



116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

No. 1687

H.P. 1260

House of Representatives, January 11, 1994

An Act to Correct an Error in the Sand Dune Laws.

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26. Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

OSEPH W. MAYO, Clerk

Presented by Representative MICHAUD of East Millinocket. Cosponsored by Representatives: COLES of Harpswell, MITCHELL of Freeport, Senator: TITCOMB of Cumberland.

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

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Whereas, legislation enacted during the First Regular Session of the 116th Legislature inadvertently allows development to occur without state review on sand dune areas that are geologically unstable and subject to rapid shoreline change; and

Whereas, development in these areas, and subsequent storm-related damage to property on-site, thus poses a risk to public health and safety as well as a potential financial liability to state and local governments; 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-Q, sub-§16, as enacted by PL 1993, c. 410, Pt. G, §7, is amended to read:

26 16. Alterations in back dunes of coastal sand dune systems. Alterations in back dunes of sand dune systems as long as the site is not subject to flooding during a 100-year flood event 28 based on information from the Federal Emergency Management Agency and is not expected to be damaged due to shoreline change within 30 100 years based on historic and projected trends. The applicant must provide the department with written notification of the 32 proposed activity, including a location map, at least 14 days 34 prior to commencing work. This subsection is repealed on February 15, 1995.

Sec. 2. Rulemaking. The Department of Environmental
 Protection shall develop permit-by-rule performance standards for alterations exempt under the Maine Revised Statutes, Title 38,
 section 480-Q, subsection 16 by December 31, 1994.

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

STATEMENT OF FACT

48 The purpose of this bill is to close a loophole created in the First Regular Session of the ll6th Legislature regarding 50 development on coastal back dunes. The bill clarifies that a

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permit is required for development proposed on dune areas where
private property is subject to flood damage due to rapid shoreline changes. This bill also repeals on February 15, 1995
the subsection exempting alterations in back dunes of coastal sand dune systems from permitting requirements. In addition, the
bill requires the Department of Environmental Protection to develop permit-by-rule performance standards for development on
back dunes by December 31, 1994.

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14 16 This document has not yet been reviewed to determine the need for cross-reference, stylistic and other technical amendments to conform existing law to current drafting standards.

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