliance with
 rules adopted by the board.

42 (2) The project may not unreasonably harm the
44 protected natural resources covered by this article.

46 (3) The Department of Transportation and its
48 contractors use erosion control measures to prevent
 sedimentation of any surface waters.

50 (4) The project may not block any fish passage in any
 watercourse.

(5) The project may not result in any excessive intrusion of the project into the protected natural resources.

B. Those activities that are exempt from permitting requirements under section 480-Q are not subject to this subsection.

C. The Department of Transportation must notify the commissioner before construction activities begin if the provisions of this subsection are utilized.

Sec. 3. 38 MRSA §480-T is enacted to read:

§480-T. Transportation improvements

Prior to February 15, 1991, an individual permit is not required by this article for maintenance or repair of public transportation facilities or structures, or reconstruction or replacement projects that are under the direction and supervision of the Department of Transportation that do not affect a coastal wetland or coastal sand dune system.

1. Requirements. The commissioner and the Commissioner of Transportation shall enter into a memorandum of understanding for projects to be undertaken in accordance with this section. In addition, the Department of Transportation shall meet the following conditions for any project undertaken pursuant to this section.

A. All projects must be performed in a manner consistent with this article and in compliance with rules adopted by the board.

B. The project may not unreasonably harm the protected natural resources covered by this article.

C. The Department of Transportation and their contractors use erosion control measures to prevent sedimentation of any surface waters.

D. The project may not block any fish passage in any watercourse.

E. The project may not result in any excessive intrusion of the project into the protected natural resources.

2. Exempt activities. Those activities that are exempt from permitting requirements under section 480-Q are not subject to this section.

3. Notification. The Department of Transportation must notify the department prior to beginning the construction of any projects undertaken that meet the requirements of this section.

4. Repeal. This section is repealed on February 15, 1991, except that reconstruction or replacement projects that have been advertised prior to that date continue to be subject to this section.

Sec. 4. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

1989-90

ENVIRONMENTAL PROTECTION,
DEPARTMENT OF

Land Quality Control

All Other \$3,000

Provides funds for printing, postage, transcription services, room rental and other related rule-making expenses. These funds may not lapse but must be carried forward to June 30, 1991.

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

FISCAL NOTE

Enactment of this emergency bill requires the development of standards by the Department of Environmental Protection for transportation improvements. The bill results in a Highway Fund allocation to the Department of Environmental Protection in the amount of \$3,000 for fiscal year 1989-90 for anticipated rule-making expenses. Also, the bill is intended to improve efficiency for the Department of Transportation's Public Improvements Program, as well as for the Department of Environmental Protection's staff time for licensing, of which the exact financial impact cannot be quantified or determined at this time.'

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STATEMENT OF FACT

This amendment allows the Department of Transportation to undertake reconstruction and replacement projects or maintenance and repair projects without individual permits under the natural resources protection laws, except in coastal wetlands and coastal sand dune systems.

The amendment allows this exemption for the next construction season, subject to specific requirements and a memorandum of understanding between departments. The Board of Environmental Protection is required to adopt rules by February 1991 to define standards under which the Department of Transportation shall operate.

Money is allocated from the Highway Fund to pay for this rulemaking.

Reported by Senator Ludwig for the Committee on Energy and Natural Resources. Reproduced and Distributed Pursuant to Senate Rule 12.
(3/19/90)

(Filing No. S-594)