

MAINE STATE LEGISLATURE

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R.S.S.

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DATE: 6-1-97

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**STATE OF MAINE
SENATE
118TH LEGISLATURE
FIRST SPECIAL SESSION**

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COMMITTEE OF CONFERENCE AMENDMENT "A" to S.P. 137, L.D. 416, Bill, "An Act to Regulate the Use of Personal Watercraft"

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Amend the bill by striking out the title and substituting the following:

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'An Act to Amend the Definition of Personal Watercraft, to Prohibit the Imprudent Operation of Watercraft on Inland Waters of the State and to Assess the Effectiveness of Industry-sponsored Watercraft Safety Training and Education Programs'

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Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

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'Sec. 1. 12 MRSA §7791, sub-§11-A, as enacted by PL 1989, c. 469, §1, is amended to read:

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11-A. Personal watercraft. "Personal watercraft" means any motorized watercraft that is ~~less than 13~~ 14 feet or less in hull length as manufactured, ~~is capable of exceeding a speed of 20 miles per hour and has the capacity to carry not more than the operator and one other person while in operation~~ has as its primary source of propulsion an inboard motor powering a jet pump and is capable of carrying one or more persons in a sitting, standing or kneeling position. The term "Personal watercraft" includes, but is not limited to, a jet ski, wet bike, surf jet, ~~and~~ and miniature speedboat and ~~hovercraft~~. "Personal watercraft" also includes motorized watercraft whose operation is controlled by a water skier.

CONFERENCE AMENDMENT

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2 **Sec. 2. 12 MRSA §7801, sub-§11-A** is enacted to read:

4 **11-A. Imprudent operation of watercraft.** A person is
6 guilty of imprudent operation of a watercraft if that person,
8 while operating a watercraft on the inland or coastal waters of
10 the State, engages in prolonged circling, informal racing, wake
12 jumping or other types of continued and repeated activities that
harass another person. This subsection may be enforced by any
law enforcement officer or a person may bring a private nuisance
action for a violation of this subsection pursuant to Title 17,
section 2802.

14 **Sec. 3. 12 MRSA §7901, sub-§11,** as enacted by PL 1985, c. 762,
16 §24, is amended to read:

18 **11. Violation.** A violation of section 7801, subsection
20 11-A, section 7857, subsection 13, 13-A, 13-B, 14, 15, 16, 17, 20
22 or 21 or of section 7858 is a civil violation for which a
forfeiture of not less than \$100 nor more than \$500 may be
adjudged, of which not more than \$50 may be suspended.

24 **Sec. 4. 17 MRSA §2802,** as amended by PL 1995, c. 65, Pt. A,
26 §53 and affected by Pt. A, §153 and Pt. C, §15, is further
amended to read:

28 **§2802. Miscellaneous nuisances**

30 The erection, continuance or use of any building or place
32 for the exercise of a trade, employment or manufacture which, by
noxious exhalations, offensive smells or other annoyances,
34 becomes injurious and dangerous to the health, comfort or
property of individuals, or of the public; causing or permitting
36 abandoned wells or tin mining shafts to remain unfilled or
uncovered to the injury or prejudice of others; causing or
38 suffering any offal, filth or noisome substance to collect, or to
remain in any place to the prejudice of others; obstructing or
40 impeding, without legal authority, the passage of any navigable
river, harbor or collection of water; corrupting or rendering
42 unwholesome or impure the water of a river, stream, pond or
aquifer; imprudent operation of a watercraft as defined in Title
44 12, section 7801, subsection 11-A; unlawfully diverting it from
its natural course or state, to the injury or prejudice of
46 others; and the obstructing or encumbering by fences, buildings
or otherwise, of highways, private ways, streets, alleys,
48 commons, common landing places or burying grounds are nuisances
within the limitations and exceptions mentioned. Any places where
50 one or more old, discarded, worn out or junked motor vehicles as
defined in Title 29-A, section 101, subsection 42, or parts
thereof, are gathered together, kept, deposited or allowed to

2 accumulate, in such manner or in such location or situation,
4 either within or without the limits of any highway, as to be
6 unsightly, detracting from the natural scenery or injurious to
8 the comfort and happiness of individuals and the public, and
10 injurious to property rights, are declared to be public nuisances.

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8 **Sec. 5. Assessment of industry safety and training efforts.** The
10 Department of Inland Fisheries and Wildlife shall coordinate with
12 personal watercraft distributors, dealers, rental agents and
14 users in the State to assess the awareness of boating laws among
16 users of personal watercraft and the extent and effectiveness of
18 industry-sponsored personal watercraft safety training and
20 education programs. This assessment must include, but is not
22 limited to, estimates of the level of awareness among personal
24 watercraft operators of general boating laws, safe boating
26 practices, the safe operation of personal watercraft and the rate
of participation by those operators in industry-sponsored safety
training and education programs. The Bureau of Warden Service
shall develop those estimates by tracking personal
watercraft-related complaints, warrants and summonses and by
assessments of observations of and contacts with those operators
by wardens. The bureau shall provide the Commissioner of Inland
Fisheries and Wildlife with a written summary of its conclusions
about the general level of awareness among personal watercraft
operators of those issues and the effectiveness of the
industry-sponsored safety training programs and materials.

28 The Department of Inland Fisheries and Wildlife shall
30 encourage personal watercraft distributors, dealers and rental
32 agents to offer safety training programs and materials and shall
34 undertake an evaluation of the current safety training and
36 education programs offered by distributors, dealers and rental
38 agents. That evaluation may include examples of the types of
educational materials being distributed, descriptions of the
training and education programs being offered, the number of
distributors, dealers and rental agents offering those programs
or materials and the number of people who participate in those
programs or received those materials.

40 The Commissioner of Inland Fisheries and Wildlife shall
42 report to the Joint Standing Committee on Inland Fisheries and
Wildlife on these assessment efforts by February 1, 1998.

44 **Sec. 6. Report.** The Commissioner of Inland Fisheries and
46 Wildlife shall report to the joint standing committee of the
48 Legislature having jurisdiction over inland fisheries and
wildlife matters by January 1, 1999 on the number of enforcement
actions taken by law enforcement officers for violations of Title
12, section 7801, subsection 11-A and the result of those

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2 enforcement actions and the number of private nuisance actions
taken for those violations under Title 17, section 2802 and the
3 result of those actions.'

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6 Further amend the bill by inserting at the end before the
summary the following:

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10 **FISCAL NOTE**

12 The Department of Inland Fisheries and Wildlife will incur
some minor additional costs to work the private sector to promote
14 the development and use of certain safety programs and to submit
certain required reports to the Legislature. These costs can be
16 absorbed within the department's existing budgeted resources.

18 The additional workload and administrative costs associated
with the minimal number of new cases filed in the court system
20 can be absorbed within the budgeted resources of the Judicial
Department. The collection of additional fines may increase
22 General Fund revenue by minor amounts.'

24 **SUMMARY**

26 This is the unanimous report of the Committee of Conference.

28 The amendment replaces the bill.

30 The amendment updates the definition of personal watercraft
to include jet-propelled vessels 14 feet or less in hull length
32 and creates a civil violation for the imprudent operation of a
watercraft on inland or coastal waters that is enforceable either
34 by a law enforcement officer or by an individual through a
private nuisance action. Current law allows any law enforcement
36 officer to enforce fish and wildlife laws.

38 The amendment also requires the Commissioner of Inland
Fisheries and Wildlife to work with personal watercraft
40 distributors, dealers, rental agents and users to promote
industry-sponsored safety and education programs and to assess
42 the rate of participation and the effectiveness of
industry-sponsored personal watercraft safety training programs
44 and educational materials. The commissioner is also required to
report to the First Regular Session of the 119th Legislature on
46 the number of prosecutions of this law by law enforcement
officers and the number of nuisance actions taken for imprudent
48 operation of watercraft.

CONFERENCE AMENDMENT