

# MAINE STATE LEGISLATURE

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DATE: 6-7-01

(Filing No. H-705)

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
120TH LEGISLATURE  
FIRST REGULAR SESSION

HOUSE AMENDMENT "F" to S.P. 630, L.D. 1812, Bill, "An Act to Prevent Infestation of Invasive Aquatic Plants and to Control Other Invasive Species"

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

PART A

Sec. A-1. 12 MRSA §7791, sub-§1-B is enacted to read:

1-B. Aquatic plant. "Aquatic plant" means a vascular plant species that requires a permanently flooded freshwater habitat.

Sec. A-2. 12 MRSA §7791, sub-§3-A is enacted to read:

3-A. Invasive aquatic plant. "Invasive aquatic plant" means a species of aquatic plant described in Title 38, section 410-N.

Sec. A-3. 12 MRSA §7801, sub-§§37 and 38 are enacted to read:

37. Launching a contaminated watercraft. A person who places a watercraft that is contaminated with an invasive aquatic plant upon the inland waters of the State commits a civil violation for which a forfeiture of not less than \$100 and not more than \$5,000 per violation may be adjudged. A forfeiture imposed under this subsection may not be waived by the court.

38. Operating a watercraft in a quarantined area. A person who operates a watercraft in violation of an order issued under

2 Title 38, section 1864 commits a civil violation for which a  
4 forfeiture of not less than \$100 and not more than \$5,000 per  
violation may be adjudged. A forfeiture imposed under this  
subsection may not be waived by the court.

6 **Sec. A-4. 12 MRSA §7806** is enacted to read:

8 **§7806. Lake and River Protection Fund**

10 The Lake and River Protection Fund, referred to in this  
12 section as the "fund," is created within the department as a  
nonlapsing fund. The fund must be administered by the Invasive  
14 Species Commission established by Title 5, section 12004-D,  
subsection 6. The fund is funded from funds allocated or  
16 appropriated by the Legislature during the fiscal year 2001-02.  
Money in the fund may be used for enforcing laws pertaining to  
18 invasive aquatic plants, inspecting watercraft for invasive  
aquatic plant materials, management activities and educational  
20 and informational efforts targeted at invasive aquatic plant  
prevention and eradication.

22 **Sec. A-5. 38 MRSA §419-C, sub-§2,** as enacted by PL 1999, c.  
24 722, §2, is amended to read:

26 **2. Penalty.** A person who intentionally violates this  
section commits a civil violation for which ~~a warning may be~~  
28 ~~issued for the first violation,~~ a forfeiture not to exceed \$50  
30 \$100 may be adjudged for the 2nd first violation and a forfeiture  
not to exceed \$500 \$2,500 may be adjudged for a subsequent  
violation.

32 **Sec. A-6. 38 MRSA c. 20-A** is enacted to read:

34 **CHAPTER 20-A**  
36 **PROGRAM TO PREVENT INFESTATION OF**  
38 **AND TO CONTROL INVASIVE AQUATIC PLANTS**

40 **§1861. Definitions**

42 As used in this chapter and chapter 20-B, unless the context  
otherwise indicates, the following terms have the following  
44 meanings.

46 **1. Commission.** "Commission" means the Invasive Species  
Commission created in section 1871.

48 **2. Invasive aquatic plant.** "Invasive aquatic plant" means  
50 a species of aquatic plant described in section 410-N.

2 3. Nuisance species. "Nuisance species" means an aquatic  
or terrestrial nonindigenous species that threatens the diversity  
4 or abundance of native species, the ecological stability of  
infested waters or commercial, agricultural, aquacultural or  
6 recreational activity dependent on such waters as identified by  
the department through rulemaking.

8 4. Watercraft. "Watercraft" has the same meaning as in  
10 Title 12, section 7791, subsection 14.

12 §1862. Program to prevent infestation of and to control  
invasive aquatic plants

14 1. Program. The commission shall implement a program to  
perform inspections of watercraft, watercraft trailers and  
16 outboard motors at boat launches on inland waters that are  
already infested and at boat launching sites on inland waters  
18 that have been identified as most at risk of introduction of  
invasive aquatic plants and to provide educational materials to  
20 the public and to watercraft owners regarding invasive aquatic  
22 plants. Nothing in this chapter may prevent a municipality from  
creating or implementing a program to address invasive aquatic  
24 plants.

26 2. Informational material to be provided. The program  
established under this section shall provide for the distribution  
of informational material on invasive aquatic plants, including a  
28 guide to identifying those plants, information on how to prevent  
the spread of those plants and information on the potential  
30 environmental impact and other impacts of infestation.

32 3. Program implementation. During the 2001 boating season,  
the commission shall begin inspecting watercraft, watercraft  
34 trailers and outboard motors as described in subsection 1 and  
may begin educational efforts involving a variety of media with  
36 the goal of informing the public of the risks posed by invasive  
aquatic plants, how to inspect watercraft, watercraft trailers  
38 and outboard motors for the presence of invasive aquatic plant  
material and how to dispose of that material properly. The  
40 program also may include other invasive aquatic plant-related  
educational efforts considered appropriate by the commission.

42 §1863. Invasive Aquatic Plant and Nuisance Species Fund

44 The Invasive Aquatic Plant and Nuisance Species Fund,  
46 referred to in this section as the "fund," is created within the  
department as a nonlapsing fund. The fund is administered by the  
48 commission. The fund is funded from funds allocated or  
appropriated by the Legislature for fiscal year 2001-02. Money  
50 in the fund may be used only for costs related to

conducting inspections under section 1862, conducting invasive aquatic plant prevention, containment, eradication and management activities and reimbursing agencies as necessary for costs associated with conducting or enforcing the provisions of this chapter and chapter 20-B. The commission may also use funds to contract with municipalities or other entities to conduct inspection, prevention or eradication programs to protect the inland waters of the State from invasive aquatic plant nuisance species.

**§1864. Emergency authority to regulate surface use**

The Commissioner of Inland Fisheries and Wildlife may issue an emergency order to restrict or prohibit the use of any watercraft on all or a portion of a water body that has a confirmed infestation of an invasive aquatic plant. The order must be for a specific period of time and may be issued only when the use of watercraft on that water body threatens to worsen or spread the infestation. The order may require that watercraft on waters affected by the order be taken out of the water only at locations identified in the order and be inspected and cleaned by the Department of Inland Fisheries and Wildlife upon removal.

If the infested water body is a public drinking water supply, public notification by the Commissioner of Inland Fisheries and Wildlife is required prior to any response action that proposes the use of a chemical control agent. Public notification must include, at a minimum, notification of adjoining municipalities, property owners, drinking water suppliers who use that water supply and other affected persons, and must provide adequate time for public review and comment on the proposed emergency action. Chemical control agents may not be used on a water body that is a public water supply without the prior written consent of each public water supplier using that water body.

This section is repealed May 1, 2002.

**PART B**

**Sec. B-1. 5 MRSA §12004-D, sub-§6 is enacted to read:**

6. Invasive Species Expenses 38 MRSA §1871  
Commission Only

**Sec. B-2. 38 MRSA c. 20-B is enacted to read:**

**CHAPTER 20-B**

INVASIVE SPECIES COMMISSION

2  
4 §1871. Invasive Species Commission

6 The Invasive Species Commission, as established by Title 5,  
8 section 12004-D, subsection 6 and referred to in this chapter as  
10 the "commission," is established to advise the Land and Water  
12 Resources Council, established in Title 5, section 3331, on  
14 matters pertaining to research, control and eradication of  
16 invasive aquatic plants and nuisance species and to implement the  
18 program described in section 1862.

20 1. Membership. The commission consists of 9 members as  
22 follows:

24 A. The Commissioner of Inland Fisheries and Wildlife or the  
26 commissioner's designee;

28 B. The Commissioner of Agriculture, Food and Rural  
30 Resources or the commissioner's designee;

32 C. The Commissioner of Conservation or the commissioner's  
34 designee;

36 D. The Commissioner of Environmental Protection or the  
38 commissioner's designee;

40 E. The Director of the State Planning Office within the  
42 Executive Department or the director's designee; and

44 F. Four at-large members representing the public appointed  
46 by the Governor and confirmed by the Senate.

48 2. Terms. Members of the commission serve until their  
50 successors are appointed.

3. Advisory group. The commission may form advisory groups.

4. Executive director. The commission has the authority to  
hire an executive director.

5. Duties. The commission may make recommendations to the  
Land and Water Resources Council established in Title 5, section  
3331, on:

A. The importation and transportation of invasive aquatic  
plants and nuisance species;

B. Monitoring and educational programs aimed at the control  
of invasive aquatic plants and nuisance species;

- 2           C. A comprehensive state invasive aquatic plants and  
4           nuisance species management plan that meets the requirements  
            of the National Invasive Species Act of 1996, 16 United  
            States Code, Section 4722;
- 6           D. A statewide inventory of invasive aquatic plants and  
8           nuisance species;
- 10          E. Methods to improve cooperation of state, provincial,  
12          federal and nongovernmental agencies in the area of invasive  
            aquatic plants and nuisance species prevention and control;
- 14          F. Recommendations on the feasibility of implementing lake  
16          protection assessment districts that allow residents and  
18          owners of land within 250 feet of inland waters to assess  
            themselves to raise funds to assist in the prevention and  
            control of invasive aquatic plants; and
- 20          G. Other recommendations as necessary to control the  
22          introduction of invasive aquatic plants and nuisance species  
            in the State.

24          6. Staff. The department shall provide staff support to  
            the commission.

26                   7. Reimbursement. Public members are entitled to receive  
28                   reimbursement of necessary expenses for their attendance at  
                    authorized meetings of the commission.

30                   8. Funds. The commission may apply to the Maine Outdoor  
32                   Heritage Fund, as established in Title 12, section 7782, for  
34                   money. The commission has authority to accept funds for the  
                    Invasive Aquatic Plant and Nuisance Species Fund created in  
                    section 1863 from any public or private source.

36                   §1872. Action plan to protect State's inland waters

38                   The commission shall recommend to the Land and Water  
40                   Resources Council, established in Title 5, section 3331, an  
42                   action plan to protect the State's inland waters from invasive  
                    aquatic plants and nuisance species. That plan may include, but  
                    is not limited to:

44                           1. Identification of inland waters known to be infested.  
46                   Identification of inland waters of the State that are known to be  
                    infested with invasive aquatic plants and nuisance species;

48                           2. Vulnerability assessment. Recommendations on conducting  
50                   a preliminary vulnerability assessment of the State's largest

inland waters to identify the largest inland waters in the State most at risk of infestation by invasive aquatic plants and nuisance species. That assessment may include such factors as the proximity of the inland water body to other infested waters, proximity of major transportation routes, presence of a public watercraft launch, use of the inland water body by transient boaters, the number of lakefront property owners and other factors as the commission may determine to be appropriate. The assessment also must identify the most probable vectors or pathways of introduction of invasive aquatic plants and nuisance species and identify those inspection locations most likely to result in identification and prevention of new introductions;

**3. Lake monitoring program.** Recommendations on a program to monitor inland waters in the State for new introductions of invasive aquatic plants and nuisance species, including recommendations on implementing that program and methods to provide for the periodic inspection of inland waters for new introductions of invasive aquatic plants and nuisance species, particularly in areas close to public watercraft launch facilities;

**4. Response program.** Recommendations on a response program to deal with new introductions of invasive aquatic plants and nuisance species in inland waters in the State; and

**5. Training and public information materials.** Recommendations on the development and distribution of training materials and public information materials for use by the public, lake monitors and persons authorized to inspect boats for invasive aquatic plants and nuisance species.

**§1873. Emergency authority to regulate surface water**

Beginning May 1, 2002, the commission may issue an emergency order to restrict or prohibit the use of any watercraft on all or a portion of a water body that has a confirmed infestation of an invasive aquatic plant. The order must be for a specific period of time and may be issued only when the use of watercraft on that water body threatens to worsen or spread the infestation. The order may require that watercraft on waters affected by the order be taken out of the water only at locations identified in the order and be inspected and cleaned by the department upon removal.

If the infested water body is a public drinking water supply, public notification by the commission is required prior to any response action that proposes the use of a chemical control agent. Public notification must include, at a minimum, notification of adjoining municipalities, property owners, drinking water suppliers who use that water supply and other



affected persons, and must provide adequate time for public review and comment on the proposed emergency action. Chemical control agents may not be used on a water body that is a public water supply without the prior written consent of each public water supplier using that water body.

**PART C**

**Sec. C-1. Report to committee.** The Invasive Species Commission, established in the Maine Revised Statutes, Title 5, section 12004-D, subsection 6, shall report to the Joint Standing Committee on Natural Resources and the Joint Standing Committee on Inland Fisheries and Wildlife no later than January 15, 2002 on the invasive aquatic plant education and inspection program, established in the Maine Revised Statutes, Title 38, section 1862, conducted during the 2001 boating season and on plans for that program for the boating seasons of 2002 and subsequent years. The report must quantify the hours spent by each agency on inspections, the number and type of informational materials produced and distributed and the number, type and location of any enforcement actions taken under the program. The report must also document the actual costs of operating that program in 2001 and the projected cost of operating the program in 2002 and subsequent years.

**Sec. C-2. Authority to report out legislation.** The Joint Standing Committee on Natural Resources and the Joint Standing Committee on Inland Fisheries and Wildlife are authorized to report out legislation on invasive aquatic plants and nuisance species to the Second Regular Session of the 120th Legislature.

**Sec. C-3. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	2001-02	2002-03
<b>ENVIRONMENTAL PROTECTION, DEPARTMENT OF</b>		
<b>Invasive Species Commission</b>		
Personal Services	\$2,400	\$2,400
Appropriates funds for the		

2 costs of reimbursing the 4  
 3 public members of the  
 4 commission for expenses  
 5 incurred by attending  
 6 commission meetings.

7 **Sec. C-4. Allocation.** The following funds are allocated from  
 8 Other Special Revenue funds to carry out the purposes of this Act.

10	2001-02	2002-03
12	<b>ENVIRONMENTAL PROTECTION,</b>	
14	<b>DEPARTMENT OF</b>	
16	<b>Land and Water Quality</b>	
18	All Other	\$500
20		\$500
22	Provides initial allocations for the Invasive Aquatic Plant and Nuisance Species Fund.	
24	<b>DEPARTMENT OF ENVIRONMENTAL</b>	
26	<b>PROTECTION</b>	
28	<b>TOTAL</b>	
30	\$500	\$500
32	<b>INLAND FISHERIES AND WILDLIFE,</b>	
34	<b>DEPARTMENT OF</b>	
36	<b>Enforcement Operations -</b>	
38	<b>Inland Fisheries and Wildlife</b>	
40	All Other	\$500
42		\$500
44	Provides initial allocations for the Lake and River Protection Fund.	
46	<b>DEPARTMENT OF INLAND FISHERIES</b>	
	<b>AND WILDLIFE</b>	
	<b>TOTAL</b>	
	\$500	\$500
	<b>TOTAL ALLOCATIONS</b>	
	\$1,000	\$1,000'

FISCAL NOTE

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2001-02

2002-03

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APPROPRIATIONS/ALLOCATIONS

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General Fund	\$2,400	\$2,400
Other Funds	1,000	1,000

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This amendment includes annual General Fund appropriations of \$2,400 beginning in fiscal year 2001-02 for the Invasive Species Commission within the Department of Environmental Protection to provide reimbursement to public members of the commission for expenses incurred by attending commission meetings. This level of funding assumes that the commission will hold meetings on a monthly basis. If the commission meets more frequently than that, additional General Fund appropriations may be required.

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The Invasive Species Commission has the authority to accept private and public funds for the Lake and River Protection Fund within the Department of Inland Fisheries and Wildlife and for the Invasive Aquatic Plant and Nuisance Species Fund within the Department of Environmental Protection. The amounts can not be determined at this time.

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This amendment includes annual Other Special Revenue funds allocations of \$500 beginning in fiscal year 2001-02 for the Department of Inland Fisheries and Wildlife and for the Department of Environmental Protection to provide initial allocations for the Lake and River Protection Fund and the Invasive Aquatic Plant and Nuisance Species Fund, respectively.

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

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SUMMARY

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This amendment removes the lake and river protection sticker provisions from the bill. The amendment reduces the minimum forfeiture for launching a contaminated watercraft or operating a watercraft in quarantined areas to \$100.

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The amendment alters the commission created in the bill, renaming it and reducing the commission membership from 17 to 9. Membership includes the Commissioner of Conservation, the Commissioner of Inland Fisheries and Wildlife, the Commissioner

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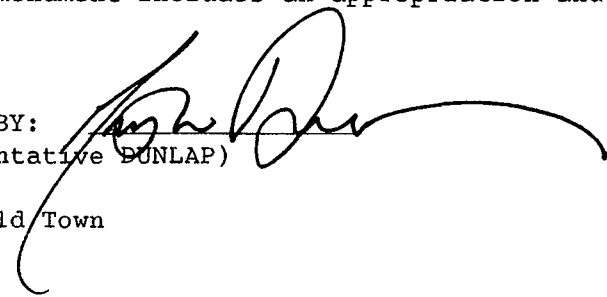
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HOUSE AMENDMENT "F" to S.P. 630, L.D. 1812

2 of Agriculture, Food and Rural Resources, the Director of the  
State Planning Office within the Executive Department, the  
4 Commissioner of Environmental Protection and 4 at-large members  
from the public. The 9-member Invasive Species Commission is  
6 given the responsibility of advising the Land and Water Resources  
Council on various actions to control invasive aquatic plants and  
8 nuisance species and to recommend a state plan to address those  
threats.

10 The amendment includes an appropriation and an allocation.

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SPONSORED BY:   
(Representative DUNLAP)

TOWN: Old Town

# HOUSE AMENDMENT