

MAINE STATE LEGISLATURE

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23
R. of S.

L.D. 1702

DATE: 2.26.03

(Filing No. S-403)

MARINE RESOURCES

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STATE OF MAINE
SENATE
121ST LEGISLATURE
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S.P. 634, L.D. 1702, Bill, "An Act To Provide for Department of Marine Resources Jurisdiction Over Certain Sections of the State's Endangered Species Program"

Amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, certain marine resources of the State are in need of protection; and

Whereas, the Department of Marine Resources is uniquely qualified to ensure the protection of marine species; and

Whereas, the Department of Marine Resources needs clear authority over the State's endangered and threatened marine species to obtain federal funding for the protection of those species; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

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2018

'Sec. 1. 12 MRSA c. 631 is enacted to read:

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CHAPTER 631

ENDANGERED OR THREATENED MARINE SPECIES

§6971. Commissioner's authority over marine endangered and threatened species

In accordance with section 12801, the commissioner has authority as provided in this chapter to carry out the purpose of that section with regard to marine species.

§6972. Commissioner's programs

The commissioner may establish such programs as are necessary for the protection of marine species listed pursuant to this chapter in order to achieve compliance with the United States Endangered Species Act of 1973, Public Law 93-205, as amended.

§6973. Designation of marine species as state endangered or state threatened

1. Commissioner's authority. The commissioner may recommend a marine species found in the State for designation as a state endangered or state threatened marine species if that species is listed as an endangered or threatened species by the United States Secretary of the Interior, pursuant to the United States Endangered Species Act of 1973, Public Law 93-205, as amended.

2. Modification to list. The commissioner may recommend that a marine species designated as a state endangered or state threatened species be removed from the list in section 6975 or recommend other changes to that list.

3. Public notice and hearings. Prior to recommending an addition, deletion or other change to the list of state endangered and state threatened marine species in section 6975, the commissioner shall provide for public notice and public hearings on that proposed recommendation in accordance with the provisions of Title 5, chapter 375, subchapter 2.

§6974. Legislative authority

The Legislature has sole authority to designate a marine species as a state endangered or state threatened species or to remove a species or change the designation of a species listed in section 6975.

R.O.G.

2 §6975. List of state endangered and state threatened marine
3 species

4 The list of state endangered or state threatened marine
5 species by common name, scientific name and status is as follows:

6 1. Right whale. Right whale, Eubalaena glacialis,
7 endangered;

8 2. Humpback whale. Humpback whale, Megaptera novaeangliae,
9 endangered;

10 3. Finback whale. Finback whale, Balaenoptera physalus,
11 endangered;

12 4. Sperm whale. Sperm whale, Physeter catodon, endangered;

13 5. Sei whale. Sei whale, Balaenoptera borealis, endangered;

14 6. Leatherback turtle. Leatherback turtle, Dermochelys
15 coriacea, endangered;

16 7. Atlantic ridley turtle. Atlantic ridley turtle,
17 Lepidochelys kempii, endangered; and

18 8. Loggerhead turtle. Loggerhead turtle, Caretta caretta,
19 threatened.

20 §6976. Cooperative agreements

21 The commissioner may enter into agreements with federal
22 agencies, other states, state agencies, political subdivisions of
23 this State or private persons for the establishment and
24 maintenance of programs for the conservation of state endangered
25 or state threatened marine species and may receive all federal
26 funds allocated for obligations to the State pursuant to these
27 agreements. Federal funds received for the conservation of state
28 endangered or state threatened marine species listed pursuant to
29 this chapter must be allocated directly to the department to
30 ensure compliance with any conditions of the listing.

31 Sec. 2. 12 MRSA §7751, as enacted by PL 1979, c. 420, §1, is
32 amended to read:

33 §7751. Declaration of purpose

34 The Legislature finds that various species of fish or
35 wildlife have been and are in danger of being rendered extinct
36 within the State of Maine, and that these species are of

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2 esthetic, ecological, educational, historical, recreational and
3 scientific value to the people of the State. The Legislature,
4 therefore, declares that it is the policy of the State to
5 conserve, by according such protection as is necessary to
6 maintain and enhance their numbers, all species of fish or
7 wildlife found in the State, as well as the ecosystems upon which
8 they depend.

9 This subchapter and chapter 631 are established to carry out
10 the purposes of this section.

11 **Sec. 3. 12 MRSA §7753, sub-§3**, as amended by PL 1997, c. 290,
12 §1, is further amended to read:

13 **3. Legislative authority.** The Legislature, as sole
14 authority, shall designate a species as state endangered or state
15 threatened species. The list of state endangered or state
16 threatened species is as follows:

20	Common Name	Scientific Name	Status
22	Least Tern	Sterna albifrons	Endangered
	Golden Eagle	Aquila chrysaetos	Endangered
24	Piping Plover	Charadrius melodus	Endangered
	Sedge Wren	Cistothorus platenis	Endangered
26	Grasshopper Sparrow	Ammodramus savannarum	Endangered
28	Box Turtle	Terrapene carolina	Endangered
	Black Racer	Coluber constrictor	Endangered
30	Roseate Tern	Sterna dougallii	Endangered
	Northern Bog Lemming	Synaptomys borealis	Threatened
32	Loggerhead Turtle	Caretta-caretta	Threatened
34	Blanding's Turtle	Emydoidea blandingii	Endangered
36	Black Tern	Chlidonias niger	Endangered
38	American Pipit	Anthus rubescens	Endangered
	Peregrine Falcon	Falco peregrinus	Endangered
40	Flat-headed Mayfly	Epeorus frisoni	Endangered
42	Ringed Boghaunter	Williamsonia lintneri	Endangered
44	Clayton's Copper	Lycaena dorcas claytoni	Endangered
46	Edwards' Hairstreak	Satyrrium edwardsii	Endangered
48	Hessel's Hairstreak	Mitoura hesseli	Endangered
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2	Katahdin Arctic	Oenis polixenes katahdin	Endangered
4	Spotted Turtle	Clemmys guttata	Threatened
	Bald Eagle	Haliaeetus leucocephalus	Threatened
6	Razorbill	Alca torda	Threatened
	Atlantic Puffin	Fratercula arctica	Threatened
8	Harlequin Duck	Histrionicus histrionicus	Threatened
10	Arctic Tern	Sterna paradisaea	Threatened
	Upland Sandpiper	Bartramia longicauda	Threatened
12	Swamp Darter	Etheostoma fusiforme	Threatened
	Tidewater Mucket	Leptodea ochracea	Threatened
14	Yellow		
	Lampmussel	Lampsilis cariosa	Threatened
16	Tomah Mayfly	Siphonisca aerodromia	Threatened
	Pygmy Snaketail	Ophiogomphus howei	Threatened
18	Twilight Moth	Lycia rachelae	Threatened
	Pine Barrens		
20	Zanclognatha	Zanclognatha martha	Threatened

22 **Sec. 4. 12 MRSA §12801**, as enacted by PL 2003, c. 414, Pt. A,
§2 and affected by Pt. D, §7, is amended to read:

24 **§12801. Declaration of purpose**

26 The Legislature finds that various species of fish or
28 wildlife have been and are in danger of being rendered extinct
30 within the State of Maine, and that these species are of
32 esthetic, ecological, educational, historical, recreational and
34 scientific value to the people of the State. The Legislature,
36 therefore, declares that it is the policy of the State to
conserve, by according such protection as is necessary to
maintain and enhance their numbers, all species of fish or
wildlife found in the State, as well as the ecosystems upon which
they depend.

38 This subchapter and chapter 631 are established to carry out
40 the purposes of this section.

42 **Sec. 5. 12 MRSA §12803, sub-§3**, as enacted by PL 2003, c. 414,
Pt. A, §2 and affected by Pt. D, §7, is repealed and the
44 following enacted in its place:

46 3. Legislative authority. The Legislature, as sole
48 authority, shall designate a species as a state endangered or
state threatened species. The list of state endangered or state
threatened species by common name, scientific name and status is
as follows:

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- 2 A. Least tern, *Sterna albifrons*, endangered;
- 4 B. Golden eagle, *Aquila chrysaetos*, endangered;
- 6 C. Piping plover, *Charadrius melodus*, endangered;
- 8 D. Sedge wren, *Cistothorus platensis*, endangered;
- 10 E. Grasshopper sparrow, *Ammodramus savannarum*, endangered;
- 12 F. Box turtle, *Terrapene carolina*, endangered;
- 14 G. Black racer, *Coluber constrictor*, endangered;
- 16 H. Roseate tern, *Sterna dougallii*, endangered;
- 18 I. Northern bog lemming, *Synaptomys borealis*, threatened;
- 20 J. Blanding's turtle, *Emydoidea blandingii*, endangered;
- 22 K. Black tern, *Chlidonias niger*, endangered;
- 24 L. American pipit, *Anthus rubescens*, endangered;
- 26 M. Peregrine falcon, *Falco peregrinus*, endangered;
- 28 N. Flat-headed mayfly, *Epeorus frisoni*, endangered;
- 30 O. Ringed boghaunter, *Williamsonia lintneri*, endangered;
- 32 P. Clayton's copper, *Lycaena dorcas claytoni*, endangered;
- 34 Q. Edwards' hairstreak, *Satyrrium edwardsii*, endangered;
- 36 R. Hessel's hairstreak, *Mitoura hesseli*, endangered;
- 38 S. Katahdin arctic, *Oenis polixenes katahdin*, endangered;
- 40 T. Spotted turtle, *Clemmys guttata*, threatened;
- 42 U. Bald eagle, *Haliaeetus leucocephalus*, threatened;
- 44 V. Razorbill, *Alca torda*, threatened;
- 46 W. Atlantic puffin, *Fratercula arctica*, threatened;
- 48 X. Harlequin duck, *Histrionicus histrionicus*, threatened;
- 50 Y. Arctic tern, *Sterna paradisaea*, threatened;

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2 Z. Upland sandpiper, Bartramia longicauda, threatened;

4 AA. Swamp darter, Etheostoma fusiforme, threatened;

6 BB. Tidewater mucket, Leptodea ochracea, threatened;

8 CC. Yellow lampmussel, Lampsilis cariosa, threatened;

10 DD. Tomah mayfly, Siphonisca aerodromia, threatened;

12 EE. Pygmy snaketail, Ophiogomphus howei, threatened;

14 FF. Twilight moth, Lycia rachelae, threatened; and

16 GG. Pine barrens zanclognatha, Zanclognatha martha, threatened.

18 **Sec. 6. Effective date.** Those sections of this Act that amend
20 the Maine Revised Statutes, Title 12, sections 12801 and 12803
take effect 90 days after the adjournment of the Second Regular
22 Session of the 121st Legislature.

24 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved, except as
26 otherwise provided.'

28 SUMMARY

30 This amendment is the majority report and replaces the
bill. It gives the Commissioner of Marine Resources authority
32 over the State's endangered or threatened marine species. The
amendment establishes the state endangered or state threatened
34 marine species list, designating as endangered or threatened 8
marine species that are already federally listed as endangered or
36 threatened species. Additionally, it gives the Commissioner of
Marine Resources the authority to recommend to the Legislature
38 that a marine species be listed if that species is already
federally listed as an endangered or threatened species. The
40 amendment provides that the Legislature has sole authority to
include a marine species in or remove a marine species from the
42 list. This amendment also authorizes the Commissioner of Marine
Resources to establish programs necessary for the protection of
44 state-listed endangered or threatened marine species and to enter
into agreements with other governmental and nongovernmental
46 entities for such purposes. Finally, the amendment adds an
emergency preamble and emergency clause.

48
50 **FISCAL NOTE REQUIRED**
(See attached)

**121st Maine Legislature
Office of Fiscal and Program Review**



LD 1702

**An Act To Provide for Department of Marine Resources Jurisdiction
Over Certain Sections of the State's Endangered Species Program**

LR 2615(02)

**Fiscal Note for Bill as Amended by Committee Amendment "A"
Committee: Marine Resources
Fiscal Note Required: Yes
Majority Report**

Fiscal Note

Minor cost increase - General Fund