

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

SECOND REGULAR SESSION-1996

Legislative Document

No. 1834

S.P. 730

In Senate, March 11, 1996

An Act to Amend the Laws Relating to Regulation of Wetlands.

Reported by Senator LORD of York for the Joint Standing Committee on Natural Resources pursuant to Public Law 1995, chapter 460, section 11.

Reference to the Committee on Natural Resources suggested and ordered printed pursuant to Joint Rule 20.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

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

2
4 **Sec. 1. 38 MRSA §480-Q, sub-§17**, as enacted by PL 1995, c.
460, §6, is amended to read:

6 **17. Minor alterations in freshwater wetlands.** Activities
that alter less than 4,300 square feet of freshwater wetlands and
8 ~~that do not occur in, on or over another protected natural~~
~~resource, except that any activity occurring within a shoreland~~
10 ~~zone regulated by a municipality pursuant to chapter 3,~~
~~subchapter I, article 2-B is not exempt. An activity qualifies~~
12 ~~for exemption under this section only if the entire activity~~
~~qualifies, including all phases of a multiphased project taken as~~
14 ~~a whole. Activities authorized or legally conducted prior to the~~
~~effective date of this subsection are not considered in~~
16 ~~calculating the size of the alteration, as long as:~~

18 A. The activity does not occur in, on or over another
protected natural resource;

20 B. A 25-foot setback from other protected natural resources
22 is maintained and erosion control measures are used;

24 C. The activity is not located in a shoreland zone
regulated by a municipality pursuant to chapter 3,
26 subchapter I, article 2-B or in the wetland or water body
protected by the shoreland zone;

28 D. The activity does not occur in a wetland normally
30 consisting of or containing at least 20,000 square feet of
open water, aquatic vegetation or emergent marsh vegetation,
32 except for artificial ponds or impoundments;

34 E. The activity does not take place in a wetland containing
or consisting of peat land dominated by shrubs, sedges and
36 sphagnum moss; and

38 F. The entire activity constitutes a single, complete
project.

40 An activity does not qualify for exemption under this subsection
42 if that activity is part of a larger project, including a
multiphase development, that does not qualify as a whole
44 project. Activities authorized or legally conducted prior to
September 29, 1995 may not be considered in calculating the size
46 of the alteration.

48 **Sec. 2. 38 MRSA §480-Q, sub-§20** is enacted to read:

50 20. Constructed ponds. Alteration of legally created
constructed ponds that are not considered part of a great pond,

2 coastal wetland, river, stream or brook, as long as the
3 constructed pond is not expanded beyond its original size.

4
5 **FISCAL NOTE**

6
7 As a result of certain new wetlands permitting requirements,
8 the Department of Environmental Protection will realize both
9 minor increases and decreases in dedicated revenues from permit
10 fees. These revenue effects will approximately offset each other.

11
12 **STATEMENT OF FACT**

13
14
15 This bill amends the section of law specifying when minor
16 wetland alterations, which are alterations of fewer than 4,300
17 square feet of freshwater wetland, may be performed without a
18 permit under the natural resources protection laws. It adds a
19 requirement that, when those projects are performed without a
20 permit, a 25-foot setback from other protected resources must be
21 maintained and proper erosion control techniques must be used.
22 It also adds a provision specifying that minor projects are not
23 exempt from the permitting requirement if they are performed in
24 wetlands protected by a shoreland zoning designation or in peat
25 lands or wetlands with 20,000 square feet of open water or
26 marsh. Current law requires a person to obtain a permit to
27 conduct a project in land surrounding those areas, but seems to
28 allow projects within the protected areas themselves without a
29 permit.

30
31 The bill rewrites the entire subsection relating to minor
32 alterations to improve clarity and to restate language providing
33 that legally performed alterations before September 29, 1995 are
34 not included in determining whether the project qualifies for the
35 4,300 square-foot exemption.

36
37 Finally, the bill adds a provision exempting projects
38 performed in constructed, or man-made, ponds from the permitting
39 requirement.