

MAINE STATE LEGISLATURE

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R.018

L.D. 1702

DATE: 2.26.04

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MARINE RESOURCES

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STATE OF MAINE
SENATE
121ST LEGISLATURE
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT "B" 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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'Sec. 1. 12 MRSA c. 631 is enacted to read:

2

CHAPTER 631

4

ENDANGERED OR THREATENED MARINE SPECIES

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

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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.

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§6972. Commissioner's programs

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The commissioner may establish such programs as are necessary to bring a state endangered or state threatened marine species to the point where it is no longer endangered or threatened.

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

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1. Commissioner's authority. The commissioner may designate a marine species found in the State as a state endangered or state threatened marine species if the commissioner finds one of the following to exist in relation to that species:

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A. The present or threatened destruction, modification or curtailment of its habitat or range;

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B. Overutilization for commercial, sporting, scientific, educational or other purposes;

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34

C. Disease or predation;

36

D. Inadequacy of existing regulatory mechanisms; or

38

E. Other natural or manmade factors affecting its continued existence within the State.

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2. Commissioner's duties. In designating a marine species as state endangered or state threatened, the commissioner shall:

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A. Make use of the best scientific, commercial and other data available;

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B. Consult, as appropriate, with federal agencies, other interested state agencies, other states having a common interest in the marine species and interested persons and organizations; and

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50

Rolls

2 C. Maintain a list of all marine species that have been
3 designated as state endangered or state threatened, naming
4 each species by both its scientific and common name, if any,
5 and specifying over what portion of its range each species
6 so designated is endangered or threatened.

8 3. Modification to list. The commissioner may remove from
9 or change the status of a marine species on the list in section
10 6974.

12 4. Public notice and hearings. Prior to any addition,
13 deletion or other change to the list of state endangered and
14 state threatened marine species in section 6974, the commissioner
15 shall provide for public notice and public hearings on that
16 proposed change in accordance with the provisions of Title 5,
17 chapter 375, subchapter 2.

18 **§6974. List of state endangered and state threatened marine**
19 **species**

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

24 1. Right whale. Right whale, Eubalaena glacialis,
25 endangered;

28 2. Humpback whale. Humpback whale, Megaptera novaeangliae,
29 endangered;

30 3. Finback whale. Finback whale, Balaenoptera physalus,
31 endangered;

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

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

38 6. Leatherback turtle. Leatherback turtle, Dermochelys
39 coriacea, endangered;

42 7. Atlantic ridley turtle. Atlantic ridley turtle,
43 Lepidochelys kempii, endangered; and

44 8. Loggerhead turtle. Loggerhead turtle, Caretta caretta,
45 threatened.

46 **§6975. Cooperative agreements**

48 The commissioner may enter into agreements with federal
49 agencies, other states, state agencies, political subdivisions of
50 the state.

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this State or private persons for the establishment and maintenance of programs for the conservation of state endangered or state threatened marine species and may receive all federal funds allocated for obligations to the State pursuant to these agreements. Federal funds received for the conservation of state endangered or state threatened marine species listed pursuant to this chapter must be allocated directly to the department to ensure compliance with any conditions of the listing.

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

§7751. Declaration of purpose

The Legislature finds that various species of fish or wildlife have been and are in danger of being rendered extinct within the State of Maine, and that these species are of esthetic, ecological, educational, historical, recreational and scientific value to the people of the State. The Legislature, 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.

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

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

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

Common Name	Scientific Name	Status
Least Tern	Sterna albifrons	Endangered
Golden Eagle	Aquila chrysaetos	Endangered
Piping Plover	Charadrius melodus	Endangered
Sedge Wren	Cistothorus platenis	Endangered
Grasshopper Sparrow	Ammodramus savannarum	Endangered
Box Turtle	Terrapene carolina	Endangered
Black Racer	Coluber constrictor	Endangered
Roseate Tern	Sterna dougallii	Endangered
Northern Bog Lemming	Synaptomys borealis	Threatened
Loggerhead		

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2	Turtle	Caretta-caretta	Threatened
	Blanding's		
	Turtle	Emydoidea blandingii	Endangered
4	Black Tern	Chlidonias niger	Endangered
	American Pipit	Anthus rubescens	Endangered
6	Peregrine		
	Falcon	Falco peregrinus	Endangered
8	Flat-headed		
	Mayfly	Epeorus frisoni	Endangered
10	Ringed		
	Boghaunter	Williamsonia lintneri	Endangered
12	Clayton's		
	Copper	Lycaena dorcas claytoni	Endangered
14	Edwards'		
	Hairstreak	Satyrium edwardsii	Endangered
16	Hessel's		
	Hairstreak	Mitoura hesseli	Endangered
18	Katahdin Arctic	Oenis polixenes	Endangered
		katahdin	
20	Spotted Turtle	Clemmys guttata	Threatened
	Bald Eagle	Haliaeetus	Threatened
22		leucocephalus	
	Razorbill	Alca torda	Threatened
24	Atlantic Puffin	Fratercula arctica	Threatened
	Harlequin Duck	Histrionicus	Threatened
26		histrionicus	
	Arctic Tern	Sterna paradisaea	Threatened
28	Upland Sandpiper	Bartramia longicauda	Threatened
	Swamp Darter	Etheostoma fusiforme	Threatened
30	Tidewater Mucket	Leptodea ochracea	Threatened
	Yellow		
32	Lampmussel	Lampsilis cariosa	Threatened
	Tomah Mayfly	Siphonisca aerodromia	Threatened
34	Pygmy Snaketail	Ophiogomphus howei	Threatened
	Twilight Moth	Lycia rachelae	Threatened
36	Pine Barrens		
	Zanclognatha	Zanclognatha martha	Threatened

38 **Sec. 4. 12 MRSA §12801**, as enacted by PL 2003, c. 414, Pt. A,
40 §2 and affected by Pt. D, §7, is amended to read:

42 **§12801. Declaration of purpose**

44 The Legislature finds that various species of fish or
46 wildlife have been and are in danger of being rendered extinct
48 within the State of Maine, and that these species are of
50 esthetic, ecological, educational, historical, recreational and
scientific value to the people of the State. The Legislature,
therefore, declares that it is the policy of the State to
conserve, by according such protection as is necessary to

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maintain and enhance their numbers, all species of fish or
wildlife found in the State, as well as the ecosystems upon which
they depend.

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

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
following enacted in its place:

3. Legislative authority. The Legislature, as sole
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:

- A. Least tern, *Sterna albifrons*, endangered;
- B. Golden eagle, *Aquila chrysaetos*, endangered;
- C. Piping plover, *Charadrius melodus*, endangered;
- D. Sedge wren, *Cistothorus platensis*, endangered;
- E. Grasshopper sparrow, *Ammodramus savannarum*, endangered;
- F. Box turtle, *Terrapene carolina*, endangered;
- G. Black racer, *Coluber constrictor*, endangered;
- H. Roseate tern, *Sterna dougallii*, endangered;
- I. Northern bog lemming, *Synaptomys borealis*, threatened;
- J. Blanding's turtle, *Emydoidea blandingii*, endangered;
- K. Black tern, *Chlidonias niger*, endangered;
- L. American pipit, *Anthus rubescens*, endangered;
- M. Peregrine falcon, *Falco peregrinus*, endangered;
- N. Flat-headed mayfly, *Epeorus frisoni*, endangered;
- O. Ringed boghaunter, *Williamsonia lintneri*, endangered;
- P. Clayton's copper, *Lycaena dorcas claytoni*, endangered;
- Q. Edwards' hairstreak, *Satyrrium edwardsii*, endangered;

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- 2 R. Hessel's hairstreak, Mitoura hesseli, endangered;
- 4 S. Katahdin arctic, Oenis polixenes katahdin, endangered;
- 6 T. Spotted turtle, Clemmys guttata, threatened;
- 8 U. Bald eagle, Haliaeetus leucocephalus, threatened;
- 10 V. Razorbill, Alca torda, threatened;
- 12 W. Atlantic puffin, Fratercula arctica, threatened;
- 14 X. Harlequin duck, Histrionicus histrionicus, threatened;
- 16 Y. Arctic tern, Sterna paradisaea, threatened;
- 18 Z. Upland sandpiper, Bartramia longicauda, threatened;
- 20 AA. Swamp darter, Etheostoma fusiforme, threatened;
- 22 BB. Tidewater mucket, Leptodea ochracea, threatened;
- 24 CC. Yellow lampmussel, Lampsilis cariosa, threatened;
- 26 DD. Tomah mayfly, Siphonisca aerodromia, threatened;
- 28 EE. Pygmy snaketail, Ophiogomphus howei, threatened;
- 30 FF. Twilight moth, Lycia rachelae, threatened; and
- 32 GG. Pine barrens zanclognatha, Zanclognatha martha,
threatened.

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

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

44

SUMMARY

46 This amendment is the minority report and replaces the
 48 bill. It gives the Commissioner of Marine Resources authority
 over the State's endangered or threatened marine species. The
 50 amendment establishes the state endangered or state threatened

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2 marine species list and adds 8 marine species that are already
3 federally listed as endangered or threatened species to that
4 list. Additionally, it gives the Commissioner of Marine
5 Resources the authority to designate a marine species as state
6 endangered or state threatened if the Commissioner of Marine
7 Resources determines, based on a criteria set out in statute,
8 that the marine species needs protection. This amendment also
9 authorizes the Commissioner of Marine Resources to establish
10 programs necessary for the protection of listed state endangered
11 or state threatened marine species and to enter into agreements
12 with other governmental and nongovernmental entities for such
13 purposes. Finally, the amendment adds an emergency preamble and
14 emergency clause.

16

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT

Approved: 02/04/04 *MAC*

**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(03)

Fiscal Note for Bill as Amended by Committee Amendment 'B

Committee: Marine Resources

Fiscal Note Required: Yes

Minority Report

Fiscal Note

Minor cost increase - General Fund