

MAINE STATE LEGISLATURE

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2098

L.D. 1721

DATE: 3/10/94

(Filing No. S-447)

ENERGY & NATURAL RESOURCES

Reported by: Senator Ludwig of Aroostook

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**STATE OF MAINE
SENATE
116TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 619, L.D. 1721, Bill, "An Act to Amend the Laws that Deal with the Protection of Natural Resources"

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

Sec. 1. 38 MRSA §480-Q, sub-§2, as amended by PL 1989, c. 430, §6, is further amended to read:

2. **Maintenance and minor repair.** Maintenance and minor repair of structures in ~~fragile mountain areas, or to structures above the high water line causing no additional intrusion of an existing structure into the great pond, river, stream or brook, wetland or sand dune, and maintenance and, on, over or adjacent to a protected natural resource and maintenance and minor repair~~ of private crossings of a river, stream or brook, ~~provided that~~ if:

A. Erosion control measures are taken to prevent sedimentation of the water;

B. The crossing does not block fish passage in the water course; and

C. There is no additional intrusion into the ~~river, stream or brook,~~ protected natural resource; and

D. The dimensions of the repaired structure do not exceed the dimensions of the structure as it existed 18 months prior to the repair.

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R. 013

2 For the purposes of this subsection, the term "minor repair"
4 means an activity that requires fixing or restoring less than 50%
of a structure;

6 Sec. 2. 38 MRSA §480-Q, sub-§2-B is enacted to read:

8 2-B. Floating docks. Replacement of a floating dock with
10 another floating dock if the dimensions of the replacement dock
12 do not exceed those of the dock being replaced and the
14 configuration of the replacement dock is the same as the dock
being replaced. In any action brought by the department against
a person claiming an exemption under this subsection, the burden
is on that person to demonstrate that the replacement dock
satisfies the requirements of this subsection;

16 Sec. 3. Rules. The Board of Environmental Protection shall
18 amend its permit-by-rule performance standards as necessary to
20 allow a person to replace, within a reasonable time and without
22 an individual permit under the natural resources protection laws,
24 a dock, wharf or pier that was destroyed or rendered
substantially useless by acts of nature. Those amendments to the
permit-by-rule performance standards must take effect by January
1, 1995 and must:

26 1. Eligible replacements. Allow the replacement of a dock,
wharf or pier under permit-by-rule performance standards if:

28 A. Restoring the dock, wharf or pier to its condition prior
30 to the damage requires fixing, restoring or replacing more
than 50% of the dock, wharf or pier;

32 B. The dock, wharf or pier was destroyed or rendered
34 substantially useless by one or more acts of nature within
18 months prior to the date the application for a permit by
36 rule was submitted;

38 C. The same method of construction is used for the
40 replacement dock, wharf or pier as was used for the dock,
wharf or pier that was destroyed or rendered useless; and

42 D. The dimensions of the replacement dock, wharf or pier do
44 not exceed the dimensions of the dock, wharf or pier as it
existed 18 months prior to the repair; and

46 2. Must file within 18 months. Allow a person to replace a
48 dock, wharf or pier under permit-by-rule performance standards if
that person files a permit-by-rule application within 18 months
after the date on which the dock, wharf or pier was destroyed or
50 rendered substantially useless.

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2 A permit by rule obtained pursuant to this section and rules
4 adopted under this section is valid for 3 years from the date of
filing.

6 FISCAL NOTE

8 REVENUES

10 Other Funds (\$9,750)

12 Allowing the repair of certain permanent structures without
14 the required permit will decrease permit fee collections. The
16 estimated decreases of dedicated revenue to the Department of
Environmental Protection will be approximately \$9,750 annually
beginning in fiscal year 1994-95.

18 The Department of Environmental Protection will incur some
20 minor additional costs for amending certain rules pertaining to
the permitting process. These costs can be absorbed within the
22 department's existing budgeted resources.

24 STATEMENT OF FACT

26 This amendment replaces the bill.

28 The amendment amends the existing exemption from the natural
30 resources protection laws for maintenance and minor repair to
32 clarify that the exemption applies to structures in, on, over or
adjacent to any protected natural resource, thereby including
34 within that exemption maintenance and minor repair activities
that take place below the high water line. The exemption is only
36 valid for repairs that do not require fixing or restoring more
than 50% of the structure and for repaired structures that do not
exceed the dimensions of the structure as it existed 18 months
prior to the repair.

38 The amendment also enacts an exemption that allows the
40 replacement of floating docks if the replacement docks do not
exceed the dimensions or have configurations different from the
42 previously existing floating docks.

44 The amendment also directs the Board of Environmental
46 Protection to amend its rules as necessary to allow a person
whose dock, wharf or pier is destroyed by an act or acts of
48 nature to replace that dock, wharf or pier with a similar
structure under permit-by-rule performance standards. The rules

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2 must require a person who intends to replace a dock, wharf or
3 pier under a permit by rule to submit a permit-by-rule
4 application within 18 months from the time the damage occurred.
5 A permit by rule obtained for the purpose of replacing a dock,
6 wharf or pier under those performance standards is valid for 3
7 years from the date of filing.

8 The amendment also adds a fiscal note to the bill.