

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Twin City Printery
Lewiston, Maine
1988

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
and
SECOND REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 28, 1988.

CHAPTER 808

H.P. 1683 — L.D. 2312

AN ACT to Amend the Sentencing Provisions of the Maine Criminal Code.

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

Sec. 1. 17-A MRSA §1252, sub-§2, ¶A, as enacted by PL 1975, c. 499, §1, is amended to read:

A. In the case of a Class A crime, the court shall set a definite period not to exceed ~~20~~ 40 years;

Sec. 2. 17-A MRSA §1252-B is enacted to read:

§1252-B. Imposition of sentence; court consideration of good time

If a court imposes a sentencing alternative pursuant to section 1152 which includes a term of imprisonment, in setting the appropriate length of that term, as well as any unsuspended portion of that term, if any, the court shall consider the potential impact of deductions for good time along with all other appropriate factors.

Sec. 3. Effective date. Section 1 of this Act shall become effective on July 1, 1989.

Effective August 4, 1988, unless otherwise indicated.

CHAPTER 809

H.P. 1687 — L.D. 2316

AN ACT to Consolidate State Land Use Statutes into the Natural Resources Protection Act.

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

Sec. 1. 38 M RSA c. 3, sub-c. I, Arts. 1-A, 1-C, 2-A and 5, as amended, are repealed.

Sec. 2. 38 M RSA c. 3, sub-c. I, Art. 5-A is enacted to read:

ARTICLE 5-A

PROTECTION OF NATURAL RESOURCES

§480-A. Findings; purpose

The Legislature finds and declares that the State's rivers and streams, great ponds, fragile mountain areas, freshwater wetlands, significant wildlife habitat, coastal wetlands and coastal sand dunes systems are resources of state significance. These resources have great scenic beauty and unique characteristics, unsurpassed recreational, cultural, historical and environmental value of present and future benefit to the citizens of the State and that uses are causing the rapid degradation and, in some cases, the destruction of these critical resources, producing significant adverse economic and environmental impacts and threatening the health, safety and general welfare of the citizens of the State.

The Legislature further finds and declares that there is a need to facilitate research, develop management programs and establish sound environmental standards that will prevent the degradation of and encourage the enhancement of these resources. It is the intention of the Legislature that existing programs related to Maine's rivers and streams, great ponds, fragile mountain areas, freshwater wetlands, significant wildlife habitat, coastal wetlands and sand dunes systems continue and that the Department of Environmental Protection provide coordination and vigorous leadership to develop programs to achieve the purposes of this article. The well-being of the citizens of this State requires the development and maintenance of an efficient system of administering this article to minimize delays and difficulties in evaluating alterations of these resource areas.

The Legislature further finds and declares that the cumulative effect of frequent minor alterations and occasional major alterations of these resources poses a substantial threat to the environment and economy of the State and its quality of life.

§480-B. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

1. Coastal sand dune systems. "Coastal sand dune systems" means sand deposits within a marine beach system, including, but not limited to, beach berms, frontal dunes, dune ridges, back dunes and other sand areas deposited by wave or wind action. Coastal sand dunes may extend into the coastal wetlands.

2. Coastal wetlands. "Coastal wetlands" means all tidal and subtidal lands, including all areas below any identifiable debris line left by tidal action; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action or annual storm flowage at any time excepting periods of maximum storm activity. Coastal wetlands may include portions of coastal sand dunes.

3. Fragile mountain areas. "Fragile mountain

areas” means areas above 2,700 feet in elevation from mean sea level.

4. Freshwater wetlands. “Freshwater wetlands” means freshwater swamps, marshes, bogs and similar areas which are:

- A. Of 10 or more contiguous acres;
- B. Characterized predominantly by wetland vegetation; and
- C. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small inclusions of land that do not conform to the criteria of this subsection.

5. Great ponds. “Great ponds” means any inland bodies of water which in a natural state have a surface area in excess of 10 acres and any inland bodies of water artificially formed or increased which have a surface area in excess of 30 acres.

6. Normal high water line. “Normal high water line” means that line along the shore of a great pond, river, stream, brook or other nontidal body of water which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or from changes in vegetation and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of great ponds, all land below the normal high water line shall be considered the bottom of the great pond for the purposes of this article.

7. Permanent structure. “Permanent structure” means any structure constructed or erected with a fixed location, or attached to a structure with a fixed location, on or in the ground within a fragile mountain area, or having a fixed location in, on or over the water for a period exceeding 7 months each year, including, but not limited to, causeways, piers, docks, concrete slabs, piles, marinas, retaining walls and buildings.

8. Protected natural resource. “Protected natural resource” means coastal sand dune system, coastal wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, great ponds or rivers, streams or brooks, as these terms are defined in this article.

9. River, stream or brook. “River, stream or brook” means a channel between defined banks including the floodway and associated flood plain wetlands where the channel is created by the action of the surface water and characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of top soil containing water-borne deposits on exposed soil, parent material or bedrock.

10. Significant wildlife habitat. “Significant wildlife habitat” means the following areas to the extent that they have been mapped by the Department of Inland Fisher-

ies and Wildlife: Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.

§480-C. Prohibitions

1. Prohibition. No person may perform or cause to be performed any activity listed in subsection 2 without first obtaining a permit from the Board of Environmental Protection or in violation of the conditions of a permit, if these activities:

- A. Are in, on or over any protected natural resource; or
- B. Are on land adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operate in such a manner that material or soil may be washed into them.

2. Activities requiring a permit. The following activities require a permit:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction, repair or alteration of any permanent structure.

3. Application. This section applies to all protected natural resources without regard to whether they have been mapped pursuant to section 480-I, except that significant wildlife habitat must be mapped before this section applies.

§480-D. Standards

The Board of Environmental Protection shall grant a permit upon proper application and upon such terms as it deems necessary to fulfill the purposes of this article. The board shall grant a permit when it finds that the applicant has demonstrated that the proposed activity meets the following standards.

1. Existing uses. The activity will not unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses.

2. Soil erosion. The activity will not cause unreasonable erosion of soil or sediment nor inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

3. Harm to habitats; fisheries. The activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, aquatic habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

In determining whether there is unreasonable harm to significant wildlife habitat, the board may consider proposed mitigation if that mitigation does not diminish in the vicinity of the proposed activity the overall value of significant wildlife habitat and species utilization of the habitat and if there is no specific biological or physical feature unique to the habitat that would be adversely affected by the proposed activity. For purposes of this subsection, "mitigation" means any action taken or not taken to avoid, minimize, rectify, reduce, eliminate or compensate for any actual or potential adverse impact on the significant wildlife habitat, including the following:

A. Avoiding an impact altogether by not taking a certain action or parts of an action;

B. Minimizing an impact by limiting the magnitude, duration or location of an activity or by controlling the timing of an activity;

C. Rectifying an impact by repairing, rehabilitating or restoring the affected environment;

D. Reducing or eliminating an impact over time through preservation and maintenance operations during the life of the project; or

E. Compensating for an impact by replacing the affected significant wildlife habitat.

4. Interfere with natural water flow. The activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.

5. Lower water quality. The activity will not violate any state water quality law, including those governing the classification of the State's waters.

6. Flooding. The activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.

7. Sand supply. If the activity is on or adjacent to a sand dune, it will not unreasonably interfere with the natural supply or movement of sand within or to the sand dune system or unreasonably increase the erosion hazard to the sand dune system.

8. Outstanding river segments. If the proposed activity is a crossing of any outstanding river segment as identified in section 480-P, the applicant shall demon-

strate that no reasonable alternative exists which would have less adverse effect upon the natural and recreational features of the river segment.

§480-E. Permits; grants; denials; suspensions

The department shall process all permits under this article in accordance with chapter 2.

The board shall not issue a permit without notifying the municipality in which the proposed activity is to occur and considering any comments filed by the municipality within a reasonable period as established by the board.

If the resource subject to alteration or the underlying ground water is utilized by a water company, municipality or 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, municipality or water district by certified mail and the board shall consider any comments filed within a reasonable period, as established by the board.

When winter conditions prevent the board or municipality from evaluating a permit application, the board or municipality, upon notifying the applicant of that fact, may defer action on the application for a reasonable period. The applicant shall not during the period of deferral alter the resource area in question.

§480-F. Delegation of permit-granting authority to municipality; home rule

1. Delegation. All permits shall be issued by the Board of Environmental Protection, subject to delegation to the commissioner as provided by law, except that a municipality may apply to the board for authority to issue such permits. The board shall grant such authority if it finds that the municipality has:

A. Established a planning board;

B. Adopted a comprehensive plan and related land use ordinances consistent with the criteria set forth in Title 30, subchapter VI;

C. The financial, technical and legal resources to adequately review and analyze permit applications and oversee and enforce permit requirements;

D. Made provision by ordinance or rule for prompt notice to the board and the public upon receipt of application and written notification to the applicant and the board of the issuance or denial of a permit stating the reasons for issuance or denial; and

E. Provided that the application form is the same as that provided by the Board of Environmental Protection.

2. Procedure. No permit issued by a municipality

may become effective until 30 days subsequent to its receipt by the board, but, if approved by the board in less than 30 days, the effective date shall be the date of approval. A copy of the application for the permit and the permit issued by the municipality shall be sent to the board immediately upon its issuance by registered mail. The board shall review that permit and either approve, deny or modify it as the board deems necessary. If the board does not act within 30 days of its receipt of the permit by the municipality, this shall constitute its approval and the permit shall be effective as issued, except that within this 30-day period the board may extend the time for its review an additional 30 days.

3. Home rule. Nothing in this article may be understood or interpreted to limit the home rule authority of a municipality to protect the natural resources of the municipality through enactment of standards that are more stringent than those found in this article.

4. Joint enforcement. Any person who violates any permit issued under this section is subject to the provisions of section 349 in addition to any penalties which the municipality may impose. The provisions of this section may be enforced by the department and the municipality which issued the permit.

§480-G. Periodic review of delegated authority

If the board finds that a municipality has failed to satisfy one or more of the criteria listed in section 480-F, the board shall notify the municipality accordingly and make recommendations through which it may establish compliance. The municipality may then submit a modified application for approval.

If, at any time, the board determines that a municipality may be failing to exercise its permit-granting authority in accordance with its approval procedures or the purposes of this article, the board shall notify the municipality of the specific alleged deficiencies and shall order a public hearing of which adequate public notice shall be given to be held in the municipality to solicit public or official comment on the alleged deficiencies. Following the hearing, if the board finds such deficiencies, the board shall revoke the municipality's permit-granting authority. The municipality may reapply for authority at any time.

§480-H. Rules; performance and use standards

In fulfilling its responsibilities to adopt rules pursuant to section 343-A, the board shall, to the extent practicable, adopt performance and use standards for activities regulated by this article.

§480-I. Identification of freshwater wetlands and fragile mountain areas

1. Identification by maps. The department shall map areas meeting the definition of freshwater wetlands and fragile mountain areas set forth in this article and

shall periodically review and revise the maps identifying these areas. Maps of significant wildlife habitats shall be adopted by rule pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, to the extent that those habitats are identified by the Department of Inland Fisheries and Wildlife.

2. Procedures. The maps and subsequent amendments identifying freshwater wetlands, significant wildlife habitat and fragile mountain areas shall be subject to the following procedures.

A. Preliminary maps of the affected area or amendments of a map shall be sent to the municipal officers or their designees.

B. Upon receipt of the proposed maps, the municipal officers of each municipality shall take any action they deem appropriate to increase public participation in this identification and delineation, but shall return their comments to the department within a 90-day period.

§480-J. Maps

Maps delineating the boundaries of freshwater wetlands, significant wildlife habitat and fragile mountain areas that meet the criteria of this article shall be available at the offices of the municipality and of the regional council in which the resources are located.

§480-K. Data bank

The Department of Environmental Protection shall maintain, in cooperation with other state agencies, a data bank containing all the known information pertaining to all resources of state significance, as enumerated in this article, within the State. All governmental agencies, state or federal, shall make available to the department such information in their possession relating to these resources.

§480-L. Research

The Department of Environmental Protection, in cooperation with other state agencies, is authorized to conduct research and studies to determine how the resource values of resources of state significance can be restored and enhanced.

§480-M. Funds

The Department of Environmental Protection is the public agency of the State authorized to accept funds, public and private, for the purposes of this article.

§480-N. Lake Restoration and Protection Fund

1. Fund purposes and administration. There is established a nonlapsing Lake Restoration and Protection Fund, from which the department may pay up to 50% of the eligible costs incurred in a lake restoration or pro-

tection project. Eligible costs include all costs except those related to land acquisition, legal fees and debt service. All money credited to that fund shall be used by the department for projects to improve or maintain the quality of lake waters in the State and for no other purpose. The Commissioner of Environmental Protection may authorize the State Controller to draw a warrant for such funds as may be necessary to pay the lawful expenses of the lake restoration or protection project, up to the limits of the money duly authorized. Any balance remaining in the fund shall continue without lapse from year to year and remain available for the purpose for which the fund is established and for no other purpose.

2. Money. Money in the Lake Restoration and Protection Fund may not be used for projects in or on lakes for which public access is not provided.

§480-O. Bulkheads and retaining walls on Scarborough River; permit requirements

Nothing in this article prohibits the rebuilding, replacement or new construction of a bulkhead, retaining wall or similar structure, provided that the applicant for a permit demonstrates to the board or municipality, as appropriate, that the following conditions are met.

1. Location. The bulkhead or similar structure to be constructed, rebuilt or replaced is located along some or all of the north-northeasterly property lines of land abutting the Scarborough River from the jetty to the Scarborough town landing.

2. Termination. The terminus of any bulkhead or similar structure, including any wing wall, unless connected to another bulkhead or similar structure, shall terminate at least 25 feet from any abutting property.

Any permit issued under this section for a bulkhead or similar structure which is not connected at both ends to another bulkhead or similar structure shall be subject to only the standard conditions applicable to all permits granted under this article as well as the following conditions. The permit applicant or applicants shall be responsible for reasonably maintaining the bulkhead or similar structure and for repairing damage to the frontal sand dune which occurs between the end of the bulkhead or similar structure and the Scarborough town landing and which is caused by the existence of the bulkhead or similar structure. The applicant or applicants shall submit a report prepared by a state-certified geologist to the commissioner every 2nd year following issuance of the permit or until such time as the commissioner deems the report need not be filed or may be filed at longer intervals. The report shall describe the status of the frontal sand dune between the end of the bulkhead or similar structure and the Scarborough town landing and contain whatever recommendations the geologist determines are reasonably required to maintain the frontal sand dune in that area. The applicant or applicants shall follow the recommendations.

§480-P. Special protection for outstanding river segments

In accordance with Title 12, section 402, outstanding river segments shall include:

1. Aroostook River. The Aroostook River from the Canadian border to the Masardis and T.10, R.6, W.E.L.S. town line, excluding the segment in T.9, R.5, W.E.L.S., including its tributaries the Big Machias River from the Aroostook River to the Ashland and Garfield Plantation town line and the St. Croix Stream from the Aroostook River in Masardis to the Masardis and T.9, R.5, W.E.L.S. town line;

2. Carrabassett River. The Carrabassett River from the Kennebec River to the Carrabassett Valley and Mt. Abram Township town line;

3. Crooked River. The Crooked River, including the Songo River, from its inlet into Sebago Lake in Casco to the Waterford and Albany Township town lines;

4. Dennys River. The Dennys River from the railroad bridge in Dennysville Station to the outlet of Meddybemps Lake, excluding the western shore in Edmunds Township and No. 14 Plantation;

5. East Machias River. The East Machias River, including the Maine River, from the old powerhouse in East Machias to the East Machias and T.18, E.D., B.P.P. town line, from the T. 19, E.D., B.P.P. and Wesley town line to the outlet of Crawford Lake and from the No. 21 Plantation and Alexander town line to the outlet of Pocomoonshine Lake, excluding Hadley Lake, Lower Mud Pond and Upper Mud Pond;

6. Fish River. The Fish River from the bridge in Fort Kent Mills to the Fort Kent and Wallagrass Plantation town line, from the T.16, R.6, W.E.L.S. and Eagle Lake town line to the Eagle Lake and Winterville Plantation town line and from the T.14, R.6, W.E.L.S. and Portage Lake town line to the Portage Lake and T.13, R.7, W.E.L.S. town line, excluding Portage Lake;

7. Kennebago River. The Kennebago River from its inlet into Cupsuptic Lake to the Rangeley and Lower Cupsuptic Township town line;

8. Kennebec River. The Kennebec River from the Route 148 bridge in Madison to the Caratunk and The Forks Plantation town line, excluding the western shore in Concord Township, Pleasant Ridge Plantation and Carrying Place Township and excluding Wyman Lake;

9. Machias River. The Machias River from the Route 1 bridge to the Northfield and T.19, M.D., B.P.P. town line, including its tributaries the Old Stream from the Machias River to the northern most crossing of the Wesley and T.31, M.D., B.P.P. town line, excluding the segments in T.25, M.D., B.P.P. and T.31, M.D., B.P.P.;

10. Mattawamkeag River. The Mattawamkeag River from the Penobscot River to the Mattawamkeag and Kingman Township town line and from the Reed Plantation and Bancroft town line to the East Branch, including its tributaries the West Branch from the Mattawamkeag River to the Haynesville and T.3, R.3, W.E.L.S. town line and from its inlet into Upper Mattawamkeag Lake in Island Falls to the Hersey and Moro Plantation town line; the East Branch from the Mattawamkeag River to the Haynesville and Forkstown Township town line and from the T.4, R.3, W.E.L.S. and Oakfield town line to the Smyrna and Dudley Township town line; the Fish Stream from the West Branch of the Mattawamkeag River to the Crystal and Patten town line; the Molunkus Stream from the Silver Ridge Township and Benedicta town line to the East Branch Molunkus Stream; the Macwahoc Stream from the Silver Ridge Township and Sherman town line to the outlet of Macwahoc Lake; and the Baskehegan Stream from the Mattawamkeag River to the Danforth and Brookton Township town line, and from the Brookton Township and Topsfield town line to the Topsfield and Kossuth Township town line, excluding Baskehegan Lake and Crooked Brook Flowage;

11. Narraguagus River. The Narraguagus River from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township town line, excluding Beddington Lake;

12. Penobscot River. The Penobscot River from the Bangor Dam in Bangor to the Veazie Dam and its tributary the East Branch of the Penobscot from the Penobscot River to the East Millinocket and Grindstone Township town line;

13. Piscataquis River. The Piscataquis River from the Penobscot River to the Monson and Blanchard Plantation town line, including its tributaries the East and West Branches of the Piscataquis River from the Blanchard Plantation and Shirley town line to the Shirley and Little Squaw Township town line; the Seboeis Stream from its confluence with the Piscataquis River in Howland to the Howland and Mattamiscontis Township town line and from the Mattamiscontis and Maxfield town line to the Maxfield and Seboeis Plantation town line, excluding Shirley Pond and West Shirley Bog;

14. Pleasant River. The Pleasant River from the dam in Columbia Falls, formerly the Hathaway Dam, to the Columbia and T.18, M.D., B.P.P. town line and from the T.24, M.D., B.P.P. and Beddington town line to the outlet of Pleasant River Lake in Beddington;

15. Rapid River. The Rapid River from the Magalloway Plantation and Upton town line to the outlet of Pond in the River;

16. Saco River. The Saco River from the Little Osipee River to the New Hampshire border;

17. St. Croix River. The St. Croix River from the

cotton mill dam in Milltown to the Calais and Baring Plantation town line, from the Baring Plantation and Baileyville town line to the Baileyville and Fowler Township town line and from the Lambert Lake Township and Vanceboro town line to the outlet of Spednik Lake, excluding Woodland Lake and Grand Falls Flowage;

18. St. George River. The St. George River from the Route 90 bridge in Warren to the outlet of Lake St. George in Liberty, excluding White Oak Pond, Seven Tree Pond, Round Pond, Sennebec Pond, Trues Pond, Stevens Pond and Little Pond;

19. St. John River. The St. John River from the Hamlin Plantation and Van Buren town line to the Fort Kent and St. John Plantation town line and from the St. John Plantation and St. Francis town line to the Allagash and St. Francis town line;

20. Sandy River. The Sandy River from the Kennebec River to the Madrid and Township E town line;

21. Sheepscot River. The Sheepscot River from the Head Tide Dam in Alna to the Halldale Road in Montville, excluding Long Pond and Sheepscot Pond, including its tributary the West Branch of the Sheepscot River from its confluence with the Sheepscot River in Whitefield to the outlet of Branch Pond in China;

22. West Branch Pleasant River. The West Branch Pleasant River from the East Branch to the Brownville and Williamsburg Township town line; and

23. West Branch Union River. The West Branch Union River from the Route 181 bridge in Mariaville to the outlet of Great Pond in the Town of Great Pond.

§480-Q. Activities for which a permit is not required

A permit is not required for the following activities if the activity takes place solely in the area specified below:

1. Water lines and utility cables. In an area which affects a great pond, the placement of water lines to serve a single-family house or the installation of cables for utilities, such as telephone and power cables, provided that the:

A. Excavated trench for access to the water is back-filled and riprapped to prevent erosion;

B. Excavated trench on the landward side of the riprapped area is seeded and mulched to prevent erosion; and

C. Bureau of Public Lands has approved the placement of the cable across the bottom of the great pond to the extent that it has jurisdiction;

2. Maintenance and repair. Maintenance and minor repair of structures in fragile mountain areas, or to struc-

tures above the high water line causing no additional intrusion of an existing structure into the great pond, river, stream or brook, wetland or sand dune;

3. Peat mining. Alteration of a freshwater wetland for the purpose of exploring for or mining peat, subject to article 6, where applicable;

4. Interstate pipelines. Alteration of freshwater wetlands associated with the construction, operation, maintenance or repair of an interstate pipeline, subject to article 6, where applicable;

5. Gold panning. Notwithstanding section 480-C, a permit shall not be required for panning gold, provided that stream banks are not disturbed and no unlicensed discharge is created;

6. Agricultural activities. Draining a freshwater wetland for the purpose of growing agricultural products is exempt from the provisions of this article. This exemption applies only as long as the land is being used for growing agricultural products;

7. Forestry. Alteration of a freshwater wetland associated with normal forestry management and harvesting activities is exempt from the provisions of this article. The determination of what constitutes normal forestry management and harvesting activities shall be made by the Maine Land Use Regulation Commission regardless of whether the freshwater wetland is located within the jurisdiction of the commission and according to standards adopted by the commission. For purposes of this subsection, "normal forestry management and harvesting activities" means those activities which meet the forestry standards of the Maine Land Use Regulation Commission; and

8. Hydropower projects. Hydropower projects are exempt from the provisions of this article to the extent provided in section 634. Alteration of a freshwater wetland associated with the operation of a hydropower project, as defined in section 632, is exempt from the provisions of this article, but is subject to chapter 5, article 1, subarticle 1-B, where applicable.

§480-R. Violations; enforcement

1. Violations. A violation is any activity which takes place contrary to the provisions of a valid permit issued under this article or without a permit having been issued for that activity. Each day of a violation shall be considered a separate offense. A finding that any such violation has occurred shall be prima facie evidence that the activity was performed or caused to be performed by the owner of the property where the violation occurred.

2. Enforcement. Inland fisheries and wildlife game wardens, Department of Marine Resources marine patrol officers and all other law enforcement officers enumerated in Title 12, section 7055, shall enforce the terms of this article.

§480-S. Fee for significant wildlife habitat review

The department shall establish procedures to charge applicants for costs incurred in reviewing license and permit applications regarding significant wildlife habitats in the same manner as provided for other fees in section 352. The maximum fees are \$150 for processing and \$50 for a license. All fees shall be credited to the Maine Environmental Protection Fund established in section 351.

Sec. 3. Transition. Applications pending on the effective date of this Act which were determined by the department to be complete by March 31, 1988, shall be governed by the law in effect on March 31, 1988. Notwithstanding the Maine Revised Statutes, Title 1, section 302, this Act applies to any application pending on the effective date of this Act which was not determined to be complete by March 31, 1988, and to any application filed after the effective date of this Act.

Sec. 4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1988-89
<u>CONSERVATION, DEPARTMENT OF</u>	
Maine Land Use Regulation Commission	
All Other	\$5,000
Provides funds for contractual services to handle the additional workload for the proposed review of forestry practices.	

Sec. 5. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1988-89
<u>ENVIRONMENTAL PROTECTION, DEPARTMENT OF</u>	
Maine Environmental Protection Fund	
Positions	(2)
Personal Services	\$49,596
All Other	4,000
Capital Expenditures	1,256
Total	<u>\$54,852</u>
Provides funds for 2 Environmental Specialist II positions and general operating expenses to carry out the licensing and enforcement functions of the proposed review of significant wildlife habitat.	

Effective August 4, 1988.

CHAPTER 810