

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Sixth Legislature
1ST SPECIAL SESSION
JANUARY 2, 1974 TO MARCH 29, 1974
AND BY THE
One Hundred and Seventh Legislature
REGULAR SESSION
JANUARY 1, 1975 TO JULY 2, 1975

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH THE REVISED STATUTES OF 1964, TITLE 3,
SECTION 164, SUBSECTION 6.

THE KNOWLTON AND MCLEARY COMPANY
FARMINGTON, MAINE
1975

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Sixth Legislature

AT THE
SPECIAL SESSION

January 2, 1974

to

March 29, 1974

taking part in a decision in which he has an interest shall be recorded with the clerk or secretary of the municipal or county government or the quasi-municipal corporation.

Effective June 28, 1974

CHAPTER 786

AN ACT Relating to the Dredging, Filling or Otherwise Altering of Rivers, Streams and Brooks.

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

Sec. 1. R. S., T. 12, c. 313, sub-c. II, additional. Chapter 313 of Title 12 of the Revised Statutes is amended by adding a new subchapter II to read as follows:

SUBCHAPTER II

ALTERATION OF RIVERS, STREAMS AND BROOKS

§ 2206. Prohibitions

No individual person, firm, corporation, municipality, state agency or other legal entity shall dredge or cause to be dredged, fill or cause to be filled, or erect or cause to be erected a causeway, bridge, marina, wharf, dock or other permanent structure, in, on, over or abutting any river, stream or brook without first obtaining a permit therefor from the commissioner.

§ 2207. Permits; standards

If the applicant for the permit demonstrates to the satisfaction of the commissioner that the proposed activity will not unreasonably interfere with existing recreational and navigational uses; nor cause unreasonable soil erosion; nor unreasonably interfere with the natural flow of any waters; nor unreasonably harm any fish habitat or wildlife habitat; nor lower the quality of any waters, the commissioner shall grant the permit upon such terms as he deems necessary to insure that the proposed activity will comply with the foregoing standards.

In the event the river, stream or brook is utilized by a water company, a municipality or a water district as a source of supply, the applicant for the permit shall at the time of filing an application forward a copy of the application to the water company or water district by certified mail.

§ 2208. Hearings; appeals

In the event that an application for a permit is denied, or that it is granted upon terms objectionable to the applicant, the applicant may, within 30 days of receipt of notice of such decision, file a notice of appeal with the commissioner. The commissioner may then, within 30 days of receipt of such notice

of appeal, provide the applicant with the opportunity for a hearing which shall be before him or his designee, and of which a transcript shall be made. Any person aggrieved by an order or decision of the commissioner following such hearing may, within 30 days of receipt of notice of such decision, appeal therefrom to the Superior Court by filing a notice of appeal stating the points of appeal. Such appeal shall be heard by the court without a jury in the manner and with the rights provided by law in other civil actions so heard. The proceedings shall not be de novo. The court shall receive into evidence true copies of the transcript of the hearing, the exhibits thereto and the decision of the commissioner. The court's review shall be limited to questions of law and to whether the commissioner acted regularly and within the scope of his authority and the commissioner's decision shall be final so long as supported by substantial evidence. The court may affirm, reverse or remand the commissioner's decision for further proceedings. Appeals from all other orders or decisions of the commissioner, unless otherwise specified by statute, shall be taken pursuant to the Maine Rules of Civil Procedure, Rule 80B.

§ 2209. Administration

The commissioner may, pursuant to the Administrative Code and based upon the standards provided in section 2207, adopt, amend and repeal such regulations, establish such hearing procedures and charge such fees as he deems necessary to properly administer this subchapter. Fees collected shall accrue to the department and shall be expended by it for expenses in carrying out its duties prescribed by this subchapter.

§ 2210. Penalties

Any individual person, firm, corporation, municipality, state agency or other legal entity who dredges or causes to be dredged, fills or causes to be filled or erects or causes to be erected any causeway, bridge, marina, wharf, dock or other permanent structure in, on, over or abutting any river, stream or brook without a permit from the commissioner shall be punished by a fine of not less than \$100 nor more than \$200 for each day of such violation.

§ 2211. Injunction; restoration

In the event of the violation of this subchapter, the Attorney General may institute proceedings to enjoin further violations and to compel restoration of the affected area to its condition prior to the occurrence of the violation.

§ 2212. Exemptions

This subchapter shall not apply to river, stream or brook crossings in connection with public works projects which shall alter not more than a total of 100 feet in any mile of shore nor to private crossing or dam projects which shall alter not more than a total 300 feet in any mile of shore. Alterations to both shores of the river, stream or brook shall be combined in arriving at a total shore footage.

This subchapter shall not apply to emergency repairs, maintenance of railroad structures, track, or roadbed within the located right-of-way of any railroad.

Sec. 2. **Application.** Chapter 84 of the Resolves of 1973, relative to authorizing the Town of Bingham to remove sand bars at confluence of Austin Stream and Kennebec River, shall be exempt from the provisions of the Act for the duration of the town's authority.

Effective June 28, 1974

CHAPTER 787

AN ACT Relating to Dams and Reservoirs.

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

Sec. 1. R. S., T. 12, c. 5, additional. Title 12 of the Revised Statutes is amended by adding a new chapter 5 to read as follows:

CHAPTER 5

ABANDONED DAMS

§ 251. Purpose and scope

The Legislature finds that the owners of many presently existing dams in the State of Maine are unknown or that the ownership of such dams is so diffuse as to make it extremely difficult to determine the ownership; that such dams are now or may become in such a state of disrepair as to present a danger to human life, private and public property, including the public resources of wildlife, fisheries, waters and water uses and otherwise to the public's health, safety and general welfare, that there are persons who are willing to take over ownership of such dams and to maintain, repair or remove them to the best interests of both private property owners and the public.

§ 252. Definitions

As used in this chapter, unless the context indicates otherwise, the following words shall have the following meanings:

1. **Commission.** "Commission" means the Soil and Water Conservation Commission.

2. **Dam.** "Dam" means any artificial barrier, including appurtenant works, which impounds or diverts water, and which

A. Is 2 feet or more in height from the natural bed of the stream or watercourse measured at the downstream toe of the barrier, or from the lowest elevation of the outside limit of the barrier, if it is not across a stream channel or a watercourse, to the maximum capable water storage elevation, or

B. Has an impounding capacity at maximum water storage elevation of 15-acre feet or more.