

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 624

H.P. 441

House of Representatives, February 13, 1991

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

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative COLES of Harpswell.

Cosponsored by Representative LOOK of Jonesboro, Representative MARSH of West Gardiner and Senator VOSE of Washington.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

---

**An Act to Establish a Harbor Management Fund and Deal with  
Abandoned Watercraft.**

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

2  
4           **Sec. 1. 12 MRSA §558-B** is enacted to read:

6           **§558-B. Harbor Management Fund**

8           **1. Creation of fund.** The Harbor Management Fund, referred to in this section as "the fund," is established as a nonlapsing fund to support harbor management improvement activities. The fund is administered by the Bureau of Public Lands.

12           **2. Purpose.** The purpose of the fund is to support harbor management improvement activities by providing grants to coastal municipalities. Harbor management improvement activities include, but are not limited to, removal of abandoned watercraft and development of harbor management plans and public access facilities.

18           **3. Sources; eligibility.** A municipality must contribute \$1 of each mooring fee collected if mooring fees are required by the municipality. Payment must be made to the Treasurer of State for deposit in the fund. Only municipalities that contribute to the fund for a period of at least one year prior to a grant application are eligible to receive grants. In addition, revenues in excess of the operating expenses of the submerged lands leasing program described in section 558-A must be deposited in the fund.

28           **4. Administration.** The director shall develop criteria for awarding grants under this section. Money in the fund not immediately required for payment pursuant to this section must be invested by the Treasurer of State as authorized by Title 5, section 138. Interest on these investments must be credited to the fund.

36           **Sec. 2. 12 MRSA c. 202-C** is enacted to read:

38                           **CHAPTER 202-C**

40                           **ABANDONED WATERCRAFT**

42           **§591. Definitions**

44           As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

46           **1. Abandoned watercraft.** "Abandoned watercraft" means any watercraft that are inoperative and neglected, submerged or partially submerged or that have been left by the owner in coastal waters without intention of removal.

2           2. Coastal waters. "Coastal waters" means those waters  
within the jurisdiction of the State under Title 1, section 2,  
4 including intertidal land, as defined in chapter 202-A.

6           3. Commissioner. "Commissioner" means the Commissioner of  
Conservation.

8  
10           4. Owner. "Owner" means the person who claims lawful  
possession of a watercraft by legal title or equitable interest  
12 in the watercraft that entitles that person to possession.

14           5. Watercraft. "Watercraft" means any type of vessel,  
boat, barge, float or craft 20 or more feet in length that is  
16 used or capable of use as a means of transportation on water,  
including motors, electronic and mechanical equipment and other  
18 machinery customarily used in the operation of watercraft.  
"Watercraft" includes seaplanes.

20           **§592. Prohibition**

22           Except as provided in Title 38, section 9, no person may  
24 abandon a watercraft in coastal waters unless, in the case of the  
intertidal zone, written permission has been obtained from the  
26 landowner. This permission must be obtained at the time the  
watercraft is abandoned and a copy must immediately be submitted  
28 to any harbor master or appropriate municipal official  
responsible for the area and to the commissioner.

30           **§593. Ordinances**

32           A municipality in which coastal waters are located may adopt  
34 any ordinances necessary to carry out the purposes of this  
chapter. Municipal enforcement of this chapter is subject to the  
36 provisions of Title 30-A, section 4452.

38           **§594. Report of abandoned watercraft**

40           A harbor master, or if there is no harbor master, an  
appropriate municipal official, who has reason to believe that a  
42 vessel has been abandoned that the harbor master may subsequently  
wish the State to remove, shall report the existence of the  
44 watercraft to the commissioner.

46           **§595. Investigation by commissioner**

48           The commissioner shall investigate any report of an  
abandoned watercraft under this chapter.

50           **§596. Responsibility of the commissioner**

2           1. Owner notification. Upon being notified of a possible  
4           abandoned watercraft, if the commissioner believes that the  
6           watercraft is abandoned, the commissioner shall give notice to  
8           the owner of the watercraft and require the owner to respond to  
10          the notice within 15 days and to remove the watercraft from the  
12          coastal waters within 60 days of notification or 60 days of  
            ice-out in the body of water where the watercraft is located. If  
            the owner of a watercraft to whom the commissioner has given  
            notice does not respond to the notice and remove the watercraft  
            within the time periods specified, the watercraft is considered  
            to be abandoned.

14          2. Removal by State. Beginning July 1, 1992, the  
16          commissioner shall commence a program to remove from coastal  
18          waters those abandoned watercraft that have been called to the  
20          commissioner's attention, unless the circumstances are such as to  
22          make another agency of government responsible for removal, in  
24          which case the commissioner shall notify that agency of the  
            existence of the abandoned watercraft. Funding for removal by  
            the commissioner comes from the Harbor Management Fund as  
            described in section 558-B, subsection 3 and funds available  
            under the submerged lands leasing program, section 558-A.

26          3. Hazardous conditions. Notwithstanding the time periods  
28          for owner removal specified in subsection 1, if the commissioner  
30          determines at any time that the watercraft is a health or safety  
            hazard, the commissioner may immediately remove the watercraft  
            from the coastal waters.

32          4. Disposal of watercraft. If the commissioner removes a  
34          watercraft from coastal waters under this section, the  
36          commissioner may sell the watercraft. Any money received from  
38          the sale must first be applied to the costs of the State directly  
40          related to the damage by, or expense of removal of, the  
            watercraft. Next, the money must be applied to any liens against  
            the watercraft. Any money that may remain after these purposes  
            have been accomplished must be returned to the former owner of  
            the abandoned craft.

42          5. Intertidal land. Abandoned watercraft located on  
44          intertidal land may not be removed by the commissioner without  
            the permission of the landowner.

46          6. Rules. The commissioner may adopt, in accordance with  
48          Title 5, chapter 375, rules necessary to carry out the purposes  
50          of this chapter.

52          §597. Liability for costs of removal

The owner of an abandoned watercraft is liable for the costs  
            of removal of the watercraft from coastal waters. If the State

2 has removed the watercraft and has not been compensated for its  
3 costs by sale of the watercraft under section 596, it may recover  
4 its costs from the owner by bringing an action in District Court.

6 **§598. Method of removal**

8 The method of removal of abandoned watercraft, whether by  
9 the owner or by the State, must comply with all state and federal  
10 environmental laws.

12 **§599. Penalties**

14 The following penalties apply to violation of this chapter.

16 1. Criminal penalty. Any person who violates this chapter  
17 is guilty of a Class E crime.

18 2. Civil penalty. Violation of this chapter is a civil  
19 violation. In addition to the penalties provided in Title 30-A,  
20 section 4452, subsection 3, if the State has not been compensated  
21 for these costs under the provisions of section 596, a penalty  
22 must be assessed in an amount to cover any cost of state or local  
23 removal of an abandoned watercraft from coastal waters, payable  
24 to the State or the municipality that removed the watercraft.

26 **Sec. 3. 30-A MRS §4452, sub-§5, ¶Q,** as amended by PL 1989, c.  
27 287, §3, is further amended to read:

28 Q. Shoreland zoning ordinances adopted pursuant to Title  
29 30 38, sections 435 to 447, including those which were  
31 state-imposed; and

32 **Sec. 4. 30-A MRS §4452, sub-§5, ¶R,** as enacted by PL 1989, c.  
33 287, §4, is amended to read:

34 R. The laws pertaining to harbors in Title 38, chapter 1,  
35 subchapter I, local harbor ordinances adopted in accordance  
36 with Title 38, section 7 and regulations adopted by  
37 municipal officers pursuant to Title 38, section 2-; and

38 **Sec. 5. 30-A MRS §4452, sub-§5, ¶S** is enacted to read:

39 S. Abandoned watercraft ordinances adopted pursuant to  
40 Title 12, chapter 202-C.

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46 **STATEMENT OF FACT**

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50 This bill establishes the Harbor Management Fund under the  
Bureau of Public Lands to provide grants to municipalities for  
harbor management improvement activities. The fund is supported

2 by a contribution of \$1 from each mooring fee collected by  
3 municipalities and paid voluntarily to the fund. Additional  
4 money may be available from the State's submerged lands leasing  
5 program if money is available after operating expenses are met.

6 This bill also prohibits boat owners from abandoning their  
7 vessels in the coastal waters of the State. Beginning July 1,  
8 1992 it makes the Commissioner of Conservation the responsible  
9 person for assuring that vessels that are abandoned are removed  
10 either by calling them to the attention of the responsible  
11 agency, if one exists, or, if one does not, seeing to their  
12 removal. Funding is to come from the Harbor Management Fund and  
13 available revenues from the submerged lands leasing program.  
14