

# MAINE STATE LEGISLATURE

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L.D. 1812

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STATE OF MAINE  
SENATE  
120TH LEGISLATURE  
FIRST REGULAR SESSION

SENATE AMENDMENT "A" 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

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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.

# SENATE AMENDMENT

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  
                  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  
42           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

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

6 **§1863. Invasive Aquatic Plant and Nuisance Species Fund**

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

22 **§1864. Emergency authority to regulate surface use**

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

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

48 **§1865. Prohibited acts**

50 **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



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  
 all associated fees has the effect of removing all previous  
 10 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.

12  
 14 As amended, this bill includes General Fund appropriations  
 of \$310,000 and \$290,000 in fiscal years 2001-02 and 2002-03,  
 16 respectively, for the Land and Water Quality program in the  
 Department of Environmental Protection to implement an invasive  
 18 aquatic plant and nuisance species prevention program and to  
 provide grants for local entities.

20  
 22 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  
 24 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  
 26 time.

28  
 30 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  
 additional costs to develop a state invasive aquatic plants and  
 36 nuisance species management plan. These costs can be absorbed  
 within the council's existing budgeted resources.

38 **SUMMARY**

40 This amendment replaces the bill.

42  
 44 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  
 46 nuisance species that emphasizes collaboration and education in  
 addition to control and eradication of invasive species and  
 48 inspection of boats and trailers. In implementing this program,  
 the Commissioner of Environmental Protection is required to  
 50 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 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.

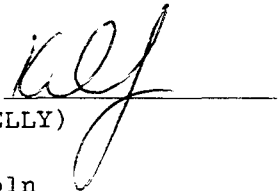
Rather than creating a new commission, the amendment utilizes the existing Land and Water Resources Council to develop a comprehensive state invasive aquatic plants and nuisance species management plan that meets the requirements of the National Invasive Species Act of 1996, 16 United States Code, Section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

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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:   
(Senator KILKELLY)

COUNTY: Lincoln