

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 153

H.P. 111

House of Representatives, January 27, 2015

**An Act To Amend Setback Requirements and Standards Related to
Species Migration under the Laws Regulating Development near
Vernal Pools**

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

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative CAMPBELL of Orrington.
Cosponsored by Senator SAVIELLO of Franklin and
Representatives: DUCHESNE of Hudson, HARLOW of Portland, NADEAU of Winslow,
POULIOT of Augusta, RYKERSON of Kittery, TUELL of East Machias, Senators: MASON
of Androscoggin, President THIBODEAU of Waldo.

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

2 **Sec. 1. 38 MRSA §480-BB, sub-§1-A** is enacted to read:

3 **1-A. Significant vernal pool habitat.** In the case of significant vernal pool habitat,
4 define an area of regulation that encompasses a fixed radial area around the vernal pool
5 depression and allow for use of an alternative directional corridor area with a value to the
6 protected species that is equal to or greater than that of the fixed radial area. The
7 Department of Environmental Protection may approve the alternative directional corridor
8 area as the area of regulation instead of the fixed radial area if:

9 A. An applicant for a permit under this article requests that an alternative directional
10 corridor area be the area of regulation of the vernal pool;

11 B. The applicant provides to the department habitat data relating to the vernal pool
12 and surrounding area demonstrating that use of an alternative directional corridor area
13 would provide habitat protection value equal to or greater than would the use of the
14 fixed radial area. The data must be developed by a professional with experience and
15 training in either wetland ecology or wildlife ecology; and

16 C. The department determines that, based on the best available science, the
17 alternative directional corridor area would provide habitat protection value equal to or
18 greater than would the fixed radial area.

19 An alternative directional corridor area must include, at a minimum, a functional water
20 quality buffer around the vernal pool depression. The rules must specify the regulatory
21 process and standards for obtaining a permit in an alternative directional corridor area
22 approved by the department. If an applicant requests that an alternative directional
23 corridor area be the area of regulation and the department does not approve an alternative
24 directional corridor area, the fixed radial area is the area of regulation and the applicant
25 may apply to obtain a permit to conduct an activity in, on or over that area of regulation
26 in accordance with the process and standards applicable to the fixed radial area.

27 **SUMMARY**

28 This bill requires the Department of Environmental Protection and the Department of
29 Inland Fisheries and Wildlife to adopt rules regarding significant vernal pool habitats to
30 define a fixed radial area of regulation around a vernal pool depression and allow for an
31 alternative directional corridor area of regulation. Use of an alternative directional
32 corridor area would have to be requested by the applicant, who must demonstrate to the
33 Department of Environmental Protection that the use of an alternative directional corridor
34 area would provide habitat protection value equal to or greater than would the fixed radial
35 area of regulation. Department of Environmental Protection rules must specify the
36 regulatory process and standards for obtaining a permit in an alternative directional
37 corridor area.