

# MAINE STATE LEGISLATURE

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Date: 6/5/19

L.D. 1775  
(Filing No. H-490)

**ENVIRONMENT AND NATURAL RESOURCES**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
129TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1262, L.D. 1775, Bill, "An Act To Protect Sustenance Fishing"

Amend the bill in section 6 in paragraph A by striking out all of subparagraph (1) (page 3, lines 6 to 9 in L.D.) and inserting the following:

'(1) From the confluence of the East Branch and the West Branch to the confluence of the Mattawamkeag River, including all impoundments - Class C B. This segment is subject to a sustenance fishing designated use pursuant to section 466-A.'

Amend the bill in section 7 in paragraph B in subparagraph (1) by striking out all of divisions (c) and (d) (page 3, lines 38 and 39 and page 4, lines 1 to 4 in L.D.) and inserting the following:

'(c) From a point located 1,000 feet downstream from the dam at the outlet of Grand Lake Mattagamon to its confluence with the ~~West Branch~~ Mattaceunk impoundment as it existed on July 14, 1990 - Class AA. This segment is subject to a sustenance fishing designated use pursuant to section 466-A.

(d) From its confluence with the Mattaceunk impoundment as it existed on July 14, 1990 to its confluence with the West Branch - Class B. Further, there may be no new direct discharges to this segment after January 1, 2019. This segment is subject to a sustenance fishing designated use pursuant to section 466-A.'

Amend the bill in section 8 in paragraph D by striking out all of subparagraph (2) (page 4, lines 27 to 35 in L.D.) and inserting the following:

- '(2) Mattawamkeag River, tributaries - Class A unless otherwise specified.
- (a) East Branch Mattawamkeag River above Red Bridge - Class B.

**COMMITTEE AMENDMENT**

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~~(b) West Branch Mattawamkeag River from Interstate 95 to its confluence with Mattawamkeag Lake - Class B.~~

~~(c) Fish Stream - Class B.~~

(d) West Branch Mattawamkeag River from its source at Rockabema Lake to its confluence with Mattawamkeag Lake - Class A. This segment is subject to a sustenance fishing designated use pursuant to section 466-A.'

Amend the bill by striking out all of section 14 and inserting the following:

'Sec. 14. 38 MRSA §468, sub-§8, ¶¶P and Q are enacted to read:

P. Cherryfield.

(1) Tunk Stream and its tributaries - Class A.

Q. Perry.

(1) Boyden Stream - Class B. This segment is subject to a sustenance fishing designated use pursuant to section 466-A.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

### SUMMARY

To ensure proper application of the sustenance fishing designated use proposed in the bill, this amendment amends the bill by updating the classifications for certain waters based on water quality data and by clarifying the description of certain water body segments.

This bill as amended creates a sustenance fishing designated use as a subcategory of the applicable fishing designated use for certain specified water body segments within Maine's water classification program where there is or may be sustenance fishing or increased fish consumption by members of the Indian tribes in Maine or other Maine citizens. This bill as amended also requires that the Department of Environmental Protection adopt routine technical rules no later than March 1, 2020 that calculate and establish water quality criteria protective of human health for toxic pollutants and the sustenance fishing designated use as established by this bill. This bill as amended limits the scope of the sustenance fishing designated use created by this bill by providing that, for all purposes, including for the purposes of the State's water classification program, the federal Clean Water Act and related rules, regulations and guidance, the sustenance fishing designated use created by this bill as amended is deemed protected through water quality criteria for human health calculated and established for the identified water body segments using, in addition to the other assumptions used in developing human health criteria generally under the Maine Revised Statutes, Title 38, section 420, subsection 2 and rules adopted by the department, a fish consumption rate of 200 grams per day and a cancer risk level of one in 1,000,000, except for inorganic arsenic, the risk level for which is governed by Title 38, section 420, subsection 2, paragraph J. The designation in this bill as amended of specific waters subject to a sustenance fishing designated use is not

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COMMITTEE AMENDMENT "A" to H.P. 1262, L.D. 1775

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intended to preclude a future designation of other such waters through a similar legislative process or as otherwise provided by law.

All aspects of this bill as amended, including the sustenance fishing designated use and the identification of specific water body segments subject to that use, are intended to have meaning and effect within the State's water classification program only and for purposes of calculating and establishing water quality criteria for human health sufficient to protect the sustenance fishing designated use only. Nothing in this bill as amended or the sustenance fishing designated use it establishes is intended to apply to or affect discharges of mercury, which are governed exclusively by separate provisions of law, including Title 38, section 420, subsection 1-B and section 413, subsection 11. This bill as amended changes the human health ambient criterion specified in Title 38, section 420, subsection 1-B, paragraph A, subparagraph (2) to reflect the 200 grams per day fish consumption rate that the Department of Environmental Protection is directed to use when deriving human health criteria for toxic pollutants to protect the sustenance fishing designated use; however, this change is not intended to affect the mercury discharge limits set forth in Title 38, section 420, subsection 1-B and section 413, subsection 11. Nothing in this bill as amended is intended to alter or affect in any way any provision of any of the State's state and federal Indian settlement acts, including the state Indian settlement acts in Title 30, chapters 601 and 603. No part of this bill as amended is intended to relate to or affect in any way any claims or disputes regarding any definition of Indian country, territory, lands, waters, reservations or rights of any kind under any other provision of state or federal law. No part of this bill as amended is intended to create or limit any right or protection under any other state or federal law, including the federal Clean Water Act, except as described in this summary, or any state or federal Indian settlement law or act, or create in any way a right to any particular quantity or quality of fish. The sole intent of this bill as amended is to establish a sustenance fishing designated use that is deemed protected for all purposes through water quality criteria for human health calculated and established through routine technical rulemaking using a specific minimum fish consumption rate and specified cancer risk levels for the waters expressly identified in the State's water classification program, which criteria are applicable for the purposes of the State's water classification program and the federal Clean Water Act.

**FISCAL NOTE REQUIRED**  
(See attached)

**COMMITTEE AMENDMENT**



# 129th MAINE LEGISLATURE

LD 1775

LR 2522(02)

## An Act To Protect Sustenance Fishing

Fiscal Note for Bill as Amended by Committee Amendment

*A(H-490)*

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

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### Fiscal Note

Minor cost increase - General Fund

#### Fiscal Detail and Notes

Any additional costs to the Department of Environmental Protection as a result of the adoption of rules allowing sustenance fishing, identification of specific water body segments that it may be practiced and water quality criteria to ensure health and safety are anticipated to be minor and can be absorbed within existing budgeted resources.