

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## SECOND REGULAR SESSION-2024

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Legislative Document

No. 2034

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S.P. 862

In Senate, December 13, 2023

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### **An Act to Address Identified Gaps in the Laws Governing Erosion Control and the Natural Resources Protection Act**

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Submitted by the Department of Agriculture, Conservation and Forestry pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 11, 2023. Referred to the Committee on Environment and Natural Resources pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator BRENNER of Cumberland.

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

2 **Sec. 1. 38 MRSA §420-C, 2nd ¶**, as enacted by PL 1997, c. 748, §1, is amended  
3 to read:

4 A person who owns property in an organized area of this State that is subject to erosion  
5 because of a human activity before July 1, 1997 involving filling, displacing or exposing  
6 soil or other earthen materials shall take measures in accordance with the dates established  
7 under this paragraph to prevent unreasonable erosion of soil or sediment into a protected  
8 natural resource as defined in section 480-B, subsection 8. Adequate and timely temporary  
9 and permanent stabilization measures must be taken and maintained on that site to prevent  
10 unreasonable erosion and sedimentation. This paragraph applies on and after July 1, 2005  
11 to property that is located in the watershed of a body of water most at risk as identified in  
12 the department's storm water rules adopted pursuant to section 420-D and that is subject to  
13 erosion of soil or sediment into a protected natural resource as defined in section 480-B,  
14 subsection 8. This paragraph applies on and after July 1, 2010 to other property that is  
15 subject to erosion of soil or sediment into a protected natural resource as defined in section  
16 480-B, subsection 8.

17 **Sec. 2. 38 MRSA §420-C, 3rd ¶**, as enacted by PL 1995, c. 704, Pt. B, §2 and  
18 affected by Pt. C, §2 and amended by PL 2011, c. 682, §38, is further amended to read:

19 This section applies to a project or any portion of a project located within ~~an organized~~  
20 ~~area of this~~ the State. This section does not apply to agricultural fields. Forest management  
21 activities, including associated road construction or maintenance, conducted in accordance  
22 with applicable standards of the ~~Maine Land Use Planning Commission~~ Department of  
23 Agriculture, Conservation and Forestry, Bureau of Forestry, are deemed to comply with  
24 this section. This section may not be construed to limit a municipality's authority under  
25 home rule to adopt ordinances containing stricter standards than those contained in this  
26 section.

27 **Sec. 3. 38 MRSA §480-R, sub-§2**, as amended by PL 2003, c. 414, Pt. B, §71 and  
28 affected by c. 614, §9, is further amended to read:

29 **2. Enforcement.** In addition to department staff, inland fisheries and wildlife game  
30 wardens, Department of Marine Resources marine patrol officers ~~and~~, all other law  
31 enforcement officers enumerated in Title 12, section 10401 and, pursuant to their delegated  
32 authority, the Maine Land Use Planning Commission and the Department of Agriculture,  
33 Conservation and Forestry, Bureau of Forestry shall enforce the terms of this article.

34 **SUMMARY**

35 This bill amends the laws governing erosion control to extend the requirement for  
36 preventing unreasonable erosion of soil or sediment statewide instead of applying only in  
37 the organized areas of the State. The bill does not extend the application of the retroactive  
38 provisions of the laws regarding erosion because of human activity, which currently apply  
39 only in the organized areas of the State, to the unorganized areas of the State.

40 The bill also clarifies that the Maine Land Use Planning Commission and the  
41 Department of Agriculture, Conservation and Forestry, Bureau of Forestry have  
42 enforcement authority pursuant to their delegated authority under the Natural Resources  
43 Protection Act.