

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

Date: 5/31/07

L.D. 1477
(Filing No. H-388)

NATURAL RESOURCES

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1039, L.D. 1477, Bill, "An Act Concerning the Natural Resources Protection Laws and Related Provisions"

Amend the bill by striking out all of section 5 and inserting the following:

'Sec. 5. 38 MRSA §480-Q, sub-§14, as corrected by RR 1993, c. 1, §117, is amended to read:

14. Lawful harvesting of marine organisms or vegetation in coastal wetlands. A person lawfully engaged in the harvesting of marine organisms or vegetation under the provisions of Title 12, chapter 605 is not required to obtain a permit to engage in those activities in a coastal wetland or a coastal wetland containing a high or moderate value wading bird habitat or shorebird feeding or staging area. Within a coastal wetland, the removal of vegetation or displacement of soil associated with or authorized by those lawful activities is not a violation of this article; and'

Amend the bill in section 7 in §480-CC in subsection 1 in paragraph A in the 2nd line (page 3, line 9 in L.D.) by striking out the following: "75-foot-wide" and inserting the following: '100-foot-wide'

Amend the bill in section 7 in §480-CC in subsection 2 in the blocked paragraph in the first line (page 3, line 18 in L.D.) by striking out the following: "or feeding"

Amend the bill in section 7 in §480-CC in subsection 2 in paragraph C in the last line (page 3, line 28 in L.D.) by inserting after the following: "view" the following: 'unless the department, in consultation with the Department of Inland Fisheries and Wildlife, determines there will be no unreasonable impact on the protected resource'

Amend the bill in section 8 in §480-DD in the 2nd line (page 3, line 31 in L.D.) by inserting after the following: "development" the following: 'or topography'

Amend the bill in section 8 in §480-DD in the first paragraph in the next to the last line (page 3, line 36 in L.D.) by inserting after the following: "due to the" the following: 'topography or'

COMMITTEE AMENDMENT

1 Amend the bill in section 8 in §480-DD in subsection 1 in the last line (page 4, line 2
2 in L.D.) by inserting after the following: "land use" the following: 'presence of cliffs or
3 bluffs'

4 Amend the bill by inserting after section 8 the following:

5 'Sec. 9. 38 MRSA §480-EE is enacted to read:

6 **§480-EE. Significant wildlife habitat criteria; inland open water**

7 Regardless of its identification on maps as a high or moderate value waterfowl and
8 wading bird habitat, an upland area adjacent to a great pond is not considered high or
9 moderate value waterfowl and wading bird habitat for purposes of this article unless the
10 upland area is within 250 feet of one or more freshwater wetlands that are high or
11 moderate value waterfowl and wading bird habitat.

12 Sec. 10. 38 MRSA §480-FF is enacted to read:

13 **§480-FF. Notification of identification of significant wildlife habitat**

14 If an area is identified by the Department of Inland Fisheries and Wildlife as the type
15 of area listed in section 480-B, subsection 10, paragraph B after the effective date of this
16 section, the department shall notify each municipality in which the significant wildlife
17 habitat is located and members of the Legislature who represent residents of the
18 municipality in which the significant wildlife habitat is located. The department and the
19 Department of Inland Fisheries and Wildlife shall report to the joint standing committees
20 of the Legislature having jurisdiction over natural resources matters and inland fisheries
21 and wildlife matters on any action taken pursuant to this section.'

22 Amend the bill in section 13 in the 2nd line (page 4, line 38 in L.D.) by striking out
23 the following: "480-CC and 480-DD" and inserting the following: '480-CC, 480-DD and
24 480-EE'

25 Amend the bill in section 14 by adding at the end the following:

26 'The Department of Environmental Protection shall amend its rules to clarify that if
27 significant wildlife habitat is not fully contained within a freshwater wetland, the
28 department does not have adjacency jurisdiction under the Maine Revised Statutes, Title
29 38, section 480-C.'

30 Amend the bill by inserting after section 14 the following:

31 'Sec. 15. **Mitigation and compensation standards.** The Department of
32 Environmental Protection shall develop a proposal for mitigation and compensation
33 standards for tidal and freshwater significant wildlife habitat. By January 5, 2008, the
34 department shall report to the Joint Standing Committee on Natural Resources on its
35 proposal, including any legislation necessary to implement the proposal. The Joint
36 Standing Committee on Natural Resources may submit legislation related to the proposal
37 to the 123rd Legislature.'

COMMITTEE AMENDMENT "A" to H.P. 1039, L.D. 1477

1 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
2 section number to read consecutively.

3 **SUMMARY**

4 This amendment clarifies that a person lawfully harvesting marine organisms or
5 vegetation is not required to obtain a permit under the natural resources protection laws to
6 engage in those activities in a coastal wetland containing a high or moderate value
7 wading bird habitat or shorebird feeding or staging area.

8 It removes from the bill the provision that repeals the exemption for alteration of
9 freshwater wetlands associated with the construction, operation, maintenance or repair of
10 an interstate pipeline.

11 It changes the definition of "shorebird feeding area" that is in the bill to include a
12 100-foot-wide surrounding buffer.

13 It removes from the bill supplemental cutting standards for shorebird feeding buffers.

14 It allows the Department of Inland Fisheries and Wildlife to determine that an area is
15 not a significant wildlife habitat due to the topography in existence on June 8, 2006.

16 It clarifies that upland areas that abut open water on great ponds and are more than
17 250 feet from freshwater wetlands are not regulated under the natural resources protection
18 laws.

19 It requires the Department of Environmental Protection to notify municipalities and
20 members of the Legislature who represent residents of those municipalities if a shorebird
21 nesting, feeding or staging area, a significant vernal pool habitat or a high or moderate
22 value waterfowl and wading bird habitat is identified by the Department of Inland
23 Fisheries and Wildlife after the effective date of the bill.

24 It requires the Department of Environmental Protection to amend its rules to clarify
25 that significant wildlife habitat that is not fully contained within a freshwater wetland is
26 not subject to the department's adjacency jurisdiction under the Maine Revised Statutes,
27 Title 38, section 480-C.

28 It requires the Department of Environmental Protection to develop a proposal for
29 mitigation and compensation standards for tidal and freshwater significant wildlife
30 habitat.

FISCAL NOTE REQUIRED
(See attached)



123rd MAINE LEGISLATURE

LD 1477

LR 643(02)

An Act Concerning the Natural Resources Protection Laws and Related Provisions

Fiscal Note for Bill as Amended by Committee Amendment "A"
Committee: Natural Resources
Fiscal Note Required: Yes

Fiscal Note

No net fiscal impact - Other Special Revenue Funds
Minor cost increase - General Fund

Fiscal Detail and Notes

This legislation makes statutory adjustments to provisions of the Natural Resources Protection Laws. These adjustments should have no net impact on the collection of permit application fees by the Department of Environmental Protection for the upcoming biennium. Additional costs to the Department of Inland Fisheries and Wildlife can be absorbed within existing budgeted resources.