

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 156

S.P. 49

In Senate, January 25, 2011

An Act To Clarify the Regulation of Impacts to Significant Vernal Pool Habitats under the Natural Resources Protection Act

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

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator RECTOR of Knox.
Cosponsored by Representative HAMPER of Oxford and
Senators: COURTNEY of York, President RAYE of Washington, ROSEN of Hancock,
SAVIELLO of Franklin, TRAHAN of Lincoln, Representatives: McKANE of Newcastle,
MOULTON of York, WEAVER of York.

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

2 **Sec. 1. 38 MRSA §480-BB, sub-§2**, as enacted by PL 2005, c. 116, §5, is
3 amended to read:

4 **2. Certain landowners not subject to regulation.** Provide that a landowner
5 proposing to cause an impact on ~~the buffer area defined for~~ a significant vernal pool
6 habitat is not subject to regulation pursuant to the rule if the significant vernal pool
7 habitat depression is not on property owned or controlled by that landowner. For
8 purposes of this subsection, if the significant vernal pool habitat depression is bisected by
9 a property boundary, only that portion of the significant vernal pool habitat depression
10 located on property owned or controlled by that landowner may be considered in
11 determining whether the landowner is subject to regulation;

12 **Sec. 2. PL 2007, c. 533, §3, sub-§1, ¶A** is amended to read:

13 A. When a vernal pool habitat has not previously been determined to be significant
14 and the Department of Environmental Protection or the Department of Inland
15 Fisheries and Wildlife makes a determination concerning whether the vernal pool
16 habitat is significant, ~~either department may determine that~~ the vernal pool habitat is
17 not significant if:

18 (1) The vernal pool is located in southern Maine and dries out after spring filling
19 and before July 15th ~~based on winter, spring and early summer precipitation;~~ or

20 (2) The vernal pool is located in northern Maine and dries out after spring filling
21 and before July 31st ~~based on winter, spring and early summer precipitation.~~

22 **SUMMARY**

23 The bill clarifies that a landowner proposing to cause an impact to a significant vernal
24 pool habitat is not subject to regulation pursuant to the Department of Environmental
25 Protection's vernal pool rules if the significant vernal pool habitat depression is not on
26 property owned or controlled by that landowner.

27 This bill also clarifies that, when a vernal pool habitat has not previously been
28 determined to be significant and the Department of Environmental Protection or the
29 Department of Inland Fisheries and Wildlife makes a determination as to its significance,
30 the vernal pool habitat is considered to be not significant if it is located in southern Maine
31 and dries out after spring filling and before July 15th or if it is located in northern Maine
32 and dries out after spring filling and before July 31st.