

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 326

H.P. 261

House of Representatives, January 22, 2007

An Act To Enhance Implementation of the Significant Wildlife Habitat Rules

(EMERGENCY)

Reference to the Committee on Natural Resources suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND

Clerk

Presented by Representative FLETCHER of Winslow.

Cosponsored by Senator SNOWE-MELLO of Androscoggin and

Representatives: FITTS of Pittsfield, GIFFORD of Lincoln, JOY of Crystal, RICHARDSON of Carmel, SAVIELLO of Wilton, THIBODEAU of Winterport, Senator: GOOLEY of Franklin.

1 **Emergency preamble.** Whereas, acts of the Legislature do not become effective
2 until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** Resolve 2005, chapter 183 authorized the final adoption of portions of
4 Chapter 335: Significant Wildlife Habitat, a major substantive rule of the Department of
5 Environmental Protection; and

6 **Whereas,** September 1, 2007 is the implementation date of the provisions of
7 Chapter 335 that regulate significant vernal pool habitat; and

8 **Whereas,** this legislation will protect existing building lots from being negatively
9 affected by the regulations; and

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

14 **Be it enacted by the People of the State of Maine as follows:**

15 **Sec. 1. 38 MRSA §480-BB, sub-§4,** as enacted by PL 2005, c. 116, §5, is
16 amended to read:

17 **4. Department of Environmental Protection may not assess fine in certain cases.**
18 Provide that the Department of Environmental Protection may not assess a fine against a
19 landowner who acted in accordance with a written field determination if the fine would
20 be based solely on information in the written field determination; ~~and~~

21 **Sec. 2. 38 MRSA §480-BB, sub-§5,** as enacted by PL 2005, c. 116, §5, is
22 amended to read:

23 **5. Process for voluntary identification.** Include a process for a landowner to
24 voluntarily identify the landowner's land as a significant vernal pool habitat and to
25 provide the Department of Inland Fisheries and Wildlife the authority to map the
26 significant vernal pool habitat; and

27 **Sec. 3. 38 MRSA §480-BB, sub-§6** is enacted to read:

28 **6. Exemption for existing building lots.** Exempt from the rules regarding
29 significant vernal pool habitat any existing building lot. For purposes of this subsection,
30 "existing building lot" means a building lot whose boundaries were in existence on
31 September 1, 2007 and were so described in a deed recorded on or before that date.

32 **Sec. 4. 38 MRSA §480-BB, last ¶,** as enacted by PL 2005, c. 116, §5, is
33 amended to read:

34 ~~Rules adopted pursuant to this section regarding significant vernal pool habitat, high~~
35 and moderate value waterfowl and wading bird habitat and shorebird nesting, feeding and

1 staging areas are major substantive rules as defined in Title 5, chapter 375, subchapter 2-
2 A.

3 **Emergency clause.** In view of the emergency cited in the preamble, this Act takes
4 effect when approved.

5 **SUMMARY**

6 This bill exempts building lots that were established prior to September 1, 2007 from
7 the significant vernal pool habitat regulations adopted by the Department of
8 Environmental Protection.

9 It also adds language clarifying that all department rules regarding significant vernal
10 pool habitat, high and moderate waterfowl and wading bird habitat and shorebird nesting,
11 feeding and staging areas are major substantive rules.