

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2369

S.P. 922

In Senate, February 20, 1992

Reported by Senator KANY of Kennebec for the Commission on Maine Lakes pursuant to Resolve 1989, chapter 100.

Reference to the Committee on Energy and Natural Resources suggested and ordered printed pursuant to Joint Rule 18.

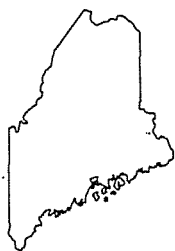
A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

STATE OF MAINE

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

An Act to Further Enhance and Protect Maine's Great Ponds.



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

4 PART A

6 Sec. A-1. 5 MRSA §12004-L, sub-§7 is enacted to read:

8 7. Interagency Not Autho- 38 MRSA
Great Pond Task Force rized §1842

10 Sec. A-2. 30-A MRSA c. 243 is enacted to read:

12 CHAPTER 243

14 MUNICIPAL REGULATION OF SURFACE USES
16 ON GREAT PONDS

18 §6401. Definitions

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

22 1. Surface use. "Surface use" means the use on the surface
of great ponds of watercraft, personal watercraft and motorboats,
24 as those terms are defined in Title 12, section 7791, and other
recreational uses, but does not include hunting and fishing.

26 §6402. Municipal regulation of surface uses on great ponds

28 Municipalities may, consistent with Title 38, chapter 20,
30 regulate surface uses of great ponds within their jurisdiction,
provided the following conditions are met.

32 1. Enforcement. Municipalities electing to regulate
34 surface uses of great ponds must take primary responsibility for
enforcement. Each ordinance must clearly state how it will be
36 enforced.

38 2. Approval. The Commissioner of Inland Fisheries and
40 Wildlife shall review proposed ordinances for conformity with
Title 38, chapter 20 and approve any ordinances before they are
42 adopted by a local jurisdiction. The commissioner shall adopt
rules pursuant to Title 5, chapter 375 to govern consideration of
44 ordinances submitted for review. The rules must provide that
failure to approve or reject an ordinance within 45 days of
46 submission constitutes approval of the ordinance as submitted.
The decision of the commissioner constitutes final agency action
for the purposes of Title 5, section 11001.

48 3. Purpose. Each provision of an ordinance adopted under
50 this chapter must clearly state its purpose and be in the
public's best interest.

2 4. Consistency. When more than one municipality adjoins a
4 lake shore, surface use regulation must be consistent and
6 coordinated among jurisdictions. Municipalities may enter into
 interlocal agreements under chapter 115 to regulate surface uses
 on great ponds.

8 5. Water utilities. Municipalities are encouraged to
10 cooperate and involve local water utilities in developing
 regulations under this chapter.

12 6. Notice. A municipality electing to regulate surface
14 uses of great ponds must post copies of its surface use ordinance
16 at the municipal office, all public boat landings, docks and
18 other marine facilities within the municipality and at other
 places the municipal officers determine appropriate to provide
 adequate notice of the municipal ordinance to users of great
 ponds.

20 Sec. A-3. 38 MRSA §349, sub-§10 is enacted to read:

22 10. Water quality violations in great pond watersheds.
24 Penalties assessed on water quality violations in great pond
26 watersheds accrue to the Lakes Education Fund established in
28 section 357-A. For the purposes of this section, penalties do
30 not include funds paid pursuant to an agreed-to settlement or to
 a consent decree. Persons that violate water quality in great
 pond watersheds and do not receive after-the-fact permits from
 the department are required to mitigate their actions.

32 Sec. A-4. 38 MRSA c. 2, sub-c. III-A is enacted to read:

34 SUBCHAPTER III-A

36 LAKES EDUCATION FUND

38 §357-A. Lakes Education Fund

40 The Lakes Education Fund is established as a nonlapsing fund
42 to assist the department, the Maine Land Use Regulation
44 Commission and municipalities in educating the public as to the
46 purpose and content of the State's environmental laws and provide
48 training and technical assistance related to water quality
 protection techniques. The Lakes Education Fund consists of
 money that accrues to it pursuant to section 349, subsection 10.
 It is administered by the department and the money in it must be
 deposited with the Treasurer of State to the credit of the Lakes
 Education Fund and may be invested as provided by law. Interest
 on these investments must be credited to the Lakes Education Fund.

2 Sec. A-5. 38 MRSA c. 20 is enacted to read:

4 CHAPTER 20

6 PROTECTION OF MAINE LAKES

8 §1841. Declaration of policy

10 Maine's great ponds are an important element of the State's
12 economy and traditional way of life. Their abundance and
14 relatively high water quality are precious resources in light of
16 the growing inadequacy of water supplies and deterioration of
 natural settings and habitat in many other states. The use of
 great ponds as a source for drinking water, recreation and power
 production is vital to the State.

18 To protect the public trust, the State's great ponds must be
20 protected from degradation. They must be managed according to
22 watershed boundaries, while a diversity of lake setting types
 within each region of the State is maintained. Potable water
 from the State's great ponds should require minimal treatment.

24 A primary goal of the protection of the State's great ponds
26 is to ensure that consistent land use management policies and
 regulations are applied throughout the direct watershed of each
 great pond.

28 The State's goals in managing the surface uses of great
30 ponds are to avoid or minimize conflicts among recreational
32 users, energy producers, shoreland owners and other users;
34 maintain traditional water-dependent businesses; and ensure that
 the intensity of use allowed on a great pond is in keeping with
 its capacity to accommodate that use.

36 §1842. Interagency Great Pond Task Force

38 There is established, pursuant to Title 5, section 12004-L,
40 subsection 7, the Interagency Great Pond Task Force, referred to
 in this chapter as the "task force," to coordinate the State's
 great pond protection efforts.

42 1. Composition. The task force is composed of the State
44 Planning Director or the director's designee, who serves as
46 chair; the Commissioner of Conservation, the Commissioner of
 Environmental Protection, the Commissioner of Transportation, the
48 Commissioner of Agriculture, Food and Rural Resources and the
 Commissioner of Inland Fisheries and Wildlife or the
 commissioners' designees; the Director of the Division of Health

2 Engineering within the Department of Human Services or the
3 director's designee; and the Director of the Natural Resources
4 Center at the University of Maine or the director's designee.

6 2. Duties. The task force shall:

8 A. In developing the management strategy as directed under
9 section 1843, solicit input from the public, municipal
10 officers and interested organizations;

12 B. Develop guidelines for state rules and local regulations
13 governing surface uses of great ponds that avoid or minimize
14 conflicts between user groups;

16 C. Establish a great pond classification system according
17 to the intensity of development of the great pond and the
18 intensity of use. This system should be as consistent with
19 the classification system used by the Maine Land Use
20 Regulation Commission as possible;

22 D. Develop guidelines and siting procedures and standards
23 for state construction of public access sites;

24 E. Develop guidelines for any state review of public access
25 issues within any local watershed plans that may be
26 developed;

28 F. Develop a list of great ponds where additional boating
29 regulations are appropriate to protect high value resources
30 and a diversity of recreational experiences to assist the
31 Department of Inland Fisheries and Wildlife and
32 municipalities;

34 G. Develop recommendations and legislation for streamlining
35 the enforcement process for violations occurring in and
36 around great ponds; and

38 H. In updating the great ponds management strategy,
39 reevaluate the department's phosphorus allocation method and
40 how this can be applied in the State.

42 **§1843. Great ponds management strategy**

44 The task force shall develop a state great pond management
45 strategy in keeping with the goals of section 1841 by July 1,
46 1993. The strategy must be reviewed and updated at least every 5
47 years. State agency decisions must be consistent with state
48 policy on great ponds and state-approved watershed and surface
49 use management programs developed by municipalities or the Maine
50 Land Use Regulation Commission. In addition, the strategy must:

2 (2) An ingredient statement on that part of the
4 immediate container, and on the outside container and
6 wrapper of the retail package, if there be is one,
8 through which the ingredient statement on the immediate
10 container cannot can not be clearly read, which that is
12 presented or displayed under customary conditions of
14 purchase; ~~---provided,~~ except that the ingredient
statement may appear prominently on another part of the
container as permitted pursuant to Section 2(q)(2)(A)
of FIFRA if the size or form of the container makes it
impracticable to place it on the part of the retail
package which that is presented or displayed under
customary conditions of purchase;

16 (3) A warning or caution statement which that may be
18 necessary and which that, if complied with together
20 with any requirements imposed under Section 3(d) of
FIFRA, would be adequate to protect the health and
environment;

22 (4) The net weight or measure of the ~~content~~ contents;

24 (5) The name and address of the manufacturer,
26 registrant or person for whom manufactured; and

28 (6) The EPA registration number assigned to each
30 establishment in which it was produced and the EPA
registration number assigned to the pesticide, if
required by regulations under FIFRA; i

32 D. If that pesticide contains any substance or substances
34 in quantities highly toxic to man humans unless the label
bears, in addition to other label requirements:

36 (1) The skull and crossbones;

38 (2) The word "POISON" in red prominently displayed on
40 a background of distinctly contrasting color; and

42 (3) A statement of a practical treatment, including
44 first aid or otherwise, in case of poisoning by the
pesticide; i

46 E. If the pesticide container does not bear a registered
48 label or if the label does not contain all the information
required by this subchapter or the regulations adopted under
this subchapter; or

2 **Sec. B-2. 7 MRSA §605, sub-§2, ¶F** is enacted to read:

4 F. If any pesticide container that is intended for home use
6 is not labeled with warnings about the pesticide's potential
8 effect on water quality and directions for proper
10 application of the pesticide in great pond watersheds. A
 sticker supplied by the distributor that contains this
 information must be attached to the container at the point
 of sale.

12 **Sec. B-3. 12 MRSA §7792, sub-§1-A, ¶¶C and D,** as enacted by PL
14 1989, c. 493, §51, are amended to read:

16 C. Each agent, for the purpose of issuing watercraft
18 registrations, shall submit a report to the commissioner on
20 or before the 15th day of each calendar month. The report
 shall must include an accounting of all watercraft
 registrations issued during the previous calendar month and
 shall must be accompanied by:

22 (1) The department's copy of each registration issued;
 and

24 (2) All watercraft registration funds collected by the
26 agent during the reporting period except those that
28 accrue to a municipality according to section 7794,
 subsection 4-B.

30 D. Agents may charge a service fee of not more than \$1 for
32 each watercraft registration issued and this service fee
 shall must be retained by the agent.

34 **Sec. B-4. 12 MRSA §7792, sub-§1-A, ¶E** is enacted to read:

36 E. Each agent shall submit a report and funds that accrue
38 to a municipality;

40 **Sec. B-5. 12 MRSA §7792, sub-§2,** as enacted by PL 1979, c.
 420, §1, is amended to read:

42 **2. Operation of watercraft.** Rules governing the use and
44 operation of watercraft upon the waters of the State to insure
 safety of persons and property, preserve water quality and
 protect wildlife habitat;

46 **Sec. B-6. 12 MRSA §7792,** as amended by PL 1991, c. 301, §§2
48 and 3, is further amended by adding at the end a new paragraph to
 read:

2 Rules adopted pursuant to this section and local ordinances
4 adopted pursuant to Title 30-A, section 6402 must be written in
6 clear and easy-to-understand language. These rules must be
8 attached to and distributed with each watercraft registration
 form together with a summary of the rules and information on how
 to prevent water contamination and minimize wildlife disturbance.

10 **Sec. B-7. 12 MRSA §7793, sub-§7** is enacted to read:

12 7. Approve proposed municipal ordinances relating to
14 watercraft. The commissioner may approve proposed municipal
16 ordinances relating to watercraft if they are consistent with the
18 State's policy for the protection of the State's great ponds as
 stated in Title 30-A, chapter 243 and Title 38, section 1841. As
 provided by Title 30-A, section 6402, the commissioner must
 approve or disapprove municipal ordinances within 45 days of
 their submittal by the clerk of a municipality.

20 **Sec. B-8. 12 MRSA §7794, sub-§3, ¶B,** as enacted by PL 1979, c.
22 420, §1, is amended to read:

24 B. The holder of any certificate of number issued under
26 this chapter may obtain a duplicate certificate of or
 validation stickers from the commissioner upon application
 and payment of the fee set forth in subsection -4- 4-A.

28 **Sec. B-9. 12 MRSA §7794, sub-§4,** as amended by PL 1989, c.
30 493, §52, is repealed.

32 **Sec. B-10. 12 MRSA §7794, sub-§§4-A and 4-B** are enacted to
 read:

34 4-A. Fees. The fees for each original or renewal
36 certificate of number with 2 validation stickers are as follows.

38 A. For all motorboats requiring or requesting a certificate
 of number, the fee is \$10.

40 B. For a duplicate certificate of number, the fee is \$4.

42 C. For a certificate of number issued with transfer of
44 ownership authorized in subsection 7, the fee is \$5.

46 4-B. Allocation of fees. Of the fees collected under
 subsection 4-A, the following sums must be deposited in the
 Boating Enforcement Fund.

48 A. For all motorboats requiring or requesting a certificate
50 of number, the sum is \$4.

2 B. For a duplicate certificate of number, the sum is \$3.

4 C. For a certificate of number issued with transfer of
6 ownership authorized in subsection 7, the sum is \$3.

8 **Sec. B-11. 12 MRSA §7794, sub-§7, as amended by PL 1989, c.**
913, Pt. B, §11, is further amended to read:

10 **7. Transfer of ownership.** Whoever transfers ownership of a
12 motorboat for which a certificate of number has already been
14 issued under this subchapter and applies for a certificate of
16 number for another motorboat is entitled to a new certificate of
18 number upon payment of a transfer fee of \$2 ~~\$5~~ as set forth in
subsection -4- 4-A, paragraph D C, provided the applicant returns
to the commissioner the old certificate of number properly signed
and executed, showing that ownership of the motorboat has been
transferred.

20 **Sec. B-12. 12 MRSA §7796, sub-§§2, 3 and 4, as amended by PL**
1989, c. 493, §55, are further amended to read:

22 **2. Fee.** The commissioner shall ~~receive-\$1~~ collect \$2 for
24 each 20-day temporary plate boat number.

26 **3. Use of 20-day boat number.** The following provisions
28 apply to 20-day boat numbers.

30 A. Upon the sale or exchange by a dealer of any motorboat
32 which that requires numbering, the new owner may secure from
34 the dealer a temporary 20-day boat number and registration
36 to operate the craft for one period of 20 consecutive days
only after the date of sale in lieu of a ~~permanent-beat~~
certificate of number as required in section 7794, provided
the owner ~~shall-make~~ makes application to the commissioner
on the date of sale for a certificate of beat number.

38 B. The application and fee for certificate of beat number,
40 together with a copy of the temporary registration issued by
42 the dealer, shall must be forwarded by the dealer to the
commissioner within 48 hours after the date of sale of the
motorboat.

44 C. The dealer shall affix the temporary 20-day boat number
46 to the bow of the motorboat and shall clearly mark thereon
the date issued, the date of expiration and the dealer's
Maine dealer's number.

48 **4. Restrictions.** The following restrictions apply.

- 2 A. The temporary 20-day boat number is nontransferable and
4 shall must be conspicuously displayed on the bow of the
6 motorboat, notwithstanding any other requirements of display
8 of boat number.
- 10 B. The operator of a motorboat shall have the temporary
12 registration aboard at all times while the motorboat is in
14 operation.
- 16 C. After expiration of the 20-day period, the owner shall
18 remove and discard the temporary 20-day boat number and
20 display the permanent boat number and validation stickers
22 assigned by the commissioner in accordance with section
24 7794, subsection 5, paragraph B.

18 Sec. B-13. 12 MRSA §§7796-A and 7796-B are enacted to read:

20 §7796-A. Boating Enforcement Fund

22 There is established the Boating Enforcement Fund, referred
24 to in this section as the "fund." The fund is a nonlapsing,
26 dedicated account.

28 1. Purpose of fund. The fund must be used to pay for state
30 enforcement activities, the training of local enforcement
32 personnel and the support of other lake management needs.
34 Communities that adopt approved surface use regulations have
36 priority for money in this fund to enforce surface use
38 regulations and land use ordinances pertaining to the watershed.

40 2. Revenues. As specified in section 7794, subsection 4-B,
42 a portion of the watercraft registration fees accrue to the fund.

44 §7796-B. Foreign watercraft; annual use sticker

46 The owner of a watercraft used on the inland waters of the
48 State but principally used in another jurisdiction shall obtain
50 an annual use sticker from an agent authorized to issue
watercraft registrations. The cost of an annual use sticker is
\$10. The commissioner may adopt rules to govern the issuance of
annual use stickers. All funds received from sales of annual use
stickers accrue to the Boating Enforcement Fund.

52 Sec. B-14. 12 MRSA §7800, sub-§1, as amended by PL 1989, c.
54 918, Pt. D, §6, is further amended to read:

- 56 1. Fees collected. All fees collected for certificates,
58 licenses and permits by the commissioner, except as provided in
60 sections 7796-A and 7796-B, are paid daily to the Treasurer of

2 State and accrue as undedicated revenue to the General Fund and
as dedicated revenue to the Department of Marine Resources in
accordance with subsection 3.

4
6 **Sec. B-15. 12 MRSA §7800, sub-§3, as repealed and replaced by
PL 1989, c. 918, Pt. D, §8, is amended to read:**

8 **3. Disbursement of revenues.** All Except as provided in
10 sections 7796-A and 7796-B, revenues collected under this
subchapter, including fines, fees and other available money, must
12 be distributed as undedicated revenue to the General Fund and the
Department of Marine Resources according to an allocation rate
14 that directly relates to the administrative costs of the Division
of Licensing and Registration and the historical revenue
16 distribution pattern, including any necessary year-end
reconciliation and accounting distribution. The allocation rate
18 must be jointly agreed to by the department and the Department of
Marine Resources and approved by the Department of Finance,
Bureau of the Budget.

20
22 **Sec. B-16. 12 MRSA §7801, sub-§33 is enacted to read:**

24 **33. Operating foreign watercraft without an annual use**
sticker. A person is guilty of operating a foreign watercraft
26 without an annual use sticker if that person operates a
watercraft principally used in another jurisdiction in the inland
waters of the State without an annual use sticker.

28
30 **Sec. B-17. 30-A MRSA §4211, sub-§3-A is enacted to read:**

32 **3-A. Great pond watersheds.** A grandfathered subsurface
wastewater disposal system that is within 100 feet of a great
34 pond that is not in compliance with this section and rules
adopted under Title 22, section 42 by September 1, 1997 must be:

36 A. Upgraded to conform to the requirements of this section,
rules adopted under Title 22, section 42 and any municipal
38 requirements;

40 B. Replaced by a nondischarge toilet and gray water system
that meets the existing plumbing code to the maximum extent
42 possible;

44 C. Certified every 5 years by a licensed site evaluator as
being below the threshold level of use determined by the
46 department as measured by a water meter installed on the
property; or

48
50 D. Certified by a licensed site evaluator as being located
in soils that have adequate long-term phosphorous

2 attenuation capacity as defined by the Department of
3 Environmental Protection and the Department of Human
4 Services, Division of Health Engineering.

6 **Sec. B-18. 30-A MRSA §4215, sub-§2, ¶¶B and C**, as amended by PL
1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

8 B. A replacement for an existing ~~waste-water~~ wastewater
10 disposal system has been constructed so that it
substantially complies with departmental rules and
12 applicable municipal ordinances; or

14 C. The dwelling unit's ~~waste-water~~ wastewater is connected
to an approved sanitary sewer system~~,-er~~.

16 **Sec. B-19. 30-A MRSA §4215, sub-§2, ¶D**, as amended by PL 1989,
18 c. 104, Pt. A, §42 and Pt. C, §§8 and 10, is repealed.

20 **Sec. B-20. 30-A MRSA §4326, sub-§3, ¶C**, as enacted by PL 1989,
c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

22 C. Protect, maintain and, when warranted, improve the water
24 quality of each water body pursuant to Title 38, chapter 3,
subchapter I, article 4-A and ensure that the water quality
26 will be protected from long-term and cumulative increases in
phosphorus from development in great pond watersheds;

28 **Sec. B-21. 30-A MRSA §4326, sub-§3, ¶H**, as enacted by PL 1989,
30 c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

32 H. Ensure that the value of historical and archeological
resources is recognized and that protection is afforded to
34 those resources that merit it; and

36 **Sec. B-22. 30-A MRSA §4326, sub-§3, ¶I**, as amended by PL 1991,
c. 622, Pt. F, §29, is further amended to read:

38 I. Encourage the availability of and access to traditional
40 outdoor recreation opportunities, including, without
limitation, hunting, boating, fishing and hiking; and
42 encourage the creation of greenbelts, public parks, trails
and conservation easements. Each municipality should
44 identify and encourage the protection of undeveloped
shoreland and other areas identified in the local planning
46 process as meriting such protection~~,-;~~ and

Sec. B-23. 30-A MRSA §4326, sub-§3, ¶J is enacted to read:

2 J. Develop management goals for great ponds pertaining to
4 the type of shoreline character, intensity of surface use,
6 protection of resources of state significance and type of
 public access appropriate for the classification of great
 ponds within a municipality's jurisdiction.

8 Sec. B-24. 30-A MRSA §4404, sub-§§15 and 16, as enacted by PL
10 1989, c. 878, Pt. A, §86, are amended to read:

12 15. **River, stream or brook.** Any river, stream or brook
14 within or abutting the proposed subdivision has been identified
16 on any maps submitted as part of the application. For purposes
 of this section, "river, stream or brook" has the same meaning as
 in Title 38, section 480-B, subsection 9; and

18 16. **Storm water.** The proposed subdivision will provide for
 adequate storm water management.;

20 Sec. B-25. 30-A MRSA §4404, sub-§17, as enacted by PL 1989, c.
22 762, §3 and affected by §4, is amended to read:

24 17. **Spaghetti-lots prohibited.** If any lots in the proposed
26 subdivision have shore frontage on a river, stream, brook, great
28 pond or coastal wetland as these features are defined in Title
 38, section 480-B, none of the lots created within the
 subdivision have a lot depth to shore frontage ratio greater than
 5 to 1.;

30 Sec. B-26. 30-A MRSA §4404, sub-§18 is enacted to read:

32 18. Lake phosphorus concentration. The long-term
34 cumulative effects of the proposed subdivision will not
 unreasonably increase a great pond's phosphorus concentration.

36 Sec. B-27. 30-A MRSA §4406, sub-§4 is enacted to read:

38 4. Permit display. A person issued a permit pursuant to
40 this subchapter in a great pond watershed shall display on the
42 site a notice of permit approval while work authorized by the
 permit is being conducted. The notice must state where a full
 copy of the permit is available for inspection.

44 Sec. B-28. 30-A MRSA §4452, sub-§3, ¶C-1, as enacted by PL
46 1989, c. 727, §1, is amended to read:

48 C-1. Notwithstanding paragraph C, for violations of the
 laws and ordinances set forth in subsection 5, paragraph Q
 and violations that endanger water quality in great pond

2 watersheds, the violator shall must be ordered to correct or
mitigate the violation unless the correction or mitigation
4 results would result in:

6 (1) A threat or hazard to public health or safety;

8 (2) Substantial environmental damage; or

10 (3) A substantial injustice.

12 **Sec. B-29. 38 MRSA §3, first ¶**, as repealed and replaced by PL
1987, c. 655, §3, is amended to read:

14 In all harbors wherein channel lines have been established
by the municipal officers, as provided in section 2, and in all
16 other coastal and tidal waters and, harbors and great ponds where
mooring rights of individuals are claimed to be invaded and
18 protection is sought of the harbor master, the harbor master
shall assign and indicate only to the masters or owners of boats
20 and vessels the location which that they may occupy for mooring
purposes and shall change the location of those moorings from
22 time to time when the crowded condition of that harbor, the need
to conform to section 7-A or other conditions render the change
24 desirable.

26 **Sec. B-30. 38 MRSA §321**, as amended by PL 1989, c. 240, §2,
is further amended by adding at the end a new paragraph to read:

28 The Director of the Bureau of Parks and Recreation and the
30 Commissioner of Inland Fisheries and Wildlife shall provide
permanent or portable public toilets at public boat launch
32 facilities funded under this subchapter. This section does not
apply to public boat launch facilities owned or managed by
34 municipalities.

36 **Sec. B-31. 38 MRSA §342, sub-§7-A** is enacted to read:

38 7-A. Municipal enforcement. The commissioner may contract
with a municipality to enforce laws and rules related to water
40 quality in great pond watersheds if the commissioner determines
that the municipality has the capability.

42 **Sec. B-32. 38 MRSA §410-I, sub-§2**, as enacted by PL 1991, c.
44 345, is amended to read:

46 **2. Ranking of watersheds.** In cooperation with the
commissioner, the agencies identified in subsection 1 shall
48 identify those watersheds that should receive highest priority
for corrective action for nonpoint source pollution and those
50 actions that should be required in great pond watersheds to
control phosphorus runoff.

2 Sec. B-33. 38 MRSA §410-J, sub-§4, as enacted by PL 1991, c.
345, is amended to read:

4
6 4. Development. The commissioner shall develop best
management practice guidelines to reduce and prevent nonpoint
8 source pollution from development-related activities. State
agencies must follow these guidelines in construction or
10 remodeling activities for state buildings and other capital
improvements. The commissioner shall provide guidance and
12 technical assistance to the ~~Department of Economic and~~ Office of
Community Development and municipalities to support
14 implementation through growth management programs ~~required~~
authorized by the growth management laws, Title 30-A, chapter
16 187, subchapter II and municipal subdivision ordinances.

18 Sec. B-34. 38 MRSA §410-J, sub-§5 is enacted to read:

20 5. Sludge, septage and ash. The commissioner shall develop
best management practice guidelines to reduce and prevent
22 phosphorous pollution runoff from the spreading of sludge,
septage and ash. These guidelines must include:

24 A. Requiring that the minimum phosphorous needs, in
addition to nitrogen needs, of the soil be used in
26 determining total soil amendments in great pond watersheds;

28 B. Ensuring adequate buffer widths; and

30 C. Requiring a landowner to hire a qualified 3rd party to
monitor landspreading activities. The qualified 3rd party
32 shall periodically report to the commissioner.

34 Sec. B-35. 38 MRSA §410-K, as enacted by PL 1991, c. 345, is
amended to read:

36 **§410-K. Program review**

38
40 Prior to January 1, 1993, the commissioner shall submit to
the joint standing committee of the Legislature having
42 jurisdiction over energy and natural ~~resources~~ resource matters a
report detailing the effectiveness of the program and making
44 recommendations for program improvements and development permit
fee amounts. The commissioner shall make recommendations on the
46 advisability of enacting statutory or regulatory exemptions from
the water quality discharge licensing requirements of section 413
48 for those activities conducted in compliance with best management
practice guidelines under this article. The commissioner shall
50 submit with these recommendations an analysis of the legal and
enforcement issues raised by these exemptions, specifically, the

2 need to adopt by rule best management practice guidelines. In
3 reviewing fees for development permits, the commissioner shall
4 consider the cost of technical review and compliance inspection
5 for best management practices and shall recommend fees that cover
6 these costs.

7 **Sec. B-36. 38 MRSA §410-L** is enacted to read:

8 **§410-L. Permit requirements**

9 The department shall require that compliance with best
10 management practices is a condition of any development permit
11 granted under the laws and rules administered by the department.
12 The department shall apply any phosphorous allocation method as
13 appropriate.

14 **Sec. B-37. 38 MRSA §417-A** is enacted to read:

15 **§417-A. Manure spreading**

16 A person may not place, deposit or discharge manure on
17 agricultural fields within a great pond watershed when the ground
18 is frozen.

19 **Sec. B-38. 38 MRSA §438-A, sub-§1**, as amended by PL 1991, c.
20 46, §2, is further amended to read:

21 **1. Land use guidelines.** In accordance with Title 5,
22 chapter 375, subchapter II, the Board of Environmental Protection
23 shall adopt, and from time to time shall update and amend,
24 minimum guidelines for municipal zoning and land use controls
25 which that are designed to carry out the legislative purposes
26 described in section 435 and the provisions of this article.
27 These minimum guidelines ~~shall~~ must include provisions governing
28 building and structure size, setback and location, and
29 establishment of resource protection, general development,
30 limited residential, commercial fisheries and maritime
31 activities' activity zones and other zones. Within each zone,
32 the board shall prescribe uses which that may be allowed with or
33 without conditions and shall establish criteria for the issuance
34 of permits and nonconforming uses, land use standards and
35 administrative and enforcement procedures. These guidelines must
36 also include a requirement for a person issued a permit pursuant
37 to this article to display on site a notice of permit approval
38 while work authorized by the permit is being conducted. The
39 notice must state where a full copy of the permit is available
40 for inspection. The board shall comprehensively review and
41 update its guidelines and shall reevaluate and update the
42 guidelines at least once every 4 years.

2 A. Minimum guidelines adopted by the board under this
4 subsection may not require the issuance of a municipal
6 permit for the repair and maintenance of an existing road
culvert or for the replacement of an existing road culvert,
as long as the replacement culvert is:

8 (1) Not more than one standard culvert size wider in
10 diameter than the culvert being replaced;

12 (2) Not more than 25% longer than the culvert being
replaced; and

14 (3) Not longer than 75 feet.

16 Ancillary culverting activities, including excavation and
18 filling, are included in this exemption. A person
repairing, replacing or maintaining an existing culvert
20 under this paragraph shall ensure that erosion control
measures are taken to prevent sedimentation of the water and
22 that the crossing does not block fish passage in the water
course.

24 **Sec. B-39. 38 MRSA §439-A, sub-§§7 and 8** are enacted to read:

26 7. Lawn fertilizers. Municipal ordinances must ban the use
28 of fertilizers containing phosphorus for maintaining lawns in a
shoreland zone.

30 8. Compliance by state agencies. Notwithstanding Title
32 30-A, section 4352, subsection 6, each state agency shall conduct
its activities in a manner consistent with the State's mandatory
guidelines.

34 **Sec. B-40. 38 MRSA §480-E, sub-§6** is enacted to read:

36 6. Permit display. A person issued a permit pursuant to
38 this article for site work in a great pond watershed shall
display on site a notice of permit approval while work authorized
40 by that permit is being conducted. The notice must state where a
full copy of the permit is available for inspection.

42 **Sec. B-41. 38 MRSA §485-A, sub-§4** is enacted to read:

44 4. Permit display. A person issued a permit pursuant to
46 this article for site work in a great pond watershed shall
display on site a notice of permit approval while work authorized
48 by that permit is being conducted. The notice must state where a
full copy of the permit is available for inspection.

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Sec. B-42. 38 MRSA §1609 is enacted to read:

§1609. Detergents containing phosphorus

After January 1, 1993, a person may not sell or offer for sale in this State detergents that contain phosphorus.

Sec. B-43. Plumbing code. The Department of Human Services, by July 1, 1993, shall amend the plumbing code adopted under the Maine Revised Statutes, Title 22, section 42 to require loam liners for subsurface sewage disposal systems for shallow and sand and gravel soils and to make other changes that will maximize the efficiency of systems to remove phosphorus in shoreland areas of great pond watersheds.

Sec. B-44. Training programs. The Department of Environmental Protection shall undertake the following training activities:

1. Emphasize best management practices as a top priority in its existing programs for training people who conduct land use activities and in developing training aids and educational materials. A person who participates in and successfully completes a training program must receive a certificate from the department. The department shall keep a master list of certified people and make it available upon request;

2. Work with the Attorney General's office and the Environmental Law Committee of the Maine State Bar Association to provide periodic training for judges on the purpose and importance of Maine's environmental laws; and

3. Work with state, local and county public safety, conservation and environmental protection agencies and organizations to intensify cross-training programs for enforcement and regulatory personnel.

Sec. B-45. Enforcement. The Interagency Great Pond Task Force shall report its recommendations for streamlining enforcement of great pond protection laws to the Second Regular Session of the 116th Legislature.

STATEMENT OF FACT

This bill implements the recommendations of the Commission on Maine Lakes, established pursuant to Resolve 1989, chapter 100. Part A establishes significant new initiatives to protect

2 the State's great ponds, including establishment of a state
policy for protection of lakes that includes the creation of the
4 Interagency Great Pond Task Force, a coordinated management
strategy and the Lakes Education Fund. Part B amends various
6 provisions of existing law to conform to overall policy
directives and to implement changes recommended by the commission.