

MAINE STATE LEGISLATURE

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L.D. 1812

DATE: 6-13-01

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

HOUSE AMENDMENT "J" 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

HOUSE AMENDMENT

R. of S.

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

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. 36 MRSA §1811-B is enacted to read:**

36 **§1811-B. Surtax on watercraft and related property**

37 **1. Surtax.** A tax of 5% is imposed on the sale of
38 watercraft, watercraft gear and supplies and fishing gear and
39 supplies. The tax is in addition to the tax imposed under
40 section 1811 and is collected and administered in the same manner
41 as that tax.

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2 2. Definitions. For the purposes of this section, unless
the context otherwise indicates, the following terms have the
following meanings:

4 A. "Fishing gear and supplies" means all property designed
to be used primarily for recreational fishing, including
fishing rods, reels, lures and bait; and

8 B. "Watercraft gear and supplies" includes all property
designed to be used primarily in the operation of
watercraft, including watercraft accessories, repair parts
and safety equipment.

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

16 **2. Penalty.** A person who intentionally violates this
section commits a civil violation for which a ~~warning may be~~
~~issued for the first violation~~, a forfeiture not to exceed \$50
20 \$500 may be adjudged for the 2nd first violation and a forfeiture
penalty not to exceed \$500 \$2,500 may be adjudged for a
subsequent violation.

24 **Sec. 4. 38 MRSA c. 20-A** is enacted to read:

26 CHAPTER 20-A

28 PROGRAM TO PREVENT INFESTATION OF
AND TO CONTROL INVASIVE AQUATIC
30 PLANTS AND NUISANCE SPECIES

32 §1861. Definitions

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

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

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

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

50 §1862. Program to prevent infestation of and to control

R. of S.

invasive aquatic plants and nuisance species

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The commissioner shall implement a program to develop and distribute educational material on invasive aquatic plants and nuisance species, including a guide to identifying those plants, information on how to prevent the spread of those plants and information on the potential environmental impact and other 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.

In implementing this program, the commissioner shall 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. 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

2001

2 on that water body threatens to worsen or spread the infestation.
3 The order may require that watercraft on waters affected by the
4 order be taken out of the water only at locations identified in
5 the order and be inspected and cleaned by the department upon
6 removal.

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

19 **§1865. Prohibited acts**

20
21 **1. Launching contaminated watercraft.** A person who places
22 a watercraft that is contaminated with an invasive aquatic plant
23 upon the inland waters of the State commits a civil violation for
24 which a forfeiture of not less than \$500 and not more than \$5,000
25 per violation may be adjudged. A forfeiture imposed under this
26 subsection may not be waived by the court.

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

34
35 **Sec. 5. Report to committee.** The Commissioner of Environmental
36 Protection shall report to the Joint Standing Committee on
37 Natural Resources and the Joint Standing Committee on Inland
38 Fisheries and Wildlife no later than January 15, 2002 on the
39 invasive aquatic plant and nuisance species education and
40 inspection program established in the Maine Revised Statutes,
41 Title 38, chapter 20-A. The report must quantify the number and
42 type of informational materials produced and distributed, the
43 number and type of training sessions conducted and number of
44 participants and the type and location of any enforcement actions
45 taken under the program. The report must contain a summary of
46 all activities in the Invasive Aquatic Plant and Nuisance Species
47 Fund, including any contracts or grants made from the fund or
48 money accrued to the fund from other sources. The report must
49 also summarize collaborative efforts undertaken by the
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H.S.

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

2 commissioner and must document the actual costs of operating the
3 program in 2001 and the projected cost of operating the program
4 in 2002 and subsequent years, including any recommendations on
5 additional funding or personnel requirements.

6 **Sec. 6. Authority to report out legislation.** Both the Joint
7 Standing Committee on Natural Resources and the Joint Standing
8 Committee on Inland Fisheries and Wildlife may report out
9 legislation on invasive aquatic plants and nuisance species to
10 the Second Regular Session of the 120th Legislature.

12 **Sec. 7. Appropriation.** The following funds are appropriated
13 from the General Fund to carry out the purposes of this Act.

	2001-02	2002-03
16 ENVIRONMENTAL PROTECTION,		
18 DEPARTMENT OF		
20 Land and Water Quality		
22 Positions - Legislative Count	(1,500)	(1,500)
23 Personal Services	\$57,221	\$91,869
24 All Other	1,053,079	2,118,791
25 Capital Expenditures		10,000
26		
27 Appropriates funds to		
28 increase the hours of a		
29 half-time Biologist I		
30 position in the Federal		
31 Performance Partnership		
32 Program to a full time		
33 split-funded position on July		
34 1, 2001, to add one		
35 Environmental Specialist III		
36 position effective January 1,		
37 2002 and to provide operating		
38 funds to implement an		
39 invasive aquatic plants		
40 prevention program including		
41 funds for grants to local		
42 entities. Funds provided for		
43 this program may not lapse.		
44		
46 DEPARTMENT OF ENVIRONMENTAL		
PROTECTION		
TOTAL	\$1,110,300	\$2,220,660

HOUSE AMENDMENT

R. 01 S.

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

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
6	ENVIRONMENTAL PROTECTION,		
8	DEPARTMENT OF		
10	Land and Water Quality		
	All Other	\$500	\$500
	Allocates initial funds for the newly established Invasive Aquatic Plant and Nuisance Species Fund.'		

FISCAL NOTE

		2001-02	2002-03
22	APPROPRIATIONS/ALLOCATIONS		
	General Fund	\$1,110,300	\$2,220,660
	Other Funds	500	500
30	REVENUES		
	General Fund	\$1,110,300	\$2,220,660
	Other Funds	59,670	119,340

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.

As amended, the bill imposes a 5% surtax on the sale of watercraft, watercraft gear and supplies and fishing gear and supplies. The surtax will increase sales and use tax collections by \$1,169,970 in fiscal year 2001-02 and \$2,340,000 in fiscal year 2002-03. The increase of these tax collections will increase the amounts transferred to the Local Government Fund for state-municipal revenue sharing in those years by \$59,670 and \$119,340, respectively. The resulting net increase of General Fund revenue will be \$1,110,300 in fiscal year 2001-02 and \$2,220,660 in fiscal year 2002-03.

HOUSE AMENDMENT

H. 915

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

2 As amended, this bill includes General Fund appropriations
of \$1,110,300 and \$2,220,660 in fiscal years 2001-02 and 2002-03,
4 respectively, for the Land and Water Quality program in the
Department of Environmental Protection to implement an invasive
6 aquatic plants and nuisance species prevention program and to
provide grants for local entities.

8
10 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
12 Nuisance Species Fund within the Department of Environmental
Protection. The fund is authorized to accept funds from private
14 or other sources; these amounts can not be determined at this
time.

16
18 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
20 absorbed within the department's existing budgeted resources.

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

28 **SUMMARY**

30 This amendment replaces the bill.

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

48 The amendment also authorizes the Commissioner of
Environmental Protection and the Commissioner of Inland Fisheries
50 and Wildlife to jointly issue emergency orders to restrict or

HOUSE AMENDMENT

R.O.S.

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

2 prohibit the use of any watercraft on all or a portion of a water
body that has a confirmed infestation of an invasive aquatic
4 plant or nuisance species. Such orders must be for a specific
period of time and may be issued only when the use of watercraft
6 on that water body threatens to worsen or spread the
infestation. If the infested water body is a public drinking
8 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.

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12 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
14 and Wildlife no later than January 15, 2002 on the invasive
aquatic plant and nuisance species education and inspection
16 program established in the Maine Revised Statutes, Title 38,
chapter 20-A. The report must quantify the number and type of
18 informational materials produced and distributed, the number and
type of training sessions conducted and number of participants
20 and the type and location of any enforcement actions taken under
the program. The report must contain a summary of all activities
22 in the Invasive Aquatic Plant and Nuisance Species Fund,
including any contracts or grants made from the fund or money
24 accrued to the fund from other sources. The report must also
summarize collaborative efforts undertaken by the commissioner
26 and must document the actual costs of operating the program in
2001 and the projected cost of operating the program in 2002 and
28 subsequent years, including any recommendations on additional
funding or personnel requirements.

30
32 Rather than creating a new commission, the amendment
utilizes the existing Land and Water Resources Council to develop
34 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,
36 Section 4722. The amendment authorizes the council to form a
subcommittee to assist in developing and implementing that plan.
38 It also directs the council to work with representatives from
federal, state and local agencies and private environmental and
40 commercial interests in the northeastern United States to form a
northeastern regional panel to establish priorities and
42 coordinate activities to prevent the spread of milfoil and other
invasive aquatic plants and nuisance species in the Northeast.

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46 The amendment funds the program over 2 years with a tax on
the sale of watercraft, watercraft gear and supplies and fishing
gear and supplies.

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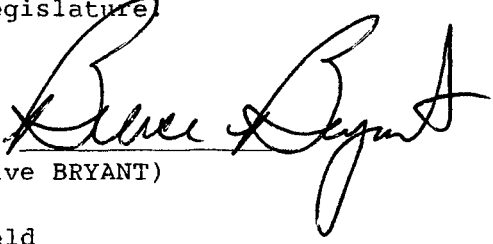
HOUSE AMENDMENT

H. of S.

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

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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