

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 589

S.P. 171

In Senate, February 8, 2001

An Act to Amend the Invasive Aquatic Plants Laws.

(EMERGENCY)

Reference to the Committee on Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator TREAT of Kennebec.
Cosponsored by Representative COWGER of Hallowell and
President Pro Tem BENNETT of Oxford, Senators: GAGNON of Kennebec, NUTTING of
Androscoggin, WOODCOCK of Franklin, Representatives: COLWELL of Gardiner,
FULLER of Manchester, HUTTON of Bowdoinham, KOFFMAN of Bar Harbor, TOBIN of
Windham.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 **Whereas,** it is imperative that this legislation take effect
immediately in order to prevent serious environmental and
economic problems associated with the unchecked spread of
8 invasive aquatic plants; and

10 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
12 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
14 safety; now, therefore,

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

18 **Sec. 1.** 38 MRSA §410-N, sub-§1, ¶C is enacted to read:

20 C. "State boat ramp" means a public boat ramp administered
22 by the Department of Inland Fisheries and Wildlife or the
 Department of Conservation.

24 **Sec. 2.** 38 MRSA §410-N, sub-§3, ¶¶C to E are enacted to read:

26 C. The department may recommend that the Department of
28 Inland Fisheries and Wildlife or the Department of
30 Conservation temporarily close one or more state boat ramps
 for a period of up to 120 days. During this period, the
 department shall prepare an integrated response plan.

32 (1) Upon receiving a request from the department for a
34 temporary closure, the Department of Inland Fisheries
 and Wildlife or the Department of Conservation shall
36 notify affected municipalities and local residents of
 the potential for temporary closure by publishing
38 written notice of the restriction at least once in the
 state paper, 2 other papers of general circulation and
40 the paper for the immediate vicinity of the state boat
 ramp to be closed, if any, and, to the extent
42 practicable, by posting notice at the state boat ramp.
 The Department of Inland Fisheries and Wildlife or the
44 Department of Conservation shall allow at least 14 days
 after publication of the written notice for public
46 comment prior to closing the state boat ramp. These
 notice requirements apply in lieu of otherwise
48 applicable notice requirements in Title 12.

2 (2) The Department of Inland Fisheries and Wildlife or
3 the Department of Conservation may temporarily close a
4 state boat ramp upon consideration of factors such as:

5 (a) The potential for boats to come into contact
6 with an invasive plant;

7 (b) The probability that plant fragments will be
8 transported from the lake by boats;

9 (c) The nature and vulnerability of neighboring
10 lakes;

11 (d) The number and nature of other access points
12 on the lake that may determine the effectiveness
13 of a closure;

14 (e) Alternative measures that would lessen the
15 potential for export of plant material from the
16 ramp site; and

17 (f) Obligations of the Department of Inland
18 Fisheries and Wildlife or the Department of
19 Conservation related to construction and operation
20 of the ramp.

21 D. The department may recommend in the integrated response
22 plan that the Department of Inland Fisheries and Wildlife or
23 the Department of Conservation provisionally or permanently
24 close or relocate one or more state boat ramps.

25 (1) Upon receiving a recommendation from the
26 department for a provisional or permanent closure or
27 relocation, the Department of Inland Fisheries and
28 Wildlife or the Department of Conservation shall notify
29 affected municipalities and local residents of the
30 potential for closure or relocation by publishing
31 written notice of the restriction at least once in the
32 state paper, 2 other papers of general circulation and
33 the paper for the immediate vicinity of the state boat
34 ramp to be closed, if any, and, to the extent
35 practicable, by posting notice at the state boat ramp.
36 The Department of Inland Fisheries and Wildlife or the
37 Department of Conservation shall allow at least 30 days
38 after publication of the written notice for public
39 comment and shall hold a public informational meeting
40 in the locality of the lake on which the state boat
41 ramp is located prior to closing or relocating the
42 state boat ramp. These notice requirements apply in

2 lieu of otherwise applicable notice requirements in
3 Title 12.

4 (2) The Department of Inland Fisheries and Wildlife or
5 the Department of Conservation may provisionally or
6 permanently close, or may relocate, a state boat ramp
7 upon consideration of factors such as:

8 (a) The potential for boats to come into contact
9 with an invasive plant;

10 (b) The probability that plant fragments will be
11 transported from the lake by boats;

12 (c) The nature and vulnerability of neighboring
13 lakes;

14 (d) The number and nature of other access points
15 on the lake that may determine the effectiveness
16 of a closure;

17 (e) Alternative measures that would lessen the
18 potential for export of plant material from the
19 ramp site;

20 (f) Obligations of the Department of Inland
21 Fisheries and Wildlife or the Department of
22 Conservation related to construction and operation
23 of the ramp;

24 (g) The degree to which ongoing management
25 efforts could reduce the potential for spread;

26 (h) The availability of alternatives for public
27 access both to the specific lake and to
28 alternative lakes in the nearby region;

29 (i) The degree of threat posed to regional waters
30 by the infestation, including the potential for
31 regional lakes to support nuisance level
32 populations of invasive species and threats to
33 important habitats or native species populations;
34 and

35 (j) The potential for loss of recreational and
36 fishery opportunities with and without the closure.

37 E. The department shall recommend actions in the integrated
38 response plan that may be taken by municipalities, operators

2 of commercial boat launch ramps, lake associations or
3 similar entities in support of the integrated response plan.

4 **Sec. 3. 38 MRSA §419-C, sub-§2**, as enacted by PL 1999, c. 722,
5 §2, is amended to read:

6
7 **2. Penalty.** A person who intentionally violates this
8 section commits a civil violation ~~for which a warning may be~~
9 ~~issued for the first violation, a forfeiture not to exceed \$50~~
10 ~~may be adjudged for the 2nd violation and a forfeiture not to~~
11 ~~exceed \$500 may be adjudged for a subsequent violation.~~ Only a
12 warning may be issued for a violation occurring prior to July 1,
13 2003. A fine not to exceed \$1,500 may be adjudged for a
14 violation occurring on or after July 1, 2003.

15 **Sec. 4. Report.** The Land and Water Resources Council shall
16 submit as part of its annual report to the joint standing
17 committee of the Legislature having jurisdiction over natural
18 resources matters an evaluation of the status of aquatic invasive
19 species prevention and control in the State. The evaluation must
20 include any recommended policy or statutory changes. In
21 preparing the evaluation, the Land and Water Resources Council
22 shall establish and consult with an advisory group including
23 staff of the Department of Environmental Protection, the
24 Department of Inland Fisheries and Wildlife, the Department of
25 Conservation and the Department of Agriculture, Food and Rural
26 Resources and other interested persons as appropriate. The joint
27 standing committee of the Legislature having jurisdiction over
28 natural resources matters is authorized to report out a bill
29 concerning invasive aquatic species to the First Regular Session
30 of the 121st Legislature.

31
32 **Sec. 5. Appropriation.** The following funds are appropriated
33 from the General Fund to carry out the purposes of this Act.

34
35
36 **2001-02** **2002-03**

37 **ENVIRONMENTAL PROTECTION,**
38 **DEPARTMENT OF**

39 **40**
40 **Maine Restoration and Protection Fund**

41

42	Positions - Legislative Count	(1,000)	(1,000)
43	Personal Services	\$42,146	\$43,410
44	All Other	142,854	142,854
45			
46	Allocates funds for one additional Biologist		
47	I position and operating costs necessary to		
48			

2 administer certain aspects of the invasive
aquatic species laws.

4 **DEPARTMENT OF ENVIRONMENTAL
PROTECTION**

6 **TOTAL** \$185,000 \$186,264

8 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.

10

12

SUMMARY

14 This bill makes several changes to the laws governing
invasive aquatic plants to take effect immediately.

16

18 The bill establishes authority and procedures for closure or
relocation of state boat ramps and requires the development of an
integrated response plan.

20

22 The bill amends the penalty provisions to remove the
requirement to show intent, provides that only a warning may be
issued prior to July 1, 2003 and changes the forfeiture
provisions to provide that a fine not to exceed \$1,500 may be
adjudged for a violation occurring on or after July 1, 2003.

26

28 The bill also requires the Land and Water Resources Council
to report annually to the joint standing committee of the
Legislature having jurisdiction over natural resource matters on
the status of aquatic invasive species prevention and control in
the State.

32

34 The bill also appropriates funds to further administer the
invasive aquatic plant laws.