

MAINE STATE LEGISLATURE

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Date: 5/11/17 Minority

L.D. 400
(Filing No. H-165)

ENVIRONMENT AND NATURAL RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 291, L.D. 400, Bill, "An Act Regarding the Construction or Placement of Decks within the Shoreland Zone"

Amend the bill by striking out the title and substituting the following:

'An Act Regarding the Construction or Placement of Decks and the Temporary Storage of Certain Docks within the Shoreland Zone'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 38 MRSA §439-A, sub-§10 is enacted to read:

10. Exemption from setback requirements for certain decks. Notwithstanding any provision of law to the contrary, a deck may be constructed or placed within the setbacks established pursuant to subsection 4 in accordance with the requirements of this subsection.

A. Except as provided in paragraph B, a deck may be constructed or placed on a tract or parcel of land within the setbacks established pursuant to subsection 4 if the following requirements are met:

- (1) The deck is for residential use;
- (2) The deck does not exceed 144 square feet in area;
- (3) The deck is not constructed or placed on any area of land with a grade exceeding 3%;
- (4) The deck is constructed or placed on permeable material, including, but not limited to, riprap, gravel and mulch; and
- (5) No portion of the deck, including any deck supports, extends over or into the water body or wetland.

B. A deck may not be constructed or placed on a tract or parcel of land within the setbacks established pursuant to subsection 4 if the same tract or parcel includes a

COMMITTEE AMENDMENT

K O P S

1 dock that is constructed or placed in or over a water body or wetland on the tract or
2 parcel or immediately adjacent to the tract or parcel, regardless of whether the dock is
3 for temporary or permanent use.

4 **Sec. 2. 38 MRSA §444**, as amended by PL 2001, c. 40, §2, is further amended by
5 adding at the end a new paragraph to read:

6 Notwithstanding any provision of law to the contrary or any provision of a local
7 ordinance to the contrary, a person who has constructed or placed a dock in or over a
8 water body or wetland that remains in or over the water body or wetland for less than 7
9 months in any period of 12 consecutive months and is stored on the person's property
10 within the setbacks established pursuant to section 439-A, subsection 4 for the remainder
11 of the period is not subject to penalties under Title 30-A, section 4452, subsection 3
12 relating to the temporary storage.'

13 **SUMMARY**

14 This amendment, which is the minority report of the committee, replaces the bill and
15 changes the title and allows the construction or placement of a deck within the setbacks
16 established pursuant to the laws governing shoreland zoning as long as certain
17 requirements are met. The amendment also clarifies that the temporary storage of a
18 seasonally used dock within the shoreland zoning setback area is not subject to civil
19 penalties associated with the enforcement of local land use laws or ordinances.

20 **FISCAL NOTE REQUIRED**

21 (See attached)



128th MAINE LEGISLATURE

LD 400

LR 933(02)

An Act Regarding the Construction or Placement of Decks within the Shoreland Zone

Fiscal Note for Bill as Amended by Committee Amendment 'A' (H-165)

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Department of Environmental Protection from allowing construction or placement of a deck within the setbacks established pursuant to the laws governing shoreland zoning provided certain requirements are met are anticipated to be minor and can be absorbed within existing budgeted resources.