



## **126th MAINE LEGISLATURE**

## FIRST REGULAR SESSION-2013

**Legislative Document** 

No. 1135

H.P. 800

House of Representatives, March 21, 2013

## An Act To Provide Consistency in the Regulation of Motorized Recreational Gold Prospecting

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

Millicent M. Mac Jailand

MILLICENT M. MacFARLAND Clerk

Presented by Representative BLACK of Wilton. Cosponsored by Senator SAVIELLO of Franklin and Representatives: CHAPMAN of Brooksville, CRAY of Palmyra, CROCKETT of Bethel, DILL of Old Town, KENT of Woolwich, LONG of Sherman, MAREAN of Hollis, WELSH of Rockport.

| 1                          | Be it enacted by the People of the State of Maine as follows:   |
|----------------------------|---|
| 2                          | Sec. 1. 38 MRSA §480-Q, sub-§5-A is enacted to read:  |
| 3<br>4                     | <b><u>5-A. Motorized recreational gold prospecting.</u></b> Notwithstanding section 480-C, a permit is not required for motorized recreational gold prospecting.  |
| 5<br>6                     | A. A person may perform motorized recreational gold prospecting only from June 15th to September 15th and only with written permission of the relevant landowner.   |
| 7<br>8<br>9<br>10          | B. A person may not perform motorized recreational gold prospecting that causes an undue adverse effect on natural resources. The area in which the motorized recreational gold prospecting is performed must be kept free of litter, trash and any other materials that may constitute a hazardous or nuisance condition.  |
| 11<br>12                   | C. The following provisions limit the use of equipment in motorized recreational gold prospecting.  |
| 13<br>14                   | (1) Equipment may not have any fuel, oil or hydraulic leaks or cause any unlicensed discharge.  |
| 15                         | (2) Motorized equipment may not exceed 6 horsepower.  |
| 16<br>17                   | (3) The inside diameter of a suction dredge intake nozzle may not exceed 4 inches.  |
| 18                         | (4) The area of a sluice may not exceed 10 square feet.   |
| 19                         | (5) A flume may not be used to transport water outside of a stream channel.   |
| 20<br>21                   | D. A person may not use mercury, nitric acid or other chemicals for extraction in motorized recreational gold prospecting.  |
| 22<br>23                   | E. A person may not perform motorized recreational gold prospecting in a manner that:   |
| 24<br>25<br>26             | (1) Disturbs a stream bank, including but not limited to digging into the bank or dredging or altering water flow within a stream channel in a manner that causes the bank to erode or collapse;  |
| 27<br>28<br>29             | (2) Removes or damages vegetation or woody debris such as root wads, stumps or logs within a stream channel, on the bank or on nearby upland, including cutting or abrasion of trees;   |
| 30                         | (3) Diverts, dams or otherwise obstructs a stream;  |
| 31<br>32                   | (4) Deposits soil, rocks or any other foreign material from outside of the channel into a stream; or  |
| 33                         | (5) Deposits stream bottom sediments or rocks onto the bank or upland.  |
| 34<br>35<br>36<br>37<br>38 | F. Upon completion of one or more consecutive days of motorized recreational gold prospecting, a person who performed the motorized recreational gold prospecting shall smooth out dredge spoils and refill dredge holes below the normal high-water mark of the stream in order to restore the approximate original contours of the stream bottom and not deflect the current. |

| 1             | G. Motorized recreational gold prospecting is prohibited within the following areas:   |
|---------------|--|
| 2             | (1) Stream channels narrower than 4 feet wide;   |
| 3<br>4<br>5   | (2) Any area designated as essential wildlife habitat by the Department of Inland<br>Fisheries and Wildlife unless it is determined by the Department of Inland<br>Fisheries and Wildlife that the motorized recreational gold prospecting will not: |
| 6             | (a) Significantly harm the essential wildlife habitat; or  |
| 7<br>8        | (b) Violate protection guidelines adopted pursuant to the laws governing endangered species in Title 12, chapter 925, subchapter 3;  |
| 9<br>10<br>11 | (3) Waters closed to motorized recreational gold prospecting in the unorganized territories identified in rules adopted by the Maine Land Use Planning Commission; and   |
| 12<br>13      | (4) Waters closed to motorized recreational gold prospecting identified in rules adopted by the Department of Environmental Protection.  |
| 14            | Sec. 2. Rulemaking. The Department of Environmental Protection and the Maine   |
| 15            | Land Use Planning Commission shall each adopt rules identifying specific waters in   |
| 16            | which motorized recreational gold prospecting is not allowed. In adopting these rules,   |
| 17            | the Maine Land Use Planning Commission and the Department of Environmental   |
| 18            | Protection shall consult with the Department of Inland Fisheries and Wildlife and the  |

- Department of Marine Resources. Rules adopted pursuant to this section are routine
  technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter
  2-A.
- SUMMARY
  This bill eliminates inconsistencies between regulation of motorized recreational gold
  prospecting in organized territories and in unorganized territories. The bill amends the
  Natural Resources Protection Act to make motorized recreational gold prospecting an
  activity allowed without a permit, subject to landowner permission and conditions to
- 27 protect the environment, including fish and aquatic habitat.