

MAINE STATE LEGISLATURE

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R.O.S.

L.D. 261

DATE: 4/26/05

(Filing No. H-193)

NATURAL RESOURCES

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STATE OF MAINE HOUSE OF REPRESENTATIVES 122ND LEGISLATURE FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 200, L.D. 261, Bill, "An Act Concerning Significant Wildlife Habitat and Wetlands of Special Significance"

Amend the bill by striking out all of section 2 and inserting in its place the following:

'Sec. 2. 38 MRSA §480-B, sub-§10, as amended by PL 1999, c. 401, Pt. BB, §17, is repealed and the following enacted in its place:

10. Significant wildlife habitat. "Significant wildlife habitat" means:

A. The following areas to the extent that they have been mapped by the Department of Inland Fisheries and Wildlife or are within any other protected natural resource: habitat, as defined by the Department of Inland Fisheries and Wildlife, for species appearing on the official state or federal list of endangered or threatened animal species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife; and critical spawning and nursery areas for Atlantic salmon as defined by the Atlantic Salmon Commission; and

B. Except for solely forest management activities, for which "significant wildlife habitat" is as defined and mapped in accordance with section 480-I by the Department of Inland Fisheries and Wildlife, the following areas that are defined by the Department of Inland Fisheries and Wildlife and are in conformance with criteria adopted by the

COMMITTEE AMENDMENT

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Department of Environmental Protection or are within any other protected natural resource:

- (1) Significant vernal pool habitat;
- (2) High and moderate value waterfowl and wading bird habitat, including nesting and feeding areas; and
- (3) Shorebird nesting, feeding and staging areas.'

Further amend the bill in section 3 in paragraph F in the last line (page 2, line 9 in L.D.) by striking out the following: "project;" and inserting in its place the following: 'project; and'

Further amend the bill by striking out all of section 4 and inserting in its place the following:

'Sec. 4. 38 MRSA §480-Q, sub-§17, ¶G is enacted to read:

G. The activity does not occur in a significant wildlife habitat.'

Further amend the bill by inserting after section 4 the following:

'Sec. 5. 38 MRSA §480-BB is enacted to read:

§480-BB. Significant wildlife habitat; major substantive rules

The Department of Inland Fisheries and Wildlife shall adopt rules that define "significant vernal pool habitat," "high and moderate value waterfowl and wading bird habitat" and "shorebird nesting, feeding and staging areas" under section 480-B, subsection 10, paragraph B. The Department of Environmental Protection shall adopt rules regarding the criteria used to determine whether an area is significant vernal pool habitat, high and moderate value waterfowl and wading bird habitat or shorebird nesting, feeding and staging areas under section 480-B, subsection 10, paragraph B. The rules, as applicable, must:

1. Definition of buffer area. Include a definition of the buffer area to be regulated;

2. Certain landowners not subject to regulation. Provide that a landowner proposing to cause an impact on the buffer area defined for a significant vernal pool habitat is not subject to regulation pursuant to the rule if the significant vernal pool habitat is not on property owned or controlled by that landowner;

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2 3. Department of Environmental Protection must provide
3 written field determination. Require that the Department of
4 Environmental Protection provide a written field determination
5 upon the request of a landowner whose land may be affected by the
6 definitions and criteria adopted in a rule;

7 4. Department of Environmental Protection may not assess
8 fine in certain cases. Provide that the Department of
9 Environmental Protection may not assess a fine against a
10 landowner who acted in accordance with a written field
11 determination if the fine would be based solely on information in
12 the written field determination; and

13 5. Process for voluntary identification. Include a process
14 for a landowner to voluntarily identify the landowner's land as a
15 significant vernal pool habitat and to provide the Department of
16 Inland Fisheries and Wildlife the authority to map the
17 significant vernal pool habitat.

18 Rules adopted pursuant to this section are major substantive
19 rules as defined in Title 5, chapter 375, subchapter 2-A.

20 **Sec. 6. Rules.** The major substantive rules adopted pursuant
21 to the Maine Revised Statutes, Title 38, section 480-BB must be
22 submitted to the Legislature by January 3, 2006 for review by the
23 Joint Standing Committee on Natural Resources during the Second
24 Regular Session of the 122nd Legislature. The Joint Standing
25 Committee on Natural Resources is authorized to report out
26 legislation to the Second Regular Session of the 122nd
27 Legislature regarding significant wildlife habitat.'

32 **SUMMARY**

33 This amendment removes the requirement that significant
34 vernal pool habitat, high and moderate value waterfowl and wading
35 bird habitat and shorebird nesting, feeding and staging areas be
36 mapped through a formal rule-making process. Instead, the
37 habitats must meet specific criteria adopted through major
38 substantive rulemaking. For solely forest management activities,
39 significant wildlife habitat must be mapped through formal
40 rulemaking. The amendment also deletes from the bill certain
41 proposed limitations to the existing exemption for minor
42 alterations in freshwater wetlands.
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44 **FISCAL NOTE REQUIRED**
45 (See attached)



122nd MAINE LEGISLATURE

LD 261

LR 0583(02)

An Act Concerning Significant Wildlife Habitat and Wetlands of Special Significance

Fiscal Note for Bill as Amended by Committee Amendment *A*

Committee: Natural Resources

Fiscal Note Required: Yes

Fiscal Note

	2005-06	2006-07	Projections 2007-08	Projections 2008-09
Revenue				
Other Special Revenue Funds	\$2,500	\$2,500	\$2,500	\$2,500

Fiscal Detail and Notes

The additional costs associated with a potential increase in wetland permit applications will be offset by the collection of required application fees. It is estimated that up to 10 to 20 additional permit applications could be received annually generating approximately \$2500 in additional revenue annually to the Maine Environmental Protection Fund.