MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 470

H.P. 320

House of Representatives, February 14, 2013

An Act Regarding Working Waterfront Projects

Submitted by the Department of Environmental Protection pursuant to Joint Rule 204. Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

Millicent M. Macfarland MILLICENT M. MacFARLAND Clerk

Presented by Representative WELSH of Rockport. Cosponsored by Senator MAZUREK of Knox.

1	Be it enacted by the People of the State of Maine as follows:
2 3	Sec. 1. 38 MRSA §439-A, sub-§6, as amended by PL 2007, c. 292, §22, is further amended to read:
4 5 6 7	6. Clearing of vegetation. Within the shoreland area, municipal ordinances shall must provide for effective vegetative screening between buildings and shorelines. Notwithstanding any provision in a local ordinance to the contrary, vegetative screening requirements shall must be no less restrictive than the following:
8 9 10	A. Within a strip extending 75 feet inland from the normal high-water line, there shall may be no cleared opening or openings, except for approved construction, and a well-distributed stand of vegetation shall be retained;
11 12 13	B. Within a shoreland area zoned for resource protection abutting a great pond there shall may be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high-water line except to remove safety hazards; and
14 15 16 17	C. Selective cutting of no more than 40% of the <u>total volume of</u> trees 4.5 inches or more in diameter, measured at 4 1/2 feet above ground level, is allowed in any 10-year period, as long as a well-distributed stand of trees and other natural vegetation remains.
18 19	The board may adopt more restrictive guidelines consistent with the purposes of this subchapter, which shall <u>must</u> then be incorporated into local ordinances.
20	Sec. 2. 38 MRSA §439-A, sub-§6-A is enacted to read:
21 22	6-A. Clearing of vegetation; exception. The standards specified in subsection 6, paragraphs A to C do not apply to:
23	A. Working waterfront land as defined in section 480-B, subsection 12; or
24 25 26 27 28 29 30	B. Land that is adjacent to a coastal wetland or to a river that does not flow to a great pond classified GPA under section 465-A if that land is zoned as general development or as a commercial fisheries and maritime activity zone or was historically intensively developed with industrial or commercial uses and is part of a state or federal brownfields program or a voluntary response action program under section 343-E for cleanup of contamination for the purpose of redevelopment of the property.
31	Sec. 3. 38 MRSA §480-B, sub-§11 is enacted to read:
32 33 34 35 36	11. Working waterfront activity. "Working waterfront activity" means an activity that qualifies a parcel of land as working waterfront land. "Working waterfront activity" includes commercial fishing activities; boat building and repair; hauling, launching, storage and berthing of boats; and other similar commercial activities that are dependent on the waterfront. As used in this subsection, "commercial fishing activities" has the

Sec. 4. 38 MRSA §480-B, sub-§12 is enacted to read:

same meaning as in Title 36, section 1132, subsection 3.

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1 2 3 4	12. Working waterfront land. "Working waterfront land" means a parcel of land, or a portion thereof, abutting water to the head of tide, land located in the intertidal zone or submerged land that is used primarily or predominantly to provide access to or support the conduct of a working waterfront activity.
5 6	Sec. 5. 38 MRSA §480-BB, sub-§2, ¶B, as enacted by PL 2011, c. 362, §1, is amended to read:
7 8 9 10 11 12	B. If a vernal pool depression is bisected by a property boundary and a landowner proposing to cause an impact does not have permission to enter the abutting property, only that portion of the vernal pool depression located on property owned or controlled by that landowner may be considered in determining whether the vernal pool is significant. A written department determination that a vernal pool is not significant pursuant to this paragraph remains valid regardless of timeframe;.
13	Sec. 6. 38 MRSA §480-BB, sub-§2, ¶C is enacted to read:
14 15	C. A landowner or a person proposing a working waterfront activity is not subject to regulation pursuant to rules adopted under this section;
16	Sec. 7. 38 MRSA §480-CC, sub-§3 is enacted to read:
17 18	3. Certain activity not subject to regulation. The cutting standards under subsection 2 do not apply to a proposal to permit a working waterfront activity.
19	SUMMARY
20 21 22 23 24	This bill defines "working waterfront activity" and "working waterfront land" for the purpose of exempting working waterfront activities from certain provisions under the Natural Resources Protection Act. The bill also provides flexibility under the mandatory shoreland zoning laws for the clearing of land associated with working waterfront activities and project sites requiring remediation due to contamination.