

# MAINE STATE LEGISLATURE

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R.S.

L.D. 1812

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DATE: 6-13-01

(Filing No. H-713)

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

HOUSE AMENDMENT "H" 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:

'Sec. 1. 5 MRSA §3331, sub-§8 is enacted to read:

8. Invasive aquatic plants and nuisance species; duties.

The council shall develop a comprehensive state invasive aquatic plants and nuisance species management plan that meets the requirements of the National Invasive Species Act of 1996, 16 United States Code, Section 4722. The plan must include, but is not limited to:

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

B. Recommendations on conducting 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. The 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 council may determine to be appropriate. The assessment also must identify the

2 most probable vectors or pathways of introduction of  
3 invasive aquatic plants and nuisance species and identify  
4 those inspection locations most likely to result in  
5 identification and prevention of new introductions;

6 C. Recommendations on a program to monitor inland waters in  
7 the State for new introductions of invasive aquatic plants  
8 and nuisance species, including recommendations on  
9 implementing that program and methods to provide for the  
10 periodic inspection of inland waters for new introductions  
11 of invasive aquatic plants and nuisance species,  
12 particularly in areas close to public watercraft launch  
13 facilities; and

14 D. Recommendations on a response program to deal with new  
15 introductions of invasive aquatic plants and nuisance  
16 species in inland waters in the State.

17 Before implementing the plan, the council shall consult with  
18 groups or organizations including lake associations, recreational  
19 watercraft owners, marina owners, lake education programs, public  
20 drinking water utilities, municipal governments, sporting  
21 associations and recreational groups, institutions of higher  
22 education, sporting camp owners, registered Maine guides,  
23 transportation or tourism organizations, appropriate federal  
24 agencies and any other interested groups or organizations.

25 The council may create a subcommittee on invasive aquatic plants  
26 and nuisance species to assist in developing and implementing  
27 this plan.

28 The council shall work with representatives from federal, state  
29 and local agencies and private environmental and commercial  
30 interests in the northeastern United States to form a  
31 northeastern regional panel to establish priorities and  
32 coordinate activities to prevent the spread of milfoil and other  
33 invasive aquatic plants and nuisance species in the northeastern  
34 United States.

35 **Sec. 2. 12 MRSA §7801, sub-§37 is enacted to read:**

36 **37. Bringing watercraft, watercraft motor or watercraft**  
37 **trailer into state prohibited.** A person who brings a watercraft,  
38 **watercraft motor or watercraft trailer into this State from**  
39 **outside the State commits a civil violation for which a**  
40 **forfeiture of \$500 must be adjudged. This subsection does not**  
41 **apply to a person who sells or solicits or advertises the sale of**  
42 **new watercraft, watercraft motors or watercraft trailers when**  
43 **that person brings a new watercraft, watercraft motor or**  
44 **watercraft trailer into this State from outside the State.**



2 In implementing this program, the commissioner shall  
3 collaborate with groups or organizations including lake  
4 associations, recreational watercraft owners, marina owners, lake  
5 education programs, public drinking water utilities, municipal  
6 governments, sporting associations and recreational groups,  
7 institutions of higher education, sporting camp owners,  
8 registered Maine guides, transportation or tourism organizations,  
9 appropriate federal agencies and any other interested groups or  
10 organizations. Educational and reference material must include a  
11 sticker indicating receipt of the material that may be affixed to  
12 a boat or trailer.

14 **§1863. Invasive Aquatic Plant and Nuisance Species Fund**

16 The Invasive Aquatic Plant and Nuisance Species Fund,  
17 referred to in this section as the "fund," is created within the  
18 department as a nonlapsing fund and is administered by the  
19 commissioner. Money in the fund may be used to develop and  
20 distribute educational materials, for containment, eradication  
21 and management activities to protect the inland waters of the  
22 State from invasive aquatic plants and nuisance species and for  
23 voluntary watercraft, watercraft trailer and outboard motor  
24 inspections. The commissioner may also use funds to contract  
25 with or provide grants to municipalities or other entities to  
26 conduct inspection, prevention or eradication programs. This  
27 fund is a dedicated nonlapsing fund that may accept funding from  
28 other sources.

30 **§1864. Emergency authority to regulate surface use**

32 The commissioner and the Commissioner of Inland Fisheries  
33 and Wildlife may jointly issue an emergency order to restrict or  
34 prohibit the use of any watercraft on all or a portion of a water  
35 body that has a confirmed infestation of an invasive aquatic  
36 plant or nuisance species. The order must be for a specific  
37 period of time and may be issued only when the use of watercraft  
38 on that water body threatens to worsen or spread the infestation.  
39 The order may require that watercraft on waters affected by the  
40 order be taken out of the water only at locations identified in  
41 the order and be inspected and cleaned by the department upon  
42 removal.

44 If the infested water body is a public drinking water  
45 supply, public notification by the commissioner and the  
46 Commissioner of Inland Fisheries and Wildlife is required prior  
47 to any response action that proposes the use of a chemical  
48 control agent. Public notification must include, at a minimum,  
49 notification of adjoining municipalities, property owners,  
50 drinking water suppliers who use that water supply and other

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

7 **§1865. Prohibited acts**

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10 **1. Launching contaminated watercraft.** A person who places  
11 a watercraft that is contaminated with an invasive aquatic plant  
12 upon the inland waters of the State commits a civil violation for  
13 which a forfeiture of not less than \$500 and not more than \$5,000  
14 per violation may be adjudged. A forfeiture imposed under this  
15 subsection may not be waived by the court.

16 **2. Operating watercraft in quarantined area.** A person who  
17 operates a watercraft in violation of an order issued under  
18 section 1864 commits a civil violation for which a forfeiture of  
19 not less than \$500 and not more than \$5,000 per violation may be  
20 adjudged. A forfeiture imposed under this subsection may not be  
21 waived by the court.

22  
23 **Sec. 5. Report to committee.** The Commissioner of Environmental  
24 Protection shall report to the Joint Standing Committee on  
25 Natural Resources and the Joint Standing Committee on Inland  
26 Fisheries and Wildlife no later than January 15, 2002 on the  
27 invasive aquatic plant and nuisance species education and  
28 inspection program established in the Maine Revised Statutes,  
29 Title 38, chapter 20-A. The report must quantify the number and  
30 type of informational materials produced and distributed, the  
31 number and type of training sessions conducted and number of  
32 participants and the type and location of any enforcement actions  
33 taken under the program. The report must contain a summary of  
34 all activities in the Invasive Aquatic Plant and Nuisance Species  
35 Fund, including any contracts or grants made from the fund or  
36 money accrued to the fund from other sources. The report must  
37 also summarize collaborative efforts undertaken by the  
38 commissioner and must document the actual costs of operating the  
39 program in 2001 and the projected cost of operating the program  
40 in 2002 and subsequent years, including any recommendations on  
41 additional funding or personnel requirements.

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43 **Sec. 6. Authority to report out legislation.** Both the Joint  
44 Standing Committee on Natural Resources and the Joint Standing  
45 Committee on Inland Fisheries and Wildlife may report out  
46 legislation on invasive aquatic plants and nuisance species to  
47 the Second Regular Session of the 120th Legislature.

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Sec. 7. 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>Land and Water Quality</b>		
Positions - Legislative Count	(1,500)	(1,500)
Personal Services	\$57,221	\$91,869
All Other	252,779	188,131
Capital Expenditures		10,000
Appropriates funds to increase the hours of a half-time Biologist I position in the federal Performance Partnership Program to a full-time, split-funded position on July 1, 2001, to add one Environmental Specialist III position effective January 1, 2002 and to provide operating funds to implement an invasive aquatic plant and nuisance species prevention program including \$50,000 annually for grants to local entities. Funds provided for this program may not lapse.		
<b>DEPARTMENT OF ENVIRONMENTAL PROTECTION</b>		
<b>TOTAL</b>	\$310,000	\$290,000

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

	2001-02	2002-03
<b>ENVIRONMENTAL PROTECTION, DEPARTMENT OF</b>		
<b>Land and Water Quality</b>		
All Other	\$500	\$500

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R. 2. 3.

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2 Allocates initial funds for  
the newly established  
4 Invasive Aquatic Plant and  
Nuisance Species Fund.'

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FISCAL NOTE

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2001-02 2002-03

APPROPRIATIONS/ALLOCATIONS

14	General Fund	\$310,000	\$290,000
	Other Funds	500	500

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The elimination of the lake and river protection sticker and all associated fees has the effect of removing all previous dedicated revenue estimates and all Other Special Revenue funds allocations. In addition, there is no longer any provision for use of the Maine Rainy Day Fund.

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As amended, this bill includes General Fund appropriations of \$310,000 and \$290,000 in fiscal years 2001-02 and 2002-03, respectively, for the Land and Water Quality program in the Department of Environmental Protection to implement an invasive aquatic plants and nuisance species prevention program and to provide grants for local entities.

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As amended, this bill also includes initial Other Special Revenue funds allocations of \$500 beginning in fiscal year 2001-02 for the newly established Invasive Aquatic Plant and Nuisance Species Fund within the Department of Environmental Protection. The fund is authorized to accept funds from private or other sources; these amounts can not be determined at this time.

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The Department of Environmental Protection will incur some minor additional costs to issue certain emergency orders and to submit a required report to the Legislature. These costs can be absorbed within the department's existing budgeted resources.

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The Land and Water Resources Council will incur some minor additional costs to develop a state invasive aquatic plants and nuisance species management plan. These costs can be absorbed within the council's existing budgeted resources.

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The prohibition on bringing watercraft, watercraft motors or watercraft trailers into the State will result in significant

HOUSE AMENDMENT



enforcement costs. The amounts can not be determined at this time.

### SUMMARY

This amendment replaces the bill.

The amendment requires the Department of Environmental Protection to undertake a program to address threats posed to the inland waters of the State by invasive aquatic plants and nuisance species that emphasizes collaboration and education in addition to control and eradication of invasive species and inspection of boats and trailers. In implementing this program, the Commissioner of Environmental Protection is required to collaborate with groups or organizations including lake associations, recreational watercraft owners, marina owners, lake education programs, public drinking water utilities, municipal governments, sporting associations and recreational groups, institutions of higher education, sporting camp owners, registered Maine guides, transportation or tourism organizations, appropriate federal agencies and any other interested groups or organizations.

The amendment also authorizes the Commissioner of Environmental Protection and the Commissioner of Inland Fisheries and Wildlife to jointly issue emergency orders 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 or nuisance species. Such orders 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. If the infested water body is a public drinking water supply, public notification and opportunity for comment is required prior to taking any response action that proposes the use of a chemical control agent.

The amendment also directs the Commissioner of Environmental Protection to 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 and nuisance species education and inspection program established in the Maine Revised Statutes, Title 38, chapter 20-A. The report must quantify the number and type of informational materials produced and distributed, the number and type of training sessions conducted and number of participants and the type and location of any enforcement actions taken under the program. The report must contain a summary of all activities in the Invasive Aquatic Plant and Nuisance Species Fund, including any contracts or grants made from the fund or money

2 accrued to the fund from other sources. The report must also  
3 summarize collaborative efforts undertaken by the commissioner  
4 and must document the actual costs of operating the program in  
5 2001 and the projected cost of operating the program in 2002 and  
6 subsequent years, including any recommendations on additional  
7 funding or personnel requirements.

8 Rather than creating a new commission, the amendment  
9 utilizes the existing Land and Water Resources Council to develop  
10 a comprehensive state invasive aquatic plants and nuisance  
11 species management plan that meets the requirements of the  
12 National Invasive Species Act of 1996, 16 United States Code,  
13 Section 4722. The amendment authorizes the council to form a  
14 subcommittee to assist in developing and implementing that plan.  
15 It also directs the council to work with representatives from  
16 federal, state and local agencies and private environmental and  
17 commercial interests in the northeastern United States to form a  
18 northeastern regional panel to establish priorities and  
19 coordinate activities to prevent the spread of milfoil and other  
20 invasive aquatic plants and nuisance species in the Northeast.

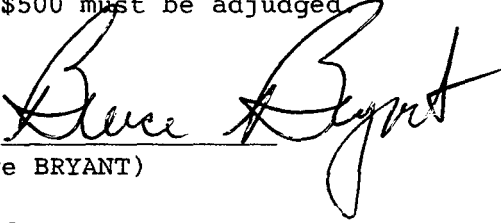
22 The amendment funds the program over 2 years with a \$600,000  
23 General Fund appropriation. This appropriation provides the  
24 Department of Environmental Protection with more in All Other  
25 funds in fiscal year 2001-02 than was provided in the bill. That  
26 additional money can be used by the department for grants to  
27 municipalities and local entities for education and control and  
28 prevention of invasive aquatic plants and nuisance species. The  
29 goal of the program is to maximize the effectiveness of these  
30 state dollars by leveraging other money or in-kind contributions  
31 through an effective collaborative effort coordinated by the  
32 Department of Environmental Protection. The amendment provides  
33 1 1/2 additional staff positions in the Bureau of Land and Water  
34 Quality for the biennium to administer the program. This  
35 includes upgrading an existing part-time position to a full-time  
36 position on July 1, 2001 to facilitate implementation of the  
37 program during the critical summer season.

38 The amendment also authorizes the Joint Standing Committee  
39 on Natural Resources and the Joint Standing Committee on Inland  
40 Fisheries and Wildlife to report out legislation on invasive  
41 aquatic plants and nuisance species to the Second Regular Session  
42 of the 120th Legislature.

43 The amendment provides that a person who brings a  
44 watercraft, watercraft motor or watercraft trailer into this  
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HOUSE AMENDMENT "H" to S.P. 630, L.D. 1812

State from outside the State commits a civil violation for which  
a forfeiture of \$500 must be adjudged.

SPONSORED BY:   
(Representative BRYANT)

TOWN: Dixfield