

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 5, 2000 to May 12, 2000**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 11, 2000**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2000**

the definitions of "exceptional student" and "preschool handicapped child" in the Maine Revised Statutes, Title 20-A, section 7001. The department shall issue an interim report on the status of its study to the joint standing committee of the Legislature having jurisdiction over education matters no later than March 1, 2001. The department shall issue its final report, including findings and recommendations, to the joint standing committee of the Legislature having jurisdiction over education matters no later than February 1, 2002. The committee may introduce legislation concerning the use of emotional, behavioral and developmental delay categories in the identification of exceptional students and preschool handicapped children to the Second Regular Session of the 120th Legislature.

**Sec. 4. Retroactivity.** Those sections of this Act that enact the Maine Revised Statutes, Title 20-A, section 7001, subsection 2, paragraph C, subparagraph 6-A and subsection 4, paragraph C, subparagraph 6-A take effect retroactively to June 30, 2000.

See title page for effective date.

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## CHAPTER 722

H.P. 1843 - L.D. 2581

### An Act to Prevent the Spread of Invasive Aquatic Plants

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** invasive aquatic plants present an imminent threat to state waters; and

**Whereas,** it is important to prevent the transport of invasive aquatic plants into the State on boats and trailers because eradication is nearly impossible once an infestation occurs; and

**Whereas,** the summer boating season will begin prior to 90 days after adjournment; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 38 MRSA §410-N** is enacted to read:

**§410-N. Aquatic nuisance species control**

**1. Definitions.** As used in this section and section 419-C, unless the context otherwise indicates, the following terms have the following meanings.

**A. "Aquatic plant"** means a vascular plant species that requires a permanently flooded freshwater habitat.

**B. "Invasive aquatic plant"** means a species identified by the department through rulemaking as an invasive aquatic plant or one of the following species:

(1) Eurasian water milfoil, *Myriophyllum spicatum*;

(2) Variable-leaf water milfoil, *Myriophyllum heterophyllum*;

(3) Parrot feather, *Myriophyllum aquaticum*;

(4) Water chestnut, *Trapa natans*;

(5) Hydrilla, *Hydrilla verticillata*;

(6) Fanwort, *Cabomba caroliniana*;

(7) Curly pondweed, *Potamogeton crispus*;

(8) European naiad, *Najas minor*;

(9) Brazilian elodea, *Egeria densa*;

(10) Frogbit, *Hydrocharis morsus-ranae*; and

(11) Yellow floating heart, *Nymphoides peltata*.

Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**2. Education.** The department shall prepare educational materials that inform the public about problems associated with invasive aquatic plants, how to identify invasive aquatic plants, why it is important to prevent the transportation of aquatic plants and the prohibitions relating to aquatic plants contained in section 419-C. The department shall make the materials available to municipalities, lake associations, water quality monitors, law enforcement agents, businesses that sell aquatic plants in the State and other interested individuals.

A. The department shall provide signs for installation at all state boat launch facilities on fresh waters informing the public about the prohibition of aquatic plant transportation on boats and trailers and may provide these signs, as available funds allow, for installation at other boat launch

sites including municipal boat launch facilities, campground boat launch facilities and other commonly used launch sites.

B. The department shall work with the Department of Transportation and the Maine Turnpike Authority to provide signs and educational materials on all major roads at the State's borders advising incoming boat owners that state law requires all boats and trailers to be free of aquatic plant material.

**3. Control.** The department shall investigate and document the occurrence of invasive aquatic plants in state waters and may undertake activities to control invasive aquatic plant populations as follows.

A. The department or a person designated by the department may attempt eradication of an invasive aquatic plant from a water body if determined feasible by the department. If the commissioner determines that eradication activities must be undertaken immediately, a license is not required under section 413 or section 480-C for the use of a physical, chemical or biological control material by the department or a person designated by the department if the use of the control material is specifically related to the immediate eradication of invasive aquatic plant populations in the water body. Prior to undertaking an eradication activity and to the extent practical, the department shall notify landowners whose property is adjacent to the area where the activity will be undertaken.

B. The department may conduct research to test new control methods for the eradication of invasive aquatic plants pursuant to section 362-A.

**Sec. 2. 38 MRSA §419-C** is enacted to read:

**§419-C. Prevention of the spread of invasive aquatic plants**

**1. Prohibition.** A person may not:

A. Transport any aquatic plant or parts of any aquatic plant, including roots, rhizomes, stems, leaves or seeds, on the outside of a vehicle, boat, personal watercraft, boat trailer or other equipment on a public road;

B. Possess, import, cultivate, transport or distribute any invasive aquatic plant or parts of any invasive aquatic plant, including roots, rhizomes, stems, leaves or seeds, in a manner that could cause the plant to get into any state waters; or

C. After September 1, 2000, sell or offer for sale in this State any invasive aquatic plant.

**2. Penalty.** A person who intentionally violates this section commits a civil violation for which a warning may be issued for the first violation, a forfeiture not to exceed \$50 may be adjudged for the 2nd violation and a forfeiture not to exceed \$500 may be adjudged for a subsequent violation.

**Sec. 3. Report; invasive aquatic species control.** The Department of Environmental Protection and the Department of Inland Fisheries and Wildlife shall jointly submit a report on invasive aquatic species control, including recommendations and implementing legislation, to the joint standing committees of the Legislature having jurisdiction over natural resources matters and inland fisheries matters by January 15, 2001. The report must address at least the following:

1. Identification of other biological threats to the State's waters including invasive animal species that may become a nuisance;

2. Further education, awareness and prevention efforts needed to stop the introduction and spread of invasive species;

3. Methods to control the spread of invasive species should any become established in the State, including quarantine authority;

4. Enforcement of the prohibitions in the Maine Revised Statutes, Title 38, section 419-C;

5. The status of cooperation from other state agencies in educating the public about invasive aquatic species; and

6. Recommendations for necessary funding to support the prevention and control of invasive aquatic species.

In preparing the report, the departments shall consult with interested parties, including representatives of the following: the Maine Volunteer Lake Monitoring Program, lake associations, lakeshore owners, boat owners, sporting interests, business interests, marina owners, campground owners, environmental organizations, other state or federal agencies and interested agencies in neighboring states and provinces. The joint standing committee of the Legislature having jurisdiction over natural resources matters is authorized to report out a bill concerning invasive aquatic species control to the First Regular Session of the 120th Legislature.

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

Effective April 14, 2000.