

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

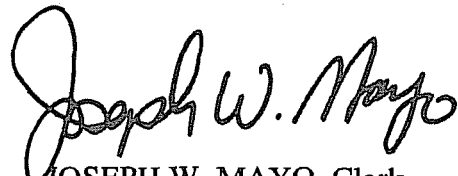
No. 1259

H.P. 936

House of Representatives, April 13, 1993

An Act to Amend the Natural Resources Protection Laws.

Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.
Reference to the Committee on Energy and Natural Resources suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative ANDERSON of Woodland.
Cosponsored by Representative: GOULD of Greenville.

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

2
4 **Sec. 1. 38 MRSA §480-B, sub-§10**, as amended by PL 1991, c. 693, §1, is further amended to read:

6 **10. Significant wildlife habitat.** "Significant wildlife
8 habitat" means the following areas to the extent that they have
9 been mapped by the Department of Inland Fisheries and Wildlife or
10 ~~entered into the state geographic information system pursuant to~~
11 ~~section 546-B~~ are within any other protected natural resource:
12 habitat, as defined by the Department of Inland Fisheries and
13 Wildlife, for species appearing on the official state or federal
14 lists of endangered or threatened species; high and moderate
15 value deer wintering areas and travel corridors as defined by the
16 Department of Inland Fisheries and Wildlife; high and moderate
17 value waterfowl and wading bird habitats, including nesting and
18 feeding areas as defined by the Department of Inland Fisheries
19 and Wildlife; critical spawning and nursery areas for Atlantic
20 sea run salmon as defined by the Atlantic Sea Run Salmon
21 Commission; and shorebird nesting, feeding and staging areas and
22 seabird nesting islands as defined by the Department of Inland
23 Fisheries and Wildlife.

24 **Sec. 2. 38 MRSA §480-D, sub-§3**, as affected by PL 1989, c.
25 890, Pt. A, §40 and amended by Pt. B, §72, is further amended to
26 read:

28 **3. Harm to habitats; fisheries.** The activity will not
29 unreasonably harm any significant wildlife habitat, freshwater
30 wetland plant habitat, threatened or endangered plant habitat,
31 aquatic habitat, travel corridor, freshwater, estuarine or marine
32 fisheries or other aquatic life.

34 In determining whether there is unreasonable harm to significant
35 wildlife habitat, the department may consider proposed mitigation
36 if that mitigation does not diminish in the vicinity of the
37 proposed activity the overall value of significant wildlife
38 habitat and species utilization of the habitat and if there is no
39 specific biological or physical feature unique to the habitat
40 that would be adversely affected by the proposed activity. For
41 purposes of this subsection, "mitigation" means any action taken
42 or not taken to avoid, minimize, rectify, reduce, eliminate or
43 compensate for any actual or potential adverse impact on the
44 significant wildlife habitat, including the following:

46 A. Avoiding an impact altogether by not taking a certain
47 action or parts of an action;

48 B. Minimizing an impact by limiting the magnitude, duration
49 or location of an activity or by controlling the timing of
50 an activity;

- 2 C. Rectifying an impact by repairing, rehabilitating or
restoring the affected environment;
- 4
- 6 D. Reducing or eliminating an impact over time through
preservation and maintenance operations during the life of
the project; or
- 8
- 10 E. Compensating for an impact by replacing the affected
significant wildlife habitat.

12 **Sec. 3. 38 MRSA §480-Q, sub-§11**, as amended by PL 1991, c.
240, §2, is further amended to read:

14 **11. Soil evaluation.** Borings taken to evaluate soil
16 conditions in or adjacent to a great pond, river, stream or
brook, coastal wetland, freshwater wetland or sand dune are
18 exempt from the provisions of this article provided that no area
of wetland vegetation is destroyed or permanently removed; and

20 **Sec. 4. 38 MRSA §480-Q, sub-§12, ¶E**, as amended by PL 1991, c.
22 240, §2, is further amended to read:

24 E. A notice of intent to maintain, repair or reconstruct
the access way and the description of the work to be
26 completed are submitted to the commissioner and to the
municipal reviewing authority at least 20 days before the
28 work is performed; and

30 **Sec. 5. 38 MRSA §480-Q, sub-§13** is enacted to read:

32 **13. Subsurface wastewater disposal systems.** Installation,
34 removal or repair of a subsurface wastewater disposal system as
long as it complies with all requirements of the rules governing
subsurface wastewater disposal.

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STATEMENT OF FACT

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42 The purpose of this bill is to clarify the intent of Public
Law 1989, c. 838. This bill clarifies that areas meeting the
44 definition of significant wildlife habitat, but not yet mapped
pursuant to the Maine Revised Statutes, Title 38, section 480-I,
46 are protected provided they occur within another protected
natural resource. The bill also removes language that makes any
sensitive wildlife areas mapped for the purposes of the State's
48 oil spill clean-up program from automatically being considered
mapped for the purposes of the natural resources protection laws,

2 since the criteria of the 2 programs are not identical and
3 therefore the boundaries will not be the same in all cases.
4 However, data used in the mapping of sensitive wildlife areas may
5 still be used in the mapping of significant wildlife habitat. In
6 addition, the bill requires that habitat of endangered or
7 threatened wildlife species must be defined by the Department of
8 Inland Fisheries and Wildlife before qualifying as a significant
9 wildlife habitat, as is already required for the other habitats
10 of species under the jurisdiction of the Department of Inland
11 Fisheries and Wildlife listed in the laws. This bill also allows
12 for protection of threatened or endangered plant species habitat
13 in protected natural resources that are nonwetland, including
14 fragile mountain areas.

15 Finally, this bill exempts septic systems that are permitted
16 under the rules governing subsurface wastewater disposal from
17 permit requirements of the natural resources protection laws.
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