

MAINE STATE LEGISLATURE

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

HOUSE AMENDMENT "I" 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 Northeast.

34 **Sec. 2. 38 MRSA §419-C, sub-§2, as enacted by PL 1999, c. 722,**
35 **§2, is amended to read:**

36 **2. Penalty.** A person who intentionally violates this
37 section commits a civil violation for which ~~a warning may be~~
38 ~~issued for the first violation,~~ a forfeiture not to exceed \$50
39 ~~\$500~~ may be adjudged for the ~~2nd~~ first violation and a ~~forfeiture~~
40 penalty not to exceed \$500 \$2,500 may be adjudged for a
41 subsequent violation.

2 Sec. 3. 38 MRSA c. 20-A is enacted to read:

4 CHAPTER 20-A

6 PROGRAM TO PREVENT INFESTATION OF
8 AND TO CONTROL INVASIVE AQUATIC
 PLANTS AND NUISANCE SPECIES

10 §1861. Definitions

12 As used in this chapter, unless the context otherwise
14 indicates, the following terms have the following meanings.

16 1. Invasive aquatic plant. "Invasive aquatic plant" means
 a species of aquatic plant described in section 410-N.

18 2. Nuisance species. "Nuisance species" means an aquatic
20 or terrestrial nonindigenous species that threatens the diversity
22 or abundance of native species, the ecological stability of
 infested waters or commercial, agricultural, aquacultural or
 recreational activity dependent on such waters as identified by
24 the department.

26 3. Watercraft. "Watercraft" has the same meaning as in
 Title 12, section 7791, subsection 14.

28 §1862. Program to prevent infestation of and to control
30 invasive aquatic plants and nuisance species

32 The commissioner shall implement a program to develop and
34 distribute educational material on invasive aquatic plants and
36 nuisance species, including a guide to identifying those plants,
38 information on how to prevent the spread of those plants and
40 information on the potential environmental impact and other
42 impacts of infestation. The program must also include voluntary
 inspection of watercraft, watercraft trailers and outboard motors
 at locations selected by the commissioner based on the threat
 posed by invasive aquatic plants and nuisance species to inland
 waters and efforts to contain, control or eradicate infestations
 of invasive aquatic plants and nuisance species.

44 In implementing this program, the commissioner shall
46 collaborate with groups or organizations including lake
48 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,
50 appropriate federal agencies and any other interested groups or

organizations. Educational and reference material must include a sticker indicating receipt of the material that may be affixed to a boat or trailer.

§1863. Invasive Aquatic Plant and Nuisance Species Fund

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

§1864. Emergency authority to regulate surface use

The commissioner and the Commissioner of Inland Fisheries and Wildlife may jointly 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 or nuisance species. 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 commissioner and 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 drinking water supply without the prior written consent of each public drinking water supplier using that water body.

§1865. Prohibited acts

1. Launching 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 \$500 and not more than \$5,000 per violation may be adjudged. A forfeiture imposed under this subsection may not be waived by the court.

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

Sec. 4. Report to committee. The Commissioner of Environmental Protection 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 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 accrued to the fund from other sources. The report must also summarize collaborative efforts undertaken by the commissioner and must document the actual costs of operating the program in 2001 and the projected cost of operating the program in 2002 and subsequent years, including any recommendations on additional funding or personnel requirements.

Sec. 5. Authority to report out legislation. Both the Joint Standing Committee on Natural Resources and the Joint Standing Committee on Inland Fisheries and Wildlife may report out legislation on invasive aquatic plants and nuisance species to the Second Regular Session of the 120th Legislature.

Sec. 6. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

2001-02 2002-03

**ENVIRONMENTAL PROTECTION,
DEPARTMENT OF**

Land and Water Quality

11. 10. 11.

2 **APPROPRIATIONS/ALLOCATIONS**

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

6
8 The elimination of the lake and river protection sticker and
10 all associated fees has the effect of removing all previous
12 dedicated revenue estimates and all Other Special Revenue funds
14 allocations. In addition, there is no longer any provision for
16 use of the Maine Rainy Day Fund.

18
20 As amended, this bill includes General Fund appropriations
22 of \$310,000 and \$290,000 in fiscal years 2001-02 and 2002-03,
24 respectively, for the Land and Water Quality program in the
26 Department of Environmental Protection to implement an invasive
28 aquatic plant and nuisance species prevention program and to
30 provide grants for local entities.

32
34 As amended, this bill also includes initial Other Special
36 Revenue funds allocations of \$500 beginning in fiscal year
38 2001-02 for the newly established Invasive Aquatic Plant and
40 Nuisance Species Fund within the Department of Environmental
42 Protection. The fund is authorized to accept funds from private
44 or other sources; these amounts can not be determined at this
46 time.

48
50 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 departments' existing budgeted resources.

32
34 The Land and Water Resources Council will incur some minor
36 additional costs to develop a state invasive aquatic plants and
38 nuisance species management plan. These costs can be absorbed
40 within the council's existing budgeted resources.

38 **SUMMARY**

40 This amendment replaces the bill.

42
44 The amendment requires the Department of Environmental
46 Protection to undertake a program to address threats posed to the
48 inland waters of the State by invasive aquatic plants and
50 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

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2 associations, recreational watercraft owners, marina owners, lake
3 education programs, public drinking water utilities, municipal
4 governments, sporting associations and recreational groups,
5 institutions of higher education, sporting camp owners,
6 registered Maine guides, transportation or tourism organizations,
7 appropriate federal agencies and any other interested groups or
8 organizations.

9
10 The amendment also authorizes the Commissioner of
11 Environmental Protection and the Commissioner of Inland Fisheries
12 and Wildlife to jointly issue emergency orders to restrict or
13 prohibit the use of any watercraft on all or a portion of a water
14 body that has a confirmed infestation of an invasive aquatic
15 plant or nuisance species. Such orders must be for a specific
16 period of time and may be issued only when the use of watercraft
17 on that water body threatens to worsen or spread the
18 infestation. If the infested water body is a public drinking
19 water supply, public notification and opportunity for comment is
20 required prior to taking any response action that proposes the
21 use of a chemical control agent.

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


41 Rather than creating a new commission, the amendment
42 utilizes the existing Land and Water Resources Council to develop
43 a comprehensive state invasive aquatic plants and nuisance
44 species management plan that meets the requirements of the
45 National Invasive Species Act of 1996, 16 United States Code,
46 Section 4722. The amendment authorizes the council to form a
47 subcommittee to assist in developing and implementing that plan.
48 It also directs the council to work with representatives from
49 federal, state and local agencies and private environmental and
50

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commercial interests in the northeastern United States to form a northeastern regional panel to establish priorities and coordinate activities to prevent the spread of milfoil and other invasive aquatic plants and nuisance species in the Northeast.

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

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

SPONSORED BY: 
(Representative BRYANT)

TOWN: Dixfield