

MAINE STATE LEGISLATURE

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DATE: *May 20, 1997*

(Filing No. S-281)

INLAND FISHERIES AND WILDLIFE

Reported by: *Senator Kilkelly*

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STATE OF MAINE
SENATE
118TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S.P. 520, L.D. 1604, Bill, "An Act to Revise Certain Provisions of Fish and Wildlife Laws"

Amend the bill by striking out all of sections 1 and 3.

Further amend the bill in section 6 by striking out all of paragraph E and inserting in its place the following:

'E. The commissioner may recover all costs directly related to a specific search and rescue operation:

(1) From the person for whom the search and rescue operation was conducted; or

(2) If a person knowingly provided false information that leads to a search and rescue operation, from the person who provided that false information.'

Further amend the bill by inserting after section 6 the following:

'Sec. 7. 12 MRSa §7035, sub-§11-B, as enacted by PL 1997, c. 113, §1, is amended to read:

11-B. Free fishing days. The commissioner shall designate 2 weekends in each calendar year as "free fishing days." One weekend must be during ice fishing season and one weekend must be during open water fishing season. For purposes of this subsection, "weekend" means a consecutive Saturday and Sunday. The Saturday and Sunday of Father's Day weekend and the Sunday

COMMITTEE AMENDMENT "A" to S.P. 520, L.D. 1604

2 immediately preceding President's Day are free fishing days.
 4 Notwithstanding sections 7151 and 7371, it is lawful during any
 6 free fishing day established under this subsection for any person
 8 to fish without a license in inland waters, except that this
 subsection does not apply to any person whose license to fish is
 under suspension or revocation. All other provisions of chapters
 701 to 721 relating to fishing apply during any free fishing day.'

10 Further amend the bill by striking out all of sections 13
 and 14 and inserting in their place the following:

12 'Sec. 13. 12 MRSA §7076, sub-§4, as amended by PL 1993, c.
 14 237, §1, is repealed.

16 Sec. 14. 12 MRSA §7076, sub-§4-A, as amended by PL 1991, c.
 443, §7, is repealed.

18 Sec. 15. 12 MRSA §7076, sub-§4-B is enacted to read:

20 4-B. Resident disabled veteran. A resident disabled
 22 veteran may apply to the commissioner for one or more following
 24 complimentary permits and licenses: a license to hunt with a
 26 firearm, a license to fish, an archery hunting license as
 28 provided in section 7102-A, a pheasant hunting permit as provided
 30 in 7106-B and a muzzle-loading hunting license as provided in
 section 7107-A. The commissioner must issue the permit, license
 or licenses requested under this subsection if the commissioner
 determines the applicant is a resident disabled veteran and is
 not otherwise ineligible to hold that permit or license. For the
 purposes of this subsection, "resident disabled veteran" means a
 person who:

32 A. Is a resident as defined in section 7001, subsection 32;
 34

36 B. Is a veteran as defined in Title 37-B, section 505,
subsection 1, paragraph A, subparagraph (5); and

38 C. Has a service-connected disability evaluated at:

40 (1) One hundred percent; or

42 (2) Seventy percent or more as a result of honorable
 44 military service and who has served in a combat zone
 46 during any armed conflict in which participants were
exposed to war risk hazards as defined in 42 United
States Code, Section 1711 (b).

48 Each application must be accompanied by satisfactory evidence
 50 that the applicant meets the requirements of this subsection. A
permit or license issued under this subsection remains valid for

A. 13.

COMMITTEE AMENDMENT "A" to S.P. 520, L.D. 1604

2 the life of the permit or license holder, as long as the permit
3 or license holder continues to satisfy the residency requirement
4 in section 7001, subsection 32, and the permit or license is not
5 revoked or suspended.'

6 Further amend the bill by striking out all of section 16 and
7 inserting in its place the following:

8 'Sec. 16. 12 MRSA §7077-B, as enacted by PL 1995, c. 346,
9 §12, is amended to read:

12 **§7077-B. Effective date for suspensions**

14 1. **For mandatory suspensions.** For violations having a
15 minimum statutory suspension period, a suspension is effective
16 upon conviction and the license holder must surrender the license
17 immediately to the commissioner. That person is not entitled to
18 a hearing under section 7077-D if the suspension period does not
19 exceed the minimum period of suspension required by law. In
20 addition to any suspension period ordered by the commissioner, a
21 person whose license is suspended for a violation having a
22 mandatory suspension must successfully complete an outdoor ethics
23 course conducted or endorsed by the department prior to being
24 eligible to have that license reinstated.

26 2. **For all other suspensions.** For violations that do not
27 have a minimum statutory suspension period, a suspension is
28 effective upon written notification of suspension by the
29 commissioner. That person must surrender that license to the
30 commissioner upon receipt of a notice of suspension and is
31 entitled to a hearing under section 7077-D. The commissioner
32 shall adopt rules specifying the conditions under which a person
33 whose license is suspended for violations that do not carry a
34 mandatory suspension is required to complete an outdoor ethics
35 course. Rules adopted under this subsection are major
36 substantive rules as defined in Title 5, chapter 375, subchapter
37 II-A.

38 ~~The commissioner may require a person whose license is~~
39 ~~suspended for a violation of section 7077 or 7077-A to complete a~~
40 ~~course on hunting ethics prior to reinstatement of any suspended~~
41 ~~license.~~

44 Outdoor ethics courses must be scheduled by the Bureau of
45 Warden Service and must be given whenever there are 10 or more
46 persons needing or wanting to take the course. The fee for an
47 outdoor ethics course is \$100, payable 10 working days prior to
48 the start of the course. All fees collected under this section
49 are allocated to the Sport Hunter Program established in section
50 7035, subsection 13, paragraph B.'

2 Further amend the bill by inserting after section 18 the
following:

4 'Sec. 19. 12 MRSA §7104, sub-§2, ¶A, as enacted by PL 1979, c.
6 420, §1, is repealed.'

8 Further amend the bill in section 26 by striking out all of
subsection 6 and inserting in its place the following:

10 '6. **Inspection of live smelts and baitfish.** A person
12 licensed under this section who possesses live smelts or baitfish
14 at a fixed place of business shall make these fish available for
inspection by a warden or a department fisheries biologist during
normal business hours. A person licensed under this section who
16 possesses live smelts or baitfish at a location other than the
licensee's fixed place of business shall make these fish
18 available for inspection by a warden or a department fisheries
biologist at any time, upon request.'

20 Further amend the bill by striking out all of section 28 and
22 inserting in its place the following:

24 'Sec. 28. 12 MRSA §7205, as amended by PL 1993, c. 419, §19,
is repealed.'

26 Sec. 29. 12 MRSA §7205-A is enacted to read:

28 **§7205-A. License to operate a private fee pond**

30 **1. License required.** A person who owns a private pond may
32 not charge others for the opportunity to fish in that private
pond unless the owner of that pond possesses a private fee pond
34 license issued by the commissioner under this section.

36 **2. Licensed activities.** A private fee pond license
authorizes the owner of a private pond to charge others for the
38 opportunity to fish in that private pond and authorizes persons
who fish in that pond to fish for, take, possess and transport
40 fish harvested from that pond, notwithstanding other provisions
of the law or rules of the department pertaining to manner, time,
42 season, bag limit, length limit or fishing license requirements.

44 **3. Fee.** The fee for a private fee pond license is \$25.

46 **4. Restrictions.** All fish taken from a private fee pond
operated pursuant to this section must be killed prior to being
48 transported from the site. All fish transported from the site
must be tagged as provided by rules established by the
50 commissioner.'

2 Further amend the bill by striking out all of section 31 and
inserting in its place the following:

4 'Sec. 31. 12 MRSA §7313, sub-§1, as enacted by PL 1987, c.
6 742, §7, is amended to read:

8 1. **Requirement.** A person who has not previously held a
guide license must pass an examination. A guide carrying
10 passengers for hire must also be certified in the area of
watercraft safety.

12 This subsection is repealed June 30, 1998.

14 **Sec. 32. 12 MRSA §7313, sub-§1-A** is enacted to read:

16 1-A. Requirement. An examination is required for any
18 person who has not held a valid guide license within the previous
20 3 years. A guide carrying passengers for hire must also be
certified in the area of watercraft safety.

22 This subsection takes effect June 30, 1998.

24 Further amend the bill by striking out all of sections 35
and 36 and inserting in their place the following:

26 'Sec. 35. 12 MRSA §7366, as amended by PL 1995, c. 667, Pt.
28 B, §§2 and 3, is further amended to read:

30 **§7366. Whitewater guide license**

32 1. **Eligibility.** No A person may not act as a whitewater
guide until he that person is 18 years of age or older and has
34 procured a license from the commissioner pursuant to this section.

36 2. **Rules.** The commissioner shall by rule establish the
requirements for a whitewater guide's license.

38 3. **Examination.** All initial applicants for a whitewater
guide's license are required to pass an examination developed and
40 administered by the commissioner. ~~The fee is \$50 for the first~~
42 ~~examination and \$10 for subsequent examinations. All examination~~
44 ~~fees are nonrefundable and must be applied toward the license~~
~~fees of successful applicants.~~

46 4. **Fee.** ~~The annual fee for a whitewater guide's license is~~
\$25 for 1993, \$27 for 1994, \$28 for 1995 and \$29 for 1996. The
48 fee for an examination is \$100 and is not refundable. An
applicant may retake the examination once without paying an
50 additional examination fee. Beginning in 1997, a whitewater

COMMITTEE AMENDMENT "A" to S.P. 520, L.D. 1604

2 guide license is a 3-year license. The fee for a 3-year license
is \$87.

4 5. **Renewal.** A whitewater guide whose license is not
6 suspended or revoked may renew that license annually upon the
payment of the annual license fee. Completion and passage of the
8 whitewater guide's examination is not a requirement for renewal.

10 This subsection is repealed June 30, 1998.

12 6. **Renewal.** A whitewater guide whose license is not
suspended or revoked may renew that license upon the payment of
the license fee. An examination is required for any person who
14 has not held a valid whitewater guide license within the previous
3 years.

16 This subsection takes effect June 30, 1998.'

18 Further amend the bill by striking out all of sections 38
20 and 40.

22 Further amend the bill by striking out all of section 41 and
24 42 and inserting in their place the following:

26 'Sec. 41. 12 MRSA §7406, sub-§15, ¶C, as enacted by PL 1979,
c. 420, §1, is amended to read:

28 C. Fails to give notice of the event by the quickest means
30 to a ~~state-police-officer, -sheriff,~~ game warden or ~~other,~~ in
the event that the game warden can not be contacted, to the
32 law enforcement officer nearest the place where the event
occurred.'

34 Further amend the bill by striking out all of sections 44
and 45.

36 Further amend the bill by striking out all of sections 47
38 and 48 and inserting in their place the following:

40 'Sec. 47. 12 MRSA §7463-A, sub-§1-A, as enacted by PL 1993, c.
206, §2 and affected by §7, is amended to read:

42 1-A. **Moose hunting districts and zones.** ~~The-commissioner~~
44 ~~may--establish--one--or--more--moose--hunting--districts.~~ The
commissioner may also establish moose hunting zones within these
46 districts. Physical boundaries must be used to delineate all
zones and districts. The boundaries of the districts-and zones
48 and the number of permits to be issued for each zone must be made
public at least 14 days before application for permits may be
50 made.

2 **Sec. 48. 12 MRSA §7463-A, sub-§3**, as amended by PL 1993, c.
206, §5 and affected by §7, is amended to read:

4
6 **3. Length of season.** On or after January 1, 1982, the
commissioner may establish open seasons on moose within the moose
8 hunting ~~districts~~ zones established by the commissioner under
subsection 1-A, ~~provided that~~ as long as the number of hunting
10 days in each year does not exceed 6.

12 **Sec. 49. 12 MRSA §7463-A, sub-§14** is enacted to read:

14 **14. Point system for public chance drawing.** The department
shall adopt rules establishing a point system for applicants
16 beginning with the 1998 public chance drawing. The rules must
allow a person to accumulate one point for each consecutive year
18 that person purchases an application for a permit but is not
selected to receive a permit. Each point entitles that applicant
to one chance in the public chance drawing. A person's
20 accumulated points are eliminated if, in any year, that person is
selected to receive a permit or that person fails to purchase a
22 new chance. Rules adopted under this subsection are routine
technical rules as defined in Title 5, chapter 375, subchapter
24 II-A.

26 **Sec. 50. 12 MRSA §7551, sub-§3**, as enacted by PL 1979, c. 420,
§1, is amended to read:

28 **3. Ponds of 10 acres or less.** All ponds of 10 acres or less
30 in area, formed on brooks, streams or rivers, shall be governed
by the same laws or rules governing fishing that apply to the
32 brook, stream or river on which they are situated, whether the
pond be natural or artificial. This subsection ~~shall~~ does not
34 apply to private ponds as set forth in section 7205 7205-A.

36 Further amend the bill by striking out all of sections 52 to
56 and inserting in their place the following:

38 **Sec. 52. 12 MRSA §7627-C** is enacted to read:

40 **§7627-C. Removal of ice shacks prior to the close of season**

42 A person is guilty of leaving an ice shack if that person
44 owns any shack or temporary structure and that person leaves or
allows the shack to remain on the ice of any inland waters:

46 **1. In certain counties.** Internal waters entirely within
48 the counties of Androscoggin, Cumberland, Hancock, Kennebec,
Lincoln, Oxford, Sagadahoc, Waldo or York after March 15th or
50 upon notice of an agent of the commissioner; and

COMMITTEE AMENDMENT "A" to S.P. 520, L.D. 1604

2 2. All other areas. Internal waters other than those
4 specified in subsection 1 more than 3 days after the waters on
6 which the shack or structure is located are closed to ice fishing
8 for all.

10 **Sec. 53. 12 MRSA §7630, sub-§1, ¶A,** as enacted by PL 1979, c.
12 420, §1, is amended to read:

14 A. Nothing in this Title prohibits the use of ~~the eggs of~~
16 ~~either Atlantic sea-run salmon or landlocked salmon~~
18 commercially prepared eggs from species that do not
20 naturally occur in the State for bait; and'

22 Further amend the bill by striking out all of section 58 and
24 inserting in its place the following:

26 **'Sec. 58. 12 MRSA §7827, sub-§10,** as enacted by PL 1979, c.
28 420, §1, is amended to read:

30 **10. Operating a snowmobile to endanger.** A person is guilty
32 of operating a snowmobile to endanger if he that person operates
34 any snowmobile so as to endanger any person or property as
36 follows.

38 A. A person may not operate a snowmobile on the statewide
40 snowmobile trail system or a public right-of-way that is
42 open to snowmobiling except at a reasonable and prudent
44 speed for the existing conditions, including when
46 approaching and crossing an intersection or railway grade
48 crossing, when approaching and taking a curve, when
approaching a hill crest, when traveling upon any narrow or
winding trail and when a special hazard exists with respect
to pedestrians, skiers or other traffic by reason of weather
or trail conditions.

B. Speed must be controlled at all times as necessary to
avoid colliding with any person, vehicle, snowmobile or
other object on or adjacent to the snowmobile trail.'

Further amend the bill by striking out all of section 62.

Further amend the bill in section 64 in that part designated
"§7945." in subsection 3 in the next to the last line (page 19,
line 35 in L.D.) by striking out the following: "separate"

Further amend the bill by inserting after section 64 the
following:

COMMITTEE AMENDMENT "A" to S.P. 520, L.D. 1604

2 'Sec. 65. Study commission. The Commission to Study the
Stocking of Alewives, referred to in this section as the
4 "commission," is established.

6 1. Membership. The commission consists of 11 members
appointed as follows:

8 A. The President of the Senate and Speaker of the House
shall appoint 3 members of the Joint Standing Committee on
10 Inland Fisheries and Wildlife and 3 members of the Joint
Standing Committee on Marine Resources; and
12

14 B. The Governor shall appoint one person representing
lobster harvesters, one person representing recreational
16 saltwater fishing interests, one person representing
recreational freshwater fishing interests, one person who
18 resides in a community having a significant alewife fishery
and one person who resides in the St. Croix or Androscoggin
watershed.
20

22 2. Appointments; chair. The President of the Senate, the
Speaker of the House and the Governor shall make all appointments
no later than 30 days after the adjournment of the First Special
24 Session of the 118th Legislature and shall notify the Executive
Director of the Legislative Council upon making the
26 appointments. When the appointment of all members is complete,
the chair of the Legislative Council shall call and convene the
28 first meeting of the commission no later than August 1, 1997.
The commission shall select a chair from among the Legislative
30 members.

32 3. Duties. The commission shall study and summarize the
current laws, policies and procedures of the State on the
34 stocking of alewives in inland waters and shall make any
recommendations to improve, clarify or otherwise modify any of
36 those laws, policies and procedures, including:

38 A. Policies and procedures for determining which waters are
stocked;

40 B. The biological basis for that determination;

42 C. The impact of stocked alewives on other wild fish or
44 wild animal populations;

46 D. The recreational and commercial use and demand for
alewives;

48 E. The existing process used to permit the stocking of
50 alewives; and

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "A" to S.P. 520, L.D. 1604

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F. Any other issue related to the stocking of alewives that the commission determines necessary to include in its study or recommendations.

4. **Staff assistance.** The commission shall request staffing and clerical assistance from the Legislative Council. The Department of Inland Fisheries and Wildlife and the Department of Marine Resources shall provide assistance to the commission upon request.

5. **Meetings.** The commission may hold up to 5 meetings.

6. **Reimbursement.** Members of the commission who are Legislators are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, for each day's attendance at meetings of the commission, and reimbursement for travel and other necessary expenses, upon application to the Legislative Council. The Executive Director of the Legislative Council shall administer the commission's budget.

7. **Report.** The commission shall complete its work by November 15, 1997 and shall submit its report and any accompanying legislation to the Joint Standing Committee on Inland Fisheries and Wildlife and the Joint Standing Committee on Marine Resources.

Sec. 66. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1997-98	1998-99
INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF		
Savings Fund Program		
All Other	\$12,500	\$12,500
Appropriates funds to be used only to avoid future license fee increases.		
DEPARTMENT OF INLAND FISHERIES AND WILDLIFE		
TOTAL	12,500	12,500
LEGISLATURE		

**Commission to Study the
Stocking of Alewives**

2

4

Personal Services	1,650	
All Other	2,000	

6

8

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14

Provides funds for the per diem and expenses of legislative members and miscellaneous costs, including printing, of the Commission to Study the Stocking of Alewives.

16

**LEGISLATURE
TOTAL**

3,650

18

20

TOTAL APPROPRIATION

\$16,150

\$12,500

22

Sec. 67. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

24

1997-98

1998-99

26

**INLAND FISHERIES AND WILDLIFE,
DEPARTMENT OF**

28

Sport Hunter Program

30

All Other	\$10,000	\$10,000
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Allocates funds to reflect an increase in revenues from certain course fees.

36

38

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

40

42

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

44

FISCAL NOTE

46

1997-98

1998-99

48

APPROPRIATIONS/ALLOCATIONS

50

COMMITTEE AMENDMENT "A" to S.P. 520, L.D. 1604

2	General Fund	\$16,150	\$12,500
	Other Funds	10,000	10,000

4 REVENUES

6	General Fund	\$12,500	\$12,500
	Other Funds	10,000	10,000

8
10 The Legislature will require a General Fund appropriation of
12 \$3,650 in fiscal year 1997-98 for the per diem and expenses of
14 legislative members and miscellaneous costs, including printing,
of the Commission to Study the Stocking of Alewives. The
additional costs associated with providing staffing and clerical
assistance can be absorbed by the Legislature utilizing existing
budgeted resources.

16
18 Increasing the whitewater guide examination fee and allowing
20 the department to retain certain processing fees will increase
22 annual General Fund revenue by \$12,500 beginning in fiscal year
24 1997-98. The Department of Inland Fisheries and Wildlife will
require additional General Fund appropriations of \$12,500
beginning in fiscal year 1997-98 to meet the constitutional
requirement that appropriations to the department are at least
equal to the undedicated revenues collected by the department.

26 The establishment of certain mandatory training fees will
28 increase dedicated revenue to the Department of Inland Fisheries
and Wildlife by \$10,000 annually beginning in fiscal year
30 1997-98. Additional allocations are included in the bill to
reflect these annual increases in dedicated revenue.

32 Authorizing the Department of Inland Fisheries and Wildlife
34 to receive reimbursement from federal agencies for services
rendered will result in an increase in dedicated revenues and a
36 corresponding increase in dedicated expenditures. The amounts
will depend on the amount of reimbursement that is received in
each fiscal year and can not be determined at this time.

38
40 Authorizing the Department of Inland Fisheries and Wildlife
42 to recover certain search and rescue costs and the establishment
of certain fees for special deer hunting seasons will result in
an insignificant increase in General Fund revenues collected by
the department.

44
46 The Department of Inland Fisheries and Wildlife will incur
48 some minor additional costs to adopt certain rules pertaining to
outdoor ethics courses and the establishment of a point system
for the moose lottery. These costs can be absorbed within the
department's existing budgeted resources.

50

COMMITTEE AMENDMENT "A" to S.P. 520, L.D. 1604

2 The Department of Inland Fisheries and Wildlife and the
4 Department of Marine Resources will incur some minor additional
6 costs to provide staff assistance to the Commission to Study the
8 Stocking of Alewives. These costs can be absorbed within the
10 departments' existing budgeted resources.

12 This bill may also increase prosecutions for Class D and
14 Class E crimes. If a jail sentence is imposed, the additional
16 costs to the counties are estimated to be \$83.78 per day per
18 prisoner. These costs are not reimbursed by the State. The
20 number of prosecutions that may result in a jail sentence and the
22 resulting costs to the county jail system are expected to be
24 insignificant.

26 The additional workload, administrative costs and indigent
28 defense costs associated with the minimal number of new cases
30 filed in the court system can be absorbed within the budgeted
32 resources of the Judicial Department. The collection of
34 additional fines may also increase General Fund revenue by minor
36 amounts.'

22 SUMMARY

24 This amendment does the following:

26 1. Removes sections from the bill that pertained to the
28 definitions of firearm and hunting, hunting domestic animals,
30 hunting without hunter orange clothing, tree ladders, registering
32 bear, trapping beaver, turkey hunting, the taking of pickerel and
34 perch, stocking department fish in private ponds, registering
36 watercraft and penalties for certain hunting violations;

38 2. Adds a provision to the search and rescue powers of the
40 Commissioner of Inland Fisheries and Wildlife that allows the
42 commissioner to recover search and rescue costs from the person
44 for whom the search was conducted or from a person who knowingly
46 gives out false information that leads to a search or rescue
48 attempt;

50 3. Makes the Saturday and Sunday during Father's Day
weekend and the Saturday and Sunday immediately preceding
President's Day "free fishing days";

4. Clarifies the complimentary hunting and fishing licenses
that are available to resident disabled veterans;

5. Requires a person who violates a fish and wildlife law
that carries a mandatory license suspension to complete an
outdoor ethics course before having that license returned;

COMMITTEE AMENDMENT "A" to S.P. 520, L.D. 1604

- 2 6. Repeals the provision that prohibits more than 2
3 shooting ranges in one county;
- 4 7. Clarifies the licensing requirements for a person who
5 wishes to operate a private pond for fishing;
- 6 8. Requires that a person who applies for a Maine guide
7 license or a whitewater guide license take an examination if that
8 person has not held that license within the previous 3 years;
- 9 9. Clarifies that a person give notice to a game warden in
10 the event of a hunting accident or, in the event that the game
11 warden can not be contacted, to the law enforcement officer
12 nearest the place where the event occurred;
- 13 10. Establishes a point system for the moose lottery that
14 gives a person one point for each consecutive year in which that
15 person purchases a moose lottery application but is not selected
16 to receive a permit;
- 17 11. Requires ice shacks to be removed from the ice by March
18 15th in Androscoggin, Cumberland, Hancock, Kennebec, Lincoln,
19 Oxford, Sagadahoc, Waldo and York counties;
- 20 12. Allows commercially prepared fish eggs from species
21 that do not naturally occur in Maine to be used for bait;
- 22 13. Clarifies what constitutes operating a snowmobile to
23 endanger;
- 24 14. Creates an 11-member Commission to Study the Stocking
25 of Alewives; and
- 26 15. Adds an appropriation section, an allocation section
27 and a fiscal note to the bill.