

MAINE STATE LEGISLATURE

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INLAND FISHERIES AND WILDLIFE

Reported by: *REPORT B*

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**STATE OF MAINE
SENATE
118TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "B" to S.P. 573, L.D. 1730, Bill, "An Act to Implement the Recommendations of the Great Pond Task Force"

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

'Sec. 1. 12 MRSA §7825-B is enacted to read:

§7825-B. Motorboat rental agent certificate

1. Registration and issuance. Except as provided in this section, after January 1, 1999, a person or business may not rent or lease a motorboat unless that person or business:

A. Registers with the department as a motorboat rental agent and is issued a motorboat rental and leasing agent certificate from the commissioner;

B. Registers each motorboat being offered for rent or lease in the name of the person or business holding that certificate; and

C. Provides each person who rents or leases a motorboat with written instructions on how to operate the motorboat.

2. Fee The fee for a motorboat rental and leasing agent certificate is \$25. The certificate is valid from January 1st to December 31st.

3. Revocation of certificate. The commissioner may revoke a motorboat rental and leasing certificate if the commissioner determines that the certificate holder:

2 A. Rented or leased a motorboat that was unsafe; or

4 B. Failed to instruct a person intending to rent or lease a
6 motorboat on motorboat safety. The department shall provide
8 each certificate holder with written materials and
10 instructional guidelines on motorboat safety that the
12 certificate holder shall review with each motorboat renter
14 or lessor before that person operates that motorboat.

16 **4. Exception.** This section does not apply to:

18 A. Campgrounds licensed by the Department of Human Services
20 that offer the motorboats owned by that campground
22 exclusively for use by campground clientele;

24 B. Commercial sporting camps. For the purposes of this
26 section, "commercial sporting camp" means a business
28 consisting of primitive lodging facilities that offers the
30 public the opportunity to pursue primitive hunting, fishing,
32 boating or snowmobiling activities; or

34 C. A person lawfully engaged in guiding activities under
36 section 7311 who accompanies others on guided trips that
38 include the use of motorboats.

40 **Sec. 2. 12 MRSA §7827, sub-§26** is enacted to read:

42 **26. Unlawfully renting or leasing a motorboat.** A person is
44 guilty of unlawfully renting or leasing a motorboat if that
46 person rents or leases a motorboat in violation of section 7825-B.

48 **Sec. 3. 12 MRSA §7901, sub-§17** is enacted to read:

50 **17. Unlawfully renting or leasing a motorboat.** A violation
of section 7827, subsection 26 is a civil violation for which a
forfeiture of not less than \$200 must be adjudged. The \$200
minimum fine may not be waived by the court.

Sec. 4. 14 MRSA §159-C is enacted to read:

§159-C. Liability related to placement of navigational aids in great ponds

1. Definitions. As used in this section, unless the
context otherwise indicates, the following terms have the
following meanings.

A. "Great pond" has the meaning given in Title 38, section
480-B, subsection 5.

2 B. "Lake association" means a nonprofit organization
4 incorporated under state law whose corporate purpose
6 includes maintenance or improvement of water quality or
8 public safety on a great pond, management of water levels or
 other social, educational, stewardship or advocacy efforts
 to benefit users of or the natural environment of a great
 pond.

10 C. "Navigational aid markers" means navigational aids that
12 conform to rules governing the State's marking of waterways.

14 2. Limited liability. A lake association that has obtained
16 a permit from the Department of Conservation to place
18 navigational aid markers in great ponds is not liable for
20 personal injury, property damage or death caused by placement or
 maintenance of those navigational aid markers provided that the
 lake association has placed or maintained the markers in
 conformance with the terms and conditions of the permit.

22 3. No remuneration. In order to qualify for the immunity
24 granted in subsection 2, a lake association may not receive any
 remuneration from the State or otherwise for placing navigational
 aid markers in great ponds.

26 4. Limitations. This section does not limit any liability
28 that may otherwise exist for willful or malicious actions or
30 failures to guard or warn against a known dangerous condition
 related to the navigational aid markers.

32 5. No duty created. Nothing in this section creates a duty
 of care or ground for liability.

34 6. Costs and fees. The court may award any direct legal
36 costs, including reasonable attorney's fees, to a lake
38 association against which a tort or related action is brought
 when the lake association is found not liable pursuant to this
 section.

40 **Sec. 5. Report on education and safety training; inland fisheries and**
42 **wildlife.** The Commissioner of Inland Fisheries and Wildlife shall
44 make recommendations no later than January 1, 1999 to the joint
46 standing committee of the Legislature having jurisdiction over
48 inland fisheries and wildlife matters on an education and safety
 training program for motorboat operators on inland waters. In
 preparing those recommendations, the commissioner shall consult
 with federal and state agencies and private businesses with an
 interest in recreational watercraft use. Those recommendations
 must include methods for evaluating

the effectiveness of the program and must address the issue of mandatory versus voluntary participation in the program.'

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

FISCAL NOTE

The Department of Inland Fisheries and Wildlife will incur some minor additional costs to administer registration and certification of motorboat rental agents. These costs will be offset by minor increases in revenue from fees for motorboat rental agent certificates.

The Department of Inland Fisheries and Wildlife will incur some minor additional costs to submit certain recommendations to the Legislature. These costs can be absorbed within the department's existing budgeted resources.

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

This bill may decrease the number of civil suits filed in the court system. The Judicial Department may realize some minor savings from reductions of workload and administrative costs associated with the minimal number of cases that will no longer be filed. Reductions in the collection of filing fees may decrease General Fund revenue by minor amounts.'

SUMMARY

This amendment replaces the bill and is one of 3 minority reports of the Joint Standing Committee on Inland Fisheries and Wildlife.

This amendment requires that, after January 1, 1999, motorboat rental and leasing agents obtain a certificate from the Department of Inland and Fisheries and Wildlife in order to lawfully rent or lease motorboats, with the exception of commercial sporting camps and campgrounds. The amendment also grants immunity to lake associations from personal injury, property damage or death caused by buoys located by the association under a permit from the Department of Conservation.

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2 The amendment also requires the Commissioner of Inland
3 Fisheries and Wildlife to report by January 1999 to the joint
4 standing committee of the Legislature having jurisdiction over
5 inland fisheries and wildlife matters on proposals for a safety
6 training and education program for motorboat operators on inland
7 waters.

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