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STATE OF MAINE
113TH LEGISLATURE
SECOND REGULAR SESSION

Organization, Staffing and
Funding for Coastal Law
Enforcement and Search & Rescue

A Report of the Commission
on Coastal Search & Rescue

November 1988

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Legislative Background

The study reported herein was an outgrowth of LD 2231 'AN ACT Expanding the Role of the Bureau of Marine Patrol' which was introduced in the Senate, February 10, 1988 with Sen. Tuttle as sponsor and Representatives Mitchell and Look and Senator Cahill as co-sponsors and became P.L. 1987, ch. 814. The original bill required the Bureau of Marine Patrol to provide search and rescue service. The bill authorized 3 additional marine patrol, officers, to be funded by reducing the Boating Facilities Funds share of the gas tax paid by boat users from 80% to 50% and allocating the resulting funds to the Bureau of Marine Patrol.

Committee Amendment A (S-367) changed the title of the bill to 'AN ACT Relating to Coastal Search and Rescue Responsibilities and Creating the Study Commission on Search and Rescue'. This amendment authorized, but did not require, the Bureau to conduct search and rescue activities and it set up the study commission whose findings are the subject of this report. The duties of this Commission can be summarized as addressing the following issues:

- A. The need within the Bureau of Marine Patrol for new positions and additional equipment that can be utilized in search and rescue operations.
- B. The need for establishing a catalogue of identifiable onshore landmarks to serve as points of reference for search and rescue operations.
- C. The accurateness of the percentage of fuel tax revenue which is currently attributed to watercraft in determining the allocation to boating-interested agencies and the correctness of the current apportionment of the revenue between the two state agencies involved.

The Commission was to make its report by January 15, 1989. Senate amendment A (S-535) changed the Commission reporting date to December 1, 1988.

Those reading this study should also be aware of 2 related studies in progress which relate to the issues in this report. LD 2446, March 4, 1988, was a resolve to establish the Special Commission on Boating. This Commission was to study boating safety issues including possible changes in the boating laws and provisions for their additional enforcement. The Coastal Search and Rescue Commission has worked closely with this Commission on Boating. The latter's reporting date is January 31, 1989. In addition, all Search and Rescue Commission meetings were attended by John Fetterman of the Bureau of Marine Patrol who is a member of the Commission which is

revising the Air Search and Rescue plan. The Search and Rescue Commission also had both a member of the Bureau of Aeronautics and of the Emergency Management Agency as invited speakers so as to further the communication with the air search planning activities.

Method

The Commission conducted its activities from August to October 1988. All took place in Augusta except a tour of Casco Bay. The first meeting was an organizational meeting and included presentations by several Commission members. There were then two meetings to hear from invited witnesses, a meeting which consisted of several invited witnesses and the development of conclusions and recommendations, and a final meeting to present those recommendations to the Commission on Boating. A list of witnesses heard by the Commission is included in the appendix. As of October 28, 1988 the Commission had spent \$715 of the \$1,320 in personal service funds allocated to it.

Executive Summary

This section will summarize the recommendations of the Commission. Support for these recommendations may be found in the body of the report.

I. Authority and Responsibility

The Department of Marine Resources is to have authority and responsibility search and rescue in coastal waters, within the limits of any superseding federal authority.

II. Coordination

The Department of Marine Resources is to designate one or more persons to perform the following functions:

- A. Coordinate search and rescue within the Department
- B. Coordinate search and rescue with other agencies, whether coastal or land
- C. Encourage and assist in the establishment of private search and rescue groups along the coast and provide them with administrative and training assistance.

III. Personnel and Equipment

The Department of Marine Resources is to be authorized to add the equivalent of 15 full time staff plus required boats and other support equipment to enforce boating laws and conduct search and rescue.

IV. Funding

Funding for the additional staffing vehicles specified in Section III is to come from the general fund. Should it prove necessary, the sales tax on boat purchases may be raised to help support this additional staffing. Funding for additional boats is to come from an increase in the boat registration fee. The biennial cost is estimated at \$1.6 mm.

The needs of the Department of Transportation and the Boating Facilities Fund are such that a transfer of funds from those agencies through adjustments to the apportionment of the gasoline tax does not seem warranted.

V. Planning

The Maine Emergency Management Agency is to develop a statewide search and rescue plan, encompassing all areas and means of search. The Agency is to seek advice and recommendations from all currently designated federal and state search and rescue organizations and is to submit the final plan for their approval. The Agency has indicated that they can create this plan without requiring additional funding.

VI. Catalog of Landmarks

The Commission has determined that at this time such a catalog is not necessary.

VII. Other Recommendations

- A. Should the recent federal grant for that purpose prove non-renewable, the Department of Marine Resources shall make a recommendation as to how the Maine Maritime Academy's Cold Water Survival Course might be made available in communities along the coast.
- B. The Bureau of Parks and Recreation, utilizing its Boating Facilities Fund, is to conduct periodic reviews of the amount of gasoline and diesel fuel tax revenue which is due to commercial and pleasure boat usage.
- C. The State Auditor is to include the Boating Safety Fund in his FY '88 audit to determine compliance with federal guidelines.
- D. The Emergency Management Agency is to make a request to the federal government that a helicopter facility be established in Maine which will include a night rescue capability.

Search and Rescue Background

I. Search and Rescue in Maine

Prior to this year the Department of Marine Resources, and specifically the Bureau of Marine Patrol, had no official authority to conduct search and rescue activities. On a national basis search and rescue in coastal waters is primarily the responsibility of the Coast Guard and this agency has traditionally implemented this responsibility itself, rather than delegating it. However, the Bureau of Marine Patrol by its mere presence obviously has always been involved in search and rescue activities. Within the State, Inland Fisheries and Wildlife has generally been seen as the lead agency for search and rescue, although there is nothing in the law to this effect. That agency and others have generally called on the Bureau of Marine Patrol when needed and in doing so appearing to authorize them to conduct search and rescue activities.

II. Search and Rescue Agencies

A. Bureau of Marine Patrol

The prime mission of the Bureau of Marine Patrol is to enforce laws pertaining to marine resources and marine boating activities. It is the only governmental agency which recovers salt water drowning victims. The Bureau currently has a staff of 47, of whom 32 are on-line patrol officers. There are field officers at South Portland, Rockland and Lamoine each staffed by a Bureau lieutenant.

Individual patrol officers work out of their homes and have close access to a fair weather patrol boat (14'-24') for their own use. In addition to each officer's patrol boat, the Bureau has 2 patrol vessels over 40', one 35' vessel and two 25' vessels. The 3 larger vessels are all weather and the 2 smaller ones are capable of function in moderate weather. These vessels are stationed strategically along the coast. Lastly, the Bureau has 1 single engine airplane whose normal operating range is up to 15 miles offshore and whose in-air capability is about 3 hours. Unlike the Civil Air Patrol planes, this plane can be fixed with pontoons, which increases its operating range and rescue capabilities.

During 1987 the Bureau spent a portion of 25,342 man hours on boat law enforcement and 777 on search and rescue calls received during the year. This means that some portion of 30% of the total man hours worked by the Bureau was on boat law enforcement and 1% on search and rescue. During 1987 the Bureau recorded 22 watercraft accidents and 6 fatalities.

B. Coast Guard

Coast Guard activity on the Maine coast is run out of two major centers, one at South Portland and one at Southwest Harbor. In addition there are operating bases at Portsmouth, Boothbay, Rockland and Jonesport. A base at Eastport was closed last year due to budget cuts, but at the time of writing this report is scheduled to be reactivated in the near future. Each facility has at a minimum one 41' utility boat and one 44' heavy weather boat and is staffed round the clock with a compliment of about 25 men for each facility. In addition to these boats, there are 4 large patrol boats suitable for offshore activity stationed in Maine.

The nearest Coast Guard air facility is in Cape Cod. This facility has all helicopter responsibility north of its base and long range responsibility (i.e. off-shore) as far south as Toms River, New Jersey. A facility in Brooklyn, New York has short range responsibility south of Cape Cod. This facility has 4 helicopters equipped for night rescue and 6 jet planes for search activities. The Coast Guard estimates that they can have a plane on the scene in 15 to 30 minutes from Cape Cod depending on the coastal area involved. A helicopter can be on the scene as far as Bar Harbor in 1 to 2 hours, depending on the area. Refueling is required for helicopter flights north of Bar Harbor. The Coast Guard handled 1,015 coastal search and rescue cases in Maine during the period October 1, 1987 to September 30, 1988. It should be noted that the Coast Guard does not continue to search once it has been established that there is no possibility that the missing person is still alive.

C. Naval Air Station, Brunswick

There is a special search and rescue section within the Brunswick Naval Air Station. This section's only official mission is military search and rescue. However, in practice it is available for any search and rescue and, in fact, most of its activity involves civilian search and rescue. This facility has a two engine helicopter but it is not equipped to do night search and rescue. This facility can have a helicopter in the area in no more than 1 hour from the time that they are notified for a daylight search. As with the Coast Guard, the Air Station does not look for bodies.

D. Eastern Casco Bay Search and Rescue

Eastern Casco Bay Search and Rescue is a volunteer organization made up of commercial fishermen that conducts search and rescue along about 10 miles of the coast including roughly the northern two-thirds of Casco Bay. It receives no funding but is covered by the State life insurance program. It has close working relationships with the Coast Guard and the Bureau of Marine Patrol and conducts practice exercises with both groups. The Commission received many favorable comments on this organization. Efforts to develop a similar organization in Eastport after the closing of the Coast Guard base there, however, were not successful.

E. Department of Transportation

The Department of Transportation is responsible for the plan for search and rescue of lost or downed aircraft "within the State", which the Attorney General has held to include the coastal waters, i.e., up to 3 miles off shore. This plan is required to provide for the mobilization of all State agencies which "can contribute to these emergencies". The Civil Air Patrol is to "coordinate and control specific air search operations" while the Commissioner of Transportation is responsible for the "execution and overall coordination of air search and rescue efforts", a responsibility which he is directed to delegate to the Director of the Division of Aeronautics. The law requires that this Director communicate and coordinate with State agencies when their assistance is needed in searching for missing persons.

III. Funding of Boating Activities

In the course of its work the Commission examined in various degrees a number of funds associated with boating in Maine. The material below attempts a concise summary of those funds and should be of assistance to the reader in understanding some conclusions and recommendations that pertain to the subject of funding.

A. Summary of Funding

	FY 88-89
1. Portion of State Gasoline Tax to Bureau of Parks & Recreation	\$1,363,200.
2. Portion of State Gasoline Tax to Department Marine Resources	340,800.
3. Boat Registration Fees to Department of Inland Fisheries and Wildlife	328,583.
4. Federal Boating Safety Account to DIF&W	344,683.
5. 10% of Federal Sport Fishing Restoration Account to DIF&W	155,700.
6. Sales Tax on boats to General Fund	2,566,500.
7. Local excise tax on boats to towns	1,375,692.
8. Fines by DMR & DIF&W to DIF&W	<u>40,939.</u>
	\$6,516,097.

B. Detail on Individual Funds

1. TO: Bureau of Parks & Recreation (Boating Facilities Fund)

INCOME: Estimated for FY 88-89 \$1,363,200.

SOURCE: Portion of State Gasoline Tax (See Appendix "A")

USE: - Acquisition & Development of Public Facilities for Boats

- Operation & Maintenance of Public Facilities for Boats

- Placement of Aids to Navigation (Marking Lakes)

- Permitting placement of seasonal objects

REFERENCE: MRSA, Title 36, Chapter 451,
§2903-A

MRSA, Title 38, Chapter I,
Subchapter VIII

NOTE: The Second Regular Session of the
113th Legislature authorized an
increase in the percentage of the
State Gasoline Tax credited to the
Boating Facilities Fund (FY 87-88
income was \$764,757.; FY 88-89
estimated income is \$1,363,200.)

2. TO: Department of Marine Resources

INCOME: Estimated for FY 88-89 \$340,800.

SOURCE: Portion of State Gasoline Tax
(See Appendix "A")

USE: - Research and propagation activities
- Development
- Law Enforcement

REFERENCE: MRSA, Title 36, CHAPTER 451,
§2903-A

NOTE: The Second Regular Session of the
113th Legislature authorized an
increase in the percentage of the State
Gasoline Tax credited to the
Department of Marine Resources
(FY 87-88 income was \$191,189.;
FY 88-89 estimated income is \$340,800.)

3. TO: Department of Inland Fisheries & Wildlife

INCOME: FY 87-88 \$328,583.

SOURCE: Boat Registrations

USE: - Administration cost of Watercraft
Section of Licensing Division
- One-third (1/3) of remainder to Dept.
of Marine Resources (Used for SAR,
safety, enforcement, etc.)

- Two-thirds (2/3) to Dept. of Inland Fisheries & Wildlife Dedicated Revenue Fund. (Used for boating related SAR, Boat Law Enforcement, Boating Safety Education, etc.)

REFERENCE: MRSA, Title 12, Chapter 715, \$7800

4. TO: Department of Inland Fisheries & Wildlife

INCOME: Federal FY 87 \$344,683.

SOURCE: Federal Boating Safety Account
(See Appendix "B")

USE: - One-third (1/3) to Dept. of Marine Resources (Used for SAR, safety, enforcement, etc.)

- Two-thirds (2/3) to Dept. of Inland Fisheries & Wildlife Dedicated Revenue Fund. (Used for boating related SAR, Boat Law Enforcement, Boating Safety Education, etc.)

5. TO: Department of Inland Fisheries & Wildlife

INCOME: Federal FY 88 \$155,700.

SOURCE: 10% of Federal Sport Fishing Restoration Account

USE: - Acquisition/Development Motorboat Access Sites

- Maintenance Motorboat Access Sites

6. TO: General Fund

INCOME: 1986 \$2,566,500. (See Appendix "C")

SOURCE: Sales Tax on boats, outboard motors, boat trailers, marine accessories.

USE: - Legislative appropriation.

7. TO: Local Municipalities

INCOME: 1987 \$1,375,692.

SOURCE: Excise Tax on boats

USE: - Municipal appropriation.

8. TO: Dept. of Inland Fisheries and Wildlife

INCOME: FY 87-88 \$40,939.

SOURCE: Fines on boaters by DMR and DIF&W

USE: - One-third (1/3) to Dept. of Marine Resources (Used for SAR, safety, enforcement, etc.)

- Two-thirds (2/3) to Dept. of Inland Fisheries & Wildlife Dedicated Revenue Fund. (Used for boat related SAR, Boat Law Enforcement, Boating Safety Education, etc.).

REFERENCE: MRSA, Title 12, Chapter 715, §7800

Recommendations and Rationale

I. Authority and Responsibility

A. Recommendation

The Department of Marine Resources is to have authority and responsibility for coastal search and rescue excluding lost aircraft, within the limits of any superseding federal authority. The Department of Transportation is to continue to have responsibility for such activity regarding aircraft but is required to notify the Bureau in a timely fashion of such searches.

B. Rationale

Coastal search and rescue in Maine is not well organized in a formal sense. The fact that it has generally functioned well is due to the informal network of personal relationship that has grown up in an effort to surmount the organizational problems.

The Coast Guard has prime responsibility for coastal search and rescue. Unlike the Air Force, which has overall responsibility for land search, the Coast Guard has traditionally performed the search and rescue function itself, rather than delegating it. In the past the process of having the Coast Guard be the dominant search and rescue organization has worked well. However, recently there has been an increase in other activities which require Coast Guard attention, including commercial fishing territorial problems and control drug trafficking. At the same time, rather than budget additions to compensate for these additional activities, there have been actual cuts, resulting in the closing of the Eastport station and a 55% decline in enforcement hours during the last boating season.

Within the State, such coastal search and rescue as has been necessary has been coordinated by Inland Fisheries and Wildlife, which has come to be seen as the State search and rescue agency by virtue of the amount of land activity which is delegated to it by the Air Force. Inland Fisheries and Wildlife has established the practice of requesting assistance when needed from the Bureau of Marine Patrol, at a time when the latter agency had no statutory authority to conduct such activities.

The Commission found the situation regarding search and rescue for downed aircraft to be one of the most confusing of those with which it dealt. By Maine law, the Department of Transportation is given responsibility for search and rescue of lost aircraft "within the State". That Department has interpreted "within the state" as meaning the lands of the State. The Attorney General's Office, however, gave the Commission the interpretation that "within the State" includes the coastal waters and that coastal waters are defined as tidal waters within three miles of land. Based on its interpretation, the Department has not felt responsible for coastal water search and has felt this to be the responsibility of the Coast Guard.

It was the desire of the Commission to assign all coastal search and rescue activities to some State agency. Initially, the Commission looked at assigning coastal search and rescue for downed planes to the Department of Marine Resources. However, since frequently, when a plane is lost, it is impossible to determine whether the loss is over land or water, it appeared to make sense to assign all search and rescue for planes to one agency; namely, the Department of Transportation. While the fact that the Department's reliance on the Civil Air Patrol's single engine planes, which are not suitable for ocean search, makes it currently impossible for the Department to conduct such searches itself, the Commission did not feel this to be a problem. The law merely gives responsibility for search and its planning to the Department. It does not require that the Department actually conduct the search itself. The Commission also noted confusing statutory assignments as between the Civil Air Patrol and the Director of the Bureau of Aeronautics relative to notifying other agencies concerning a search.

The Commission was cited several instances of problems which have emerged from the current organizational arrangement. However, the Commission is not as much concerned with the problems which have taken place, which fortunately have been minimal, as with the general inefficiency of such a system and the potential for problems, particularly relative to the growth in boating activity in the State and the likely declining role of the Coast Guard.

II. Personnel and Equipment

A. Recommendation

The Department of Marine Resources is to be authorized to add the equivalent of 15 full time Marine Patrol Officers plus required boats and other support equipment to carry out the responsibilities assigned to them in this report.

B. Rationale

1. What are perhaps the three major findings of this Commission can be summarized as follows:
 - a) All testifying governmental agencies reported that there is a direct relationship between enforcement of boating laws and the need for search and rescue. The better the enforcement the less need for search and rescue. For example, the Coast Guard reported to the Commission that a 50% drop in enforcement hours in the summer of 1988 was associated with an increase in search and rescue activities, after several years of decline in that activity.
 - b) Virtually every person testifying before the Commission stated that, while there was adequate search and rescue activity since it is a life and death matter, there was grossly inadequate enforcement of boating laws.
 - c) Two things make search and rescue an important activity from a Departmental administrative point of view. First search and rescue is an unplannable activity which is a type that is very disruptive to Departmental work planning. Second, the need for search and rescue can be reduced by proper enforcement of boating laws. Even if no changes were made in the Bureau of Marine Resource's responsibilities or were taking place within other agencies or within the State, the Bureau of Marine Patrol does not now have the personnel required to enforce boating laws without unduly diminishing its capability to perform its other duties. This manpower problem stems from recent court decisions that require that State employees be governed under the provisions of the Fair Labor Standard Act. The particular provisions of that Act which are significant to this study are the ones that require compensation for overtime in either hours or pay at a time and one half rate. This requirement has significantly reduced the man

hours available to the Bureau, yet since 1985 there has been no increase in personnel. The effect of this requirement is explained in detail in the appendix.

2. Even without the changes contemplated by this Commission, the workload of the Bureau has increased significantly over the last few years. This increase has been due primarily to growth and development within the State which has required new laws and the need for greater enforcement of existing laws. This is particularly evident in the areas of environmental protection, commercial fishing and pleasure boating.

A number of pieces of testimony and information collected by the Commission provide statistical measurement of the greater workload required by the Bureau. Bureau search and rescue hours increased from 664 in 1983 to 1,287 in 1986. (There was, however, a drop to 777 in 1987). Planning for Maine's Inland Fisheries and Wildlife Boating Education, 1988, states that in 1977-81 23% of recreational boating accidents occurred in salt water while for 1985 & 1986 it was nearly 50%. The Coast Guard reports a 20% increase in the number of boats using federally supervised waters in Southern Maine in each of the last 3 years. Boat slips and moorings in some parts of the Southern Coast are just about impossible to obtain. Several bills have been passed in recent Legislative Session to revise the harbormaster laws in an attempt to deal with the growth.

3. The final point in support of increasing Bureau staff, is the Commission's recommendation that for the first time the Bureau be given the responsibility for coastal search and rescue. Thus, in the last 2 years the Bureau will have gone from a legal position of no authority or responsibility, to one of authority in 1988, to one of responsibility if Commission recommended legislation is passed. With the probable declining role of the Coast Guard, this recommendation in itself, without any other increase in types or amount of responsibility, would probably be sufficient to necessitate the requested additional staffing.

Finally on the subject of additional personnel, it is important to understand the function of the Marine Patrol officer, a position that represents the bulk of the Bureau's staffing. Each marine patrol officer is responsible for both conservation and boating laws. There are not separate officers for each. Thus, while one might say that the Commission is recommending 15 additional officers for enforcement of boating law, the fact of the matter is that each of these officers will spend only about 20% of his time year round and about 60% of it in the summer on boating law enforcement. Thus, the Commission is in fact requesting for search and rescue the man hours represented by 15 additional officers, which it is indicated by the Bureau is equivalent to about 25 officers, given that only a portion of their time is devoted to search and rescue.

Since, many of the factors requiring additional boating law enforcement hours also affect conservation law enforcement, the Bureau also needs additional conservation law enforcement, the Department of Marine Resources will be requesting 10 additional officers in its yearly budget. These officers and the officers recommended in this report will also perform both functions and the time that they will spend on conservation issues represents the additional man hours needed by the Bureau in this area. While the fact that this Commission was neither directed to or did study the conservation issue would make it inappropriate to make recommendations concerning it, the Commission is, in general, supportive of the request for additional conservation man hours.

Lastly concerning necessary support for the additional personnel, as might be expected since the officers operate from their homes, each officer will require a vehicle. However, since a part of the manpower problem is due to a legal reduction in how long officers may work, the Bureau is recommending only 3 more boats, with the remainder of the new officers being able to use existing equipment.

III. Planning

A. Recommendation

The Maine Emergency Management Agency is to develop a statewide search and rescue plan, encompassing all areas and means of search. The Agency is to seek advice and recommendations from all currently designated federal and state search and rescue organizations and is to submit the final plan for their approval.

B. Rationale

There is currently no formal plan for coastal search and rescue, nor a statewide plan for all search and rescue, regardless of area or means of conveyance. The Maine Emergency Management Agency has experience in formulating emergency plans, particularly those which involve co-ordination between several different agencies. It is recommended that this agency provide such assistance to the Bureau of Marine Patrol as is needed to allow the development of a coastal search and rescue plan and then develop, itself, a State-wide plan incorporating the Coast Guard, Air Force, Inland Fisheries and Wildlife, Bureau of Marine Patrol and air search & rescue plans, recognizing the dominance of the federal agencies in such planning. The Agency has indicated that this plan can be developed within its current budget.

It should be noted that it is the feeling of this Commission that an overall search and rescue coordinator for the State is not needed. The Commission is not recommending the establishment of such a position nor its placing in the Emergency Management Agency should it be established, nor is it recommending any role of the Agency beyond planning.

IV. Coordination

A. Recommendation

The Department of Marine Resources is to designate one or more persons to perform the following functions:

1. Coordinate search and rescue within the Department
2. Coordinate search and rescue with other agencies as the dominant State agency, if coastal, and as a cooperating agency, if land
3. Set-up, coordinate and oversee private search and rescue groups along the coast.

B. Rationale

It is believed that the necessity for points 1) & 2) of this recommendation are self evident. As to part 3), there is currently one private volunteer search and rescue organization on the Maine Coast, i.e. Eastern Casco Bay Search & Rescue. All testimony that the Commission received reflected highly on this organization. Somewhat informal efforts to organize similar organizations on other parts of the coast, most notably Eastport, have not thus far been successful. However, based on the testimony regarding the Eastern Casco Bay organization, the Commission feels that such organizations are an excellent way of supplementing governmental search and rescue capabilities. The Commission recommends that the Bureau of Marine Patrol give one of its officers the responsibility of attempting to set up such organizations along the entire coast and, as important, of seeing that such organization receive the necessary training in order to maximize their capabilities within the total coastal search and rescue plan.

V. Funding

A. Recommendation

Funding for the additional 15 staff and vehicles specified in this report is to come from the general fund. Should it prove necessary, the sales tax on boat purchases may be increased to help fund this additional staffing. Funding for the required additional patrol boats is to come from an increase in boating registration fees. A specific cost breakdown is shown on the following table. The first year cost for this staffing and related equipment is estimated at \$989,500 with ongoing yearly costs estimated at \$654,500.

BOATING SAFETY / SEARCH AND RESCUE

Minimum Needs for Bureau of Marine Patrol for 1990 FY

(3) Marine Patrol Sgts.	at \$48,651.00 = \$145,953.00
(3) Vehicles	at 13,000.00 = 39,000.00
(12) Marine Patrol Officers	at 36,129.00 = 433,548.00
(12) Vehicles	at 13,000.00 = 156,000.00
(3) 25 ft. year round Patrol Boat	at \$35,000.00 = \$105,000.00

All other Budget to
Cover Operations Cost
Annually X15 at 10,000.00 = 150,000.00

B. Rationale

The Commission examined the gasoline tax, as required by the study mandate, and several other options that would have involved transferring funds from other agencies to fund the recommended increase in Bureau of Marine Patrol personnel. It was the Commission's conclusion that the current uses to which these funds are being put by the agencies in question are not ones that are expendable, and are being used on issues very similar to those being studied by this Commission and, particularly, by its sister Commission, The Commission on Boating. It is the Commission's recommendation, therefore, that new funds not transferals are needed for this additional staffing.

The General Fund is recommended as the funding source for the additional manpower and vehicles recommended by the Commission. In support of the use of the General Fund is the fact that the sales tax on boats contributed \$2.5mm to the General Fund in 1986. This funding could be accomplished either by a direct appropriation or by earmarking for this purpose a percentage of the current sales tax on boats which now goes to the General Fund. This tax is now at 5% and each percent is worth about \$500,000. The Commission recommends the former as the more direct, straight-forward approach.

It is recommended that purchase of marine patrol watercraft be funded through an increase in the boating registration fees. Three 25' commercial type vessels capable of moderate weather operation are needed for the recommended staff increase. These cost \$35,000 apiece. The following schedule of fee increases is proposed:

Class	1987 Registrations	Proposed Fee Increase	Additional Income Generated
A (under 16')	69,799	\$ 0	\$ 0
1 (16' - 25')	40,374	2	80,748
2 (26' - 40')	3,759	6	22,554
3 (41' - 65')	223	8	1,784
Other (over 65)	27	10	<u>270</u>
		TOTAL	\$105,356

Under current law, Marine Resources would receive 33% of the money generated by this increase or \$34,767. This would provide one of the required 3 new boats per year. After the new boats are obtained the additional revenue generated by the fee increases in subsequent years could go towards replacing, and in some instances upgrading, the Department's 35 fair weather patrol crafts, which have an average life of 5 to 6 years.

Obviously, this Commission is concerned with the mission assigned to it. Should committees charged with a more broad sweeping mandate feel that there are other more urgent projects requiring General Fund moneys, this Bureau of Marine Resources funding could be accomplished by increasing the sales tax on boat purchases or by both increasing this tax and increasing boating registration fees. However, it should be noted that the Commission's hearings developed considerable negative testimony on the failure of the current sales tax to be earmarked for boating purposes. Also, with 114,000 registered boats, it would require a 150% increase in the current \$4 fee (i.e. to \$10) to fund the ongoing additional yearly needs of the Bureau and would require all such increases to go to the Department, rather than the current one-third, two-third split with Inland Fisheries and Wildlife.

VI. Cataloging of Landmarks

The Commission made a decision that such a catalog of landmarks was not needed since the coast is buoyed, its contour is very definite and unique, and there is currently the Coast Guard Light List which is a listing and positioning of all navigational aids. In general, it was felt that search and rescue should be conducted using standard navigational procedures rather than overlaying procedures of its own.

VII. Other Recommendations

A. Cold Water Survival Training

The Department of Marine Resources is to make a recommendation to the Legislature as to how a field agent for a cold water survival training program might be funded in the event that a current federal grant is not renewed.

In the past the Co-operative Extension Service of the University of Maine using federal Sea Grant funds had sponsored on a regular basis cold water survival training courses. Maine Maritime Academy was the teaching agency, funding was provided for marketing and for a field representative, and the courses were self-supporting through fees charged.

Several years ago Sea Grant funds were reduced by the federal government and redirected by the University. Maine Maritime Academy continued to teach the courses at Castine but the regional agent was discontinued. This past year the Academy and the Department of Marine Resources received favorable action on a federal grant request for this program which will provide \$18,900 from the federal government on a two for one matching basis. If all goes well, it is expected that this grant will be renewable for ongoing expenses in future years.

B. Gasoline Tax Study

The Bureau of Parks and Recreation, utilizing its Boating Facilities Fund, is to conduct every 3 years a study of the amount of gasoline and diesel fuel used by commercial and pleasure boats and report their findings to the Legislature. The Bureau is to develop the methodology for this study in conjunction with the Departments of Marine Resources, Inland Fisheries and Wildlife, and Transportation.

The current allocation of 2% of the gasoline tax paid by pleasure boaters to boating oriented agencies was arrived at through a one-time study whose methodology came under some criticism. The Commission recommends that this subject be studied every three years and include diesel fuel, which is not currently included. Even though the number of diesel powered boats is still small, the increase in use of the safer diesel fuels by pleasure boaters makes the inclusion of diesel fuel particularly important. The study would make a distinction between salt and freshwater usage and between pleasure and commercial usage. The tax on commercial use is currently rebated but is still subject to a 5% sales tax. The Bureau of Parks and Recreation has indicated that it is acceptable to it if the Boating Facilities Fund be used to support this study. The Fund is a recipient of gasoline tax monies, which it uses for the acquisition and development of launching facilities and for placing navigational markers.

C. Audit of Boating Safety Fund

To determine compliance with federal guidelines the State Auditor is to include the Boating Safety Fund in his FY '88 audit.

The Boating Safety Account consists of federal funds given to the Department of Inland Fisheries and Wildlife, which are then split 1/3 - 2/3 with the Department of Marine Resources. They are to be used for boat law enforcement and search and rescue. The income in FY 1987 was \$344,683.

The Commission was told by its Coast Guard member that the federal government was planning an early audit of the fund to determine that it was being used for the purposes specified. The State's Auditor has indicated that for the last several years State auditors have been conducting these federal audits. Having been alerted by the Commission to federal interest in this area, the Auditor will include this account on his FY '88 audit, which is to be reported within a year of its completion.

D. Helicopter Facility

The Emergency Management Agency is to make a request to the federal government that a Coast Guard helicopter facility be established in Maine which will include a night rescue capability.

A helicopter is required to conduct water rescues from the air and for certain types of close-in search. The only State based helicopters which are intimately involved in the State's search and rescue activities are the National Guard ones at Bangor whose single engine power limits their use over water and those at the Brunswick Naval Air Station who share with those of the National Guard a lack of the equipment needed to conduct night search and rescue. Thus, the nearest helicopters equipped for night search and rescue are at a Coast Guard facility on Cape Cod. The Cape Cod facility has two engine helicopters on round the clock emergency status. These aircraft have a top speed of 120 mph and air time of 3 hours. On a worst case basis, to become airborne and reach Eastport would require 2 hours and 45 minutes, as a fueling stop is required. To reach Bar Harbor would be 1 hour and 45 minutes. In reality, however, about 50% of the time there is helicopter airborne north of Cape Cod. Three other things should be noted in connection with night search and rescue which tend to mitigate the problems of refueling and airborne time. First, the Cape Cod Coast Guard also has fixed wing jets which can reach Maine in 30 minutes and can be used for some types of search, so that the helicopter can sometimes go right to the spot where rescue is needed. Second, the Coast Guard will generally not conduct a extensive wide area, open ocean search at night because the probability of success is too limited relative to the risk involved. Third, the length of time that the Coast Guard will spend on search is limited by the fact that it does not search for persons presumed drowned only for those presumed to be still alive.

The Emergency Management Agency is designated by the Commission as the agency to make this request because of its existing federal contacts and because of its importance within the hierarchy of search and rescue activities.

6736*

APPENDIX INDEX

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6875*

MOTORBOAT GAS TAX LAW

Sec. 10. 36 MRSA §2903-A, as amended by PL 1985, c. 481, Pt. A, §81, is further amended to read:

§2903-A. Finding of fact

The Legislature makes a finding of fact that the percentage relationship of "gasoline tax" paid by that segment of the nonhighway gasoline user, the motorboat user, is not less than ~~1.25%~~ 2.00% of the total "gasoline tax" revenue, but ~~certainly is more than the 1.25% referred to.~~ Based on this legislative "finding of fact" there is set aside ~~1.25%~~ 2.00% of the total excise tax, not to exceed \$2,000,000, on internal combustion engine fuel sold or used within the State, but not including internal combustion engine fuel sold for use in the propulsion of aircraft. From this ~~1.25%~~ 2.00% allocation shall be deducted the refunds paid out under section 2908 to purchasers and users of internal combustion engine fuel for commercial motorboats; 20% of the balance of ~~1.25%~~ 2.00% after paying out such refunds shall be paid to the Treasurer of State to be made available to the Commissioner of Marine Resources for the purpose of conducting research, development and propagation,

activities. by the department, and it is the responsibility of the Commissioner of Marine Resources to select activities and projects that will be most beneficial to the commercial fisheries of the State as well as the development of sports fisheries activities in the State; the remaining 80% of the balance of ~~1.25%~~ 2.00% after paying out such refunds shall be credited to the Boating Facilities Fund, established under Title 38, section 322, within the Maine State Bureau of Parks and Recreation. The State Tax Assessor shall certify to the State Controller, on or before the 15th day of each month, the amounts to be credited under the previous sentence, as of the close of the State Controller's records for the previous month. When refunds paid to purchasers and users of internal combustion engine fuel for commercial motorboats in any month exceed ~~1.25%~~ 2.00% of gasoline tax revenues for that month, such excess shall be carried forward in computing amounts to be credited to the Department of Marine Resources and to the Boating Facilities Fund under this section for the succeeding month or months. Funds credited to the Department of Marine Resources shall be allocated by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

FEDERAL FUNDS

(As understood by Richard W. Skinner 9-26-88)

The D-J Expansion Compromise Bill (often referred to as WALLOP-BREAUX, the sponsors of the bill) took effect October 1, 1984.

The bill provided a NATIONAL AQUATIC RESOURCES FUND with two accounts:

BOATING SAFETY ACCOUNT

INCOME: \$45 million per year from the federal marine fuel tax.

DISTRIBUTION: -One-thirds (1/3) = \$15 million to the Coast Guard
 -Two-thirds (2/3) = \$30 million to state recreational boating safety programs (DIF&W in Maine).

ALLOCATION: To states by the Coast Guard as governed by a three part formula:
 -Whether a state has a federally approved boat registration and accident reporting program.
 -How many boats a state is registering.
 -How much a state spent on its recreational boating safety program in the preceding fiscal year.

USE: States may at their discretion spend boating safety money on any one or more of its following programs:

- * Boating safety education and law enforcement, including the purchase, operation, maintenance and repair of equipment.
- * Training personnel in law enforcement and other skills related to boating safety.
- * Providing public boating safety education, including education programs and lectures to the public and in public schools.
- * Public access, including acquisition and construction of new facilities and repair of existing facilities.
- * Conducting boating safety inspections and marine casualty investigations.
- * Search and rescue.
- * Aids to navigation.
- * Providing boat numbering or titling programs.

After the first \$45 million for the Boating Safety Account, the next \$1 million a year from the federal marine fuel tax is reserved for the Land and Water Conservation Fund. Any amount over and above \$46 million a year from the federal marine fuel tax goes into a Sport Fishing Restoration Account. The Sport Fishing Restoration Account is the successor to the Dingell-Johnson Fund.

SPORT FISHING RESTORATION ACCOUNT

INCOME: -Amount in excess of \$46 million per year from the federal marine fuel tax.
-Amount from 10% federal manufacturers excise tax on sport fishing equipment.
-Amount from 3% federal tax on electric trolling motors and fish finders.
-Amount from import duties on pleasure boats and yachts and fishing tackle.

ALLOCATION: To states by the U.S. Fish & Wildlife Services (I don't know how the amount of individual state allocations are determined).

USE: State sport fishing management and restoration programs, e.g. stocking game fish, building fish hatcheries, furthering fisheries research. Each state receiving federal sport fishing assistance must allocate 10 percent of it each fiscal year toward the cost of acquiring, developing, renovating, or improving public recreational boat access sites.

Maine Distribution of 1986 Boat, Motor, Trailer and Accessory Purchases

Boats \$29,218,000.

Outboard Motors 8,782,000.

Boat Trailers 994,000.

Marine Accessories 12,336,000.

\$51,330,000.

State Sales Tax 5% of \$51,330,000. = \$2,566,500.

Discussion of Marine Patrol Work Hours
(Prepared by the Bureau of Marine Patrol)

The aspect that Marine Patrol covers a major responsibility along Maine's coast protecting our nature resources and public safety. It is also true that we only employ 35 field officers who work a rotating shift of 6 days on duty and 2 days off. This rotation leaves the state with 4 days a week with only 17 Marine Patrol Officers covering 3500 miles of coast from Kittery to Calais. It is also a fact that because state employees are regulated under the Fair Labor Standard Act of the U.S. D.O.L. that Marine Patrol Officers are restricted to 8 hours work in 24 hours or no more than 164 hours in a 28 day period. This restriction has caused considerable overtime liability to the Bureau of Marine Patrol to the point where we find ourselves many days with only 6 Marine Patrol Officers covering the entire coast of Maine because officers are on compensative time off (C.T.O.). This C.T.O., in many cases, is forced upon the Bureau and the officers because of contract restrictions that mandate that officers should not work more than 164 hours or retain more than 300 hours of C.T.O. time on the leave books.

In the 3 years since F.L.S.A. became effective to Maine state employees, the liability to the Bureau of Marine Patrol has risen 300% to over 6,000 hours of leave time due 35 officers. If this continues, the Bureau could find itself with no officers available to respond to a major law enforcement activity or a life threatening situation.

This is a critical situation that can only be addressed with more personnel.

- Facts - 1 - Bureau of Marine Patrol has 35 M.P.O.'s assigned to 35 regional patrols.
- Facts - 2 - Marine Patrol Officers work a rotating 6 days on duty and 2 days off with a 4 day off period every 5th week.
- Facts - 3 - F.L.S.A. require M.P.O.'s to be paid overtime compensation after 164 hours of work in 28 days.
- Facts - 4 - M.P.O.'s are worked 8 hours per day when scheduled to work.
- Facts - 5 - If M.P.O.'s work more than 8 hours per day, the department must reduce the work hours during the remainder of the 28 day cycle or compensate the MPO with 1½ hours of compensating time off or pay the officer for working over the 164 maximum allowed hours in 28 days.
- Facts - 6 - That 4 days every 7 days only 17 of the 35 M.P.O.'s are available for 8 hours per 24 hour period.
- Facts - 7 - That under the present minimum working condition, we may only have 2 M.P.O.'s and a MPO Sergeant available for call that would be able to respond to complaints because of contract restrictions and overtime provision of 164 hours restriction in 28 days.
- Facts - 8 - That the most the department can expect to have a MPO to work per year is 185 days (note justification).

The amount of hours a MPO could work if he worked 8 hours per day for 365 days--

$$8 \times 365 = 2920 \text{ hours per year}$$

Based on benefit package for a 10 year MPO, you reduce the 2920 by the following:

- Vacation - 1½ days per month - 18 days a year - or 144 hours
- Sick leave - 1 day per month - 12 days a year - or 96 hours
- Holiday - 12 days per year - or 96 hours
- Administrative leave - 2 days a year - or 16 hours
- Training - 5 days per year (out of the field) - 40 hours
- 12 Division meetings per year (out of the field) - 96 hours
- Compensation time used - 15 days - 120 hours
- Regular days off - 104 days - 832 hours

Sub Total 1,440 hours

This leave 1,480 hours of availability time per year or 185 working days. We can be sure we have this MPO available.

- Facts - 9 - 8 hours of work per day per 35 patrols times 365 days per year indicates we need 102,200 man-hours available to the department to cover those 35 patrols.

- Facts - 10 - That a Marine Patrol Officer may only work 164 hours in a 28 day period of which we have 13 per year - multiplied out that equals 74,620 man-hours available to work. In 1987 M.P.O.'s actually worked 85,679 man-hours.
- Facts - 11 - That with the M.P.O.'s that are available (35), we can't even meet the minimum 8 hours per day coverage required for 35 patrols, 102,200 man-hours. We need another 27,520 man-hours to meet minimum coverage.
- Facts - 12 - If we divide the known man-hours available by our average M.P.O. 1,480 hours per year into the 102,200 hours, the results are we need 69 or 70 M.P.O.'s to fill the 35 patrols per year.
- Facts - 13 - That the above is a 100% increase in our work force without supervision to cover just 8 hours per day coverage--not 24 hours per day coverage to protect our industry, general public safety and health and respond to the ever increasing demand by the other state agencies, Federal Government and municipalities.
- Facts - 14 - That in the last 11 months, the present work force has increased its CTO due by 100% to a figure of 6,000 CTO hours due 35 M.P.O.'s. (Annual increase of about 2,000 man-hours per year.)
- Facts - 15 - M.P.O.'s are not allowed to have more than 30 C.T.O. days (300 hours) due a person without taking time off or being paid for that C.T.O. time.
- Facts - 16 - That at a figure of 10,500 C.T.O. hours, we will have to have every M.P.O. take time off even if we can't afford to lose their services.
- Facts - 17 - That we have arrived at a critical point in just 18 months under F.L.S.A. and with a very restrictive mandate not to authorize overtime work unless it falls in one of the following categories:
- A. Life endangering calls; protect public health and safety;
 - B. Call out to an occurring violation of serious nature; assist another law enforcement agency on a very serious violation of law.

Even with these guidelines set, we have accrued an unmanageable overtime liability that can cripple the department's enforcement capability.

- Facts - 18 - If the Bureau of Marine Patrol has no available officer, it will not be able to complete search and rescue calls or any other call to cover life threatening or lesser situations. And the present fact is that we spend 30% of our time covering boating safety and search and rescue calls.

e. Compensating Time*

a. Overtime

Effective with the first twenty-eight (28) day work cycle following the signing of this Agreement, an employee shall be compensated at the rate of one and one-half (1½) hours of compensating time for each hour worked after actually working beyond one hundred sixty-eight (168) hours in any twenty-eight (28) day work cycle. Effective with the first twenty-eight (28) day work cycle following July 1, 1988, an employee shall be compensated at the rate of one and one-half (1½) hours of compensating time for each hour worked after actually working beyond one hundred sixty-four (164) hours in any twenty-eight (28) day work cycle. In lieu of compensating time, an employee may, upon mutual agreement, receive pay at the rate of one and one-half (1½) times the base hourly rate of pay for such overtime hours.

Effective with the first twenty-eight (28) day work cycle following the signing of this Agreement, all time worked beyond one hundred sixty-eight (168) hours of paid time, which includes leave time and actual time worked, shall be compensated at the rate of one (1) hour of compensating time for actual hours worked or, by mutual agreement, be paid at the base hourly rate until he/she has actually worked one hundred sixty-eight (168) hours. Any time actually worked beyond one hundred sixty-eight (168) hours within a twenty-eight (28) day work cycle shall be compensated in accordance with paragraph one above.

Effective with the first twenty-eight (28) day work cycle following July 1, 1988, all time worked beyond one hundred sixty-four (164) hours of paid time, which includes leave time and actual time worked, shall be compensated at the rate of one (1) hour of compensating time for actual hours worked or, by mutual agreement, be paid at the base hourly rate until he/she has actually worked one hundred sixty-four (164) hours. Any time actually worked beyond one hundred sixty-four (164) hours within a twenty-eight (28) day work cycle shall be compensated in accordance with paragraph one above

There shall be no pyramiding or duplication of compensation by reason of overtime or holiday or other premium pay provision of this Agreement. It is understood, however, that with this limitation, the method of payment which gives the greatest amount will be followed.

3b. Call Out

When a day off is cancelled because of statewide and division meetings and training sessions, the employee shall be given another day off in conjunction with their remaining scheduled day off. If more than one day off is cancelled for the above training then the employee shall be given an equal amount

*Source: Collective Bargaining Contract for Marine Patrol Officers

SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 2231

S.P. 855 In Senate, February 10, 1988
Approved for Introduction by a Majority of the Legislative
Council pursuant to Joint Rule 26.
Reference to the Committee on Marine Resources suggested
and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator TUTTLE of York.

Cosponsored by Representative MITCHELL of Freeport,
Senator CAHILL of Sagadahoc, Representative LOOK of Jonesboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-EIGHT

1 AN ACT Expanding the Role of
2 the Bureau of Marine Patrol.
3

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

6 Sec. 1. 12 MRSA §6029 is enacted to read:

1 §6029. Search and rescue operations

2 1. Search and rescue. The Bureau of Marine
3 Patrol shall provide search and rescue services along
4 the coastal waters of the State. The bureau shall
5 provide maximum search and rescue efforts for the
6 period from Memorial Day to Labor Day.

7 2. Training. All marine patrol officers shall
8 receive training in the following areas:

9 A. General search and rescue techniques and
10 methods;

11 B. Rescue procedures to be used off highly
12 populated surf beaches;

13 C. Investigation techniques;

14 D. Instruction on the use and operation of:

15 (1) Life rafts;

16 (2) Powerboats;

17 (3) Sailboats;

18 (4) Row boats;

19 (5) Surf mats;

20 (6) Paddleboards;

21 (7) Surfboards; and

22 (8) Sailboards; and

23 E. Observation techniques, including
24 identification of floating objects and marine
25 animals.

26 3. Prevention. The bureau shall inventory and
27 review boating, swimming and other recreational areas
28 along the coast to identify potential safety hazards
29 and accident sites. When appropriate, the

1 bureau may require or suggest that safety precautions
2 or measures be undertaken at those areas. The
3 commissioner shall promulgate rules in accordance with
4 the Maine Administrative Procedure Act, Title 5,
5 chapter 375, to allow the bureau:

6 A. To regulate the use of power boats operating
7 on or near the surf line less than 200 yards
8 offshore; and

9 B. To remove or require the removal of debris or
10 equipment posing safety or navigational hazards.

11 4. Landmark catalog. The bureau shall develop
12 and maintain a catalog of clearly identifiable onshore
13 landmarks along the coastline. The landmarks shall be
14 selected and cataloged in order that they may serve as
15 points of reference in search or rescue operations.

16 5. Equipment. The commissioner shall ensure that
17 any marine patrol officer involved in a search or
18 rescue operation has access to:

19 A. Scuba gear;

20 B. An inflatable rescue boat; and

21 C. Such other equipment as the commissioner
22 determines necessary for search and rescue
23 operations.

24 Sec. 2. 36 MRSA §2903-A, as amended by PL 1985,
25 c. 481, Pt. A, §81, is further amended to read:

26 §2903-A. Finding of fact

27 The Legislature makes a finding of fact that the
28 percentage relationship of "gasoline tax" paid by that
29 segment of the nonhighway gasoline user, the motorboat
30 user, is not less than 1.25% of the total "gasoline
31 tax" revenue, but certainly is more than the 1.25%
32 referred to. Based on this legislative "finding of
33 fact", there is set aside 1.25% of the total excise
34 tax on internal combustion engine fuel sold or used

1 within the State, but not including internal
2 combustion engine fuel sold for use in the propulsion
3 of aircraft. From this 1.25% allocation shall be
4 deducted the refunds paid out under section 2908 to
5 purchasers and users of internal combustion engine
6 fuel for commercial motorboats; 20% of the balance of
7 1.25% after paying out such refunds shall be paid to
8 the Treasurer of State to be made available to the
9 Commissioner of Marine Resources for the purpose of
10 conducting research, development and propagation
11 activities by the department, and it is the
12 responsibility of the Commissioner of Marine Resources
13 to select activities and projects that will be most
14 beneficial to the commercial fisheries of the State as
15 well as the development of sports fisheries activities
16 in the State; 30% of the balance of 1.25% after paying
17 out such refunds shall be paid to the Treasurer of
18 State to be made available to the Commissioner of
19 Marine Resources for the search and rescue
20 responsibilities of the Bureau of Marine Patrol; and
21 the remaining 80% 50% of the balance of 1.25% after
22 paying out such refunds shall be credited to the
23 Boating Facilities Fund, established under Title 38,
24 section 322, within the Maine State Bureau of Parks
25 and Recreation. The State Tax Assessor shall certify
26 to the State Controller, on or before by the 15th
27 day of each month, the amounts to be credited under
28 the previous sentence, as of the close of the State
29 Controller's records for the previous month. When
30 refunds paid to purchasers and users of internal
31 combustion engine fuel for commercial motorboats in
32 any month exceed 1.25% of gasoline tax revenues for
33 that month, such excess shall be carried forward in
34 computing amounts to be credited to the Department of
35 Marine Resources and to the Boating Facilities Fund
36 under this section for the succeeding month or
37 months. Funds credited to the Department of Marine
38 Resources shall be allocated by the joint standing
39 committee of the Legislature having jurisdiction over
40 appropriations and financial affairs.

41 Sec. 3. Report. The Bureau of Marine Patrol
42 shall submit a report, together with any necessary
43 implementing legislation, to the Legislature by
44 January 31, 1990. Included in the report shall be an

1

FISCAL NOTE

2 This legislation results in an increase in
3 dedicated revenue to the Department of Marine
4 Resources in the amount of \$259,150 for fiscal year
5 1988-89 and a loss of revenue to the Department of
6 Conservation from the Boating Facilities Fund in the
7 amount of \$259,150 for fiscal year 1988-89. The
8 revenue effects result from the proposed change in the
9 percentage of the 1.25% gas tax paid by nonhighway
10 gasoline users which is divided between the Department
11 of Conservation and the Department of Marine Resources.

12

STATEMENT OF FACT

13 The purpose of this bill is to expand the
14 functions of the Bureau of Marine Patrol so marine
15 patrol officers will be adequately trained and
16 authorized to carry out search and rescue operations
17 along the coastline. Along the coast, there is no
18 single agency to carry out search and rescue
19 operations, whereas in the inland areas, fish and game
20 wardens would provide such services. Under this bill,
21 the role of the bureau to undertake such operations
22 along the coast is clearly outlined. The bill
23 requires the bureau to make a report to the
24 Legislature by January 31, 1990, assessing the search
25 and rescue operations.

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L.D. 2231

(Filing No. S- 367)

STATE OF MAINE
SENATE
113TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " A " to S.P. 855, L.D. 2231,
Bill, "AN ACT Expanding the Role of the Bureau of
Marine Patrol."

Amend the Bill by striking out all of the title
and inserting in its place the following:

'AN ACT Relating to Coastal Search and Rescue
Responsibilities and Creating the Study Commission on
Coastal Search and Rescue.'

Further amend the Bill by striking out everything
after the enacting clause and inserting in its place
the following:

'Sec. 1. 12 MRSA §6029 is enacted to read:

§6029. Search and rescue operations

The Bureau of Marine Patrol is authorized to
provide search and rescue services along the coastal
waters of the State.

Sec. 2. Commission established. There is
established the Study Commission on Coastal Search and
Rescue.

PL 215

COMMITTEE AMENDMENT "A" to S.P. 855, L.D. 2231

1 1. Membership. The commission shall be composed
2 of the 11 members selected as follows: Two Senators
3 selected by the President of the Senate representing
4 the Joint Standing Committee on Marine Resources and
5 the Joint Standing Committee on State and Local
6 Government; 4 representatives selected by the Speaker
7 of the House, representing the Joint Standing
8 Committee on Marine Resources, the Joint Standing
9 Committee on State and Local Government and the Joint
10 Standing Committee on Appropriations and Financial
11 Affairs; the Chief of the Bureau of Marine Patrol or
12 the chief's designee; the Commissioner of Marine
13 Resources; the Director of the Bureau of Parks and
14 Recreation; a representative of the United States Life
15 Saving Association; and a representative of the United
16 States Coast Guard. The representatives from the
17 United States Life Saving Association and the United
18 States Coast Guard shall be appointed by the Governor
19 and be nonvoting members.

20 2. Duties. The commission shall study the need
21 for additional personnel within the Bureau of Marine
22 Patrol to cover its responsibilities adequately along
23 the Maine coast and, specifically, whether increased
24 personnel should be provided to enable the Bureau of
25 Marine Patrol to take a more active role in search and
26 rescue activities. Specifically, the commission shall
27 address the following issues:

28 A. The feasibility of creating positions within
29 the Bureau of Marine Patrol that assist in search
30 and rescue along the Maine coast;

31 B. The need for expanded search and rescue
32 efforts along the coast between Memorial Day and
33 Labor Day;

34 C. The need for additional training for marine
35 patrol officers in search and rescue techniques
36 and prevention activities;

37 D. The need for establishing a catalog of
38 identifiable onshore landmarks to serve as points
39 of reference for search and rescue operations;

H. 213

COMMITTEE AMENDMENT "A " to S.P. 855, L.D. 2231

1 E. The need for additional equipment and
2 watercraft within the Bureau of Marine Patrol to
3 assist in search and rescue activities; and

4 F. The appropriateness of current levels of fuel
5 tax revenue attributable to watercraft and the
6 apportioning of those revenues between the Boating
7 Facilities Fund and the Department of Marine
8 Resources.

9 3. Report. The commission shall report its
10 findings and recommendations, including recommended
11 legislation, to the First Regular Session of the 114th
12 Legislature by January 15, 1989.

13 4. Expenses. Legislative members shall be
14 entitled to expenses and per diem compensation for
15 attendance at meetings of the commission. The member
16 representing the United States Life Saving Association
17 shall receive expenses.

18 5. Staffing. The commission may request staffing
19 from the Legislative Council.

20 Sec. 3. Appropriation. The following funds are
21 appropriated from the General Fund to carry out the
22 purposes of this Act.

23 1988-89

24 LEGISLATURE

25 Study Commission on
26 Coastal Search and Rescue

27 Personal Services \$1,320
28 All Other 4,250

29
30 Total \$5,570

R 015

COMMITTEE AMENDMENT "A " to S.P. 855, L.D. 2231

1 STATEMENT OF FACT

2 This amendment establishes the Study Commission on
3 Coastal Search and Rescue to study the need for
4 additional search and rescue activities by the Bureau
5 of Marine Patrol.

6 5186032388

Reported by Senator Tuttle for the Committee on Marine
Resources. Reproduced and Distributed Pursuant to
Senate Rule 12.
(3/29/88)

(Filing No. S-367)

1

L.D. 2231

2

(Filing No. S- 535)

3

STATE OF MAINE

4

SENATE

5

113TH LEGISLATURE

6

SECOND REGULAR SESSION

7

SENATE AMENDMENT " A " to COMMITTEE AMENDMENT "A"
8 to S.P. 855, L.D. 2231, Bill, "AN ACT Expanding the
9 Role of the Bureau of Marine Patrol."

10

Amend the amendment in section 2 by striking out
11 all of subsection 3 and inserting in its place the
12 following:

13

'3. Report. The commission shall report its
14 findings and recommendations, including recommended
15 legislation, to the 113th Legislature by December 1,
16 1988.'

17

STATEMENT OF FACT

18

This amendment changes the date on which the
19 commission is to report to the Legislature.

20

5755042188

21

(Sen. PEARSON)

22

SPONSORED BY:



23

COUNTY: Penobscot

SEARCH & RESCUE COMMISSION

AGENDA

September 14, 1988

- 9:30 Introductory remarks - Chairman Tuttle
- 9:45 Ed Blackmore
President, Maine Lobstermens Association
- 10:00 Arthur Odlin
President, Maine Fishermen's Co-op Association
- 10:15 Albert Trefry
President, Maine Harbor Masters Association
- 10:30 Richard Anderson
Executive Director, Maine Recreational Boaters
Association
- 10:45 Gareth Anderson
Safety Officer
Bureau of Warden Services
Department of Inland Fisheries and Wildlife
- 11:15 Ronald Roy
Director, Division of Aeronautics
Department of Transportation
- 11:30 Robert Elder
Director, Division of Ports & Marine Transportation
Department of Transportation
- 11:45 Lunch
- 12:45 Major Sprague - Information requested by Commission
- 1:00 Lt. Youmans - Information requested by Commission
- 1:15 Plans for next meeting (Final report due December 1,
1988)

Information from LD 2231

"2. Duties

- D. The need for establishing a catalogue of identifiable onshore landmarks to serve as points of reference.
- F. The appropriateness of current levels of fuel tax revenue attributable to watercraft and the apportioning of those revenues between the Boating and Facilities Fund and the Department of Marine Resources."

COASTAL SEARCH & RESCUE COMMISSION
AGENDA
September 28, 1988
Room 437

- 10:00 Introductory Remarks - Chairman Tuttle
- 10:15 Bernard Johnson
 Eastern Casco Bay Rescue Association
- 10:30 LCDR James Wilson
 Search & Rescue Officer
 Brunswick Naval Air Station
- 10:45 David D. Brown
 Director
 Maine Emergency Management Association
- 11:00 Financing Search & Rescue - Mr. Skinner
 Boating Facilities Fund
 Boating Safety Account
- 12:00 Preliminary Conclusions of the Commission

Coastal Search and Rescue Commission

Agenda

October 7, 1988
Room 437

9:30	Introductory remarks and summary of last meeting	Sen. Tuttle & Rep. Coles
9:45	Recommendations as to personnel, equipment and budget necessary for enforcement and search and rescue	Department of Marine Resources
10:15	Five Year History of Maine enforcement, search and rescue and status report of other states	Department of Marine Resources
10:30	5 Year history of Maine enforcement and search and rescue activities, personnel and equipment and report from other states	Lt. Youmans
10:45	Review and decision on recommendations of previous speaker. (see list)	Sen. Tuttle
11:15	Review and decision on recommendations from previous meeting (see list)	Sen. Tuttle
12:00	Adjourn	

Submitted Pursuant Public Law 1987 Chapter 814

D R A F T

FIRST REGULAR SESSION

ONE HUNDRED AND FOURTEENTH LEGISLATURE

Legislative Document

No.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY NINE

AN ACT Dealing with Coastal Search and Rescue

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

Sec. 1. 6 MRSA §303 is amended to read

§303. Air search procedures

1. Agreements. The commissioner may establish agreements with public or private agencies or organizations to assists in air search operations.

2. Situations covered. The commissioner shall establish and maintain a state air search and rescue plan for the immediate handling of the following emergency situations arising from aeronautical activities:

- A. Locating aircraft believed lost and down within the State; and
- B. Locating persons who are believed lost and down in the State as a result of accidents involving aircraft overflying the State or parachute jumps.

The phrase "within the State" shall include the coastal waters of the State as defined in 12 MRSA §6001.

3. Plan of action. The state air search and rescue plan shall provide a plan of action for search and rescue which will mobilize all state agencies which can contribute in those emergencies and inform any agencies which so request, in accordance with agreements reached in advance and which relies upon the Maine Wing Civil Air Patrol to coordinate and control specific air search operations. The plan shall provide that its first objective shall be saving human life and rendering prompt aid to survivors.

4. Authority. The commissioner is responsible for the execution and overall coordination of air search and rescue efforts initiated in support of the air search and rescue plan by those state agencies which are designated in the plan to play an assisting role in emergencies.

- A. The commissioner shall delegate his authority for overall coordination of air search and rescue efforts to the Director of the Division of Aeronautics within the Department of Transportation.
- B. The Director of the Division of Aeronautics shall communicate and coordinate directly with the Air Search Mission Coordinator, an official of the Maine Wing Civil Air Patrol, who is involved in coordinating and controlling the specific air search operations conducted under the air search and rescue plan.
- C. The Director of the Division of Aeronautics shall communicate and coordinate with state agencies who have agreed to offer mutual support in implementing the cooperative action plan for air search and rescue, when the assistance is needed in searching for missing persons. The Director shall inform, in a timely fashion, the Bureau of Marine Patrol of any aircraft which are believed lost over coastal waters of the State and keep the Bureau apprised of the progress of any search for such an aircraft.

Sec. 2. 12 MRSA §6029 is repealed and the following enacted in its place:

§6029. Search and Rescue Operations

The Department of Marine Resources may provide search and rescue services in the coastal waters of the State and shall be the responsible State agency for such services except when they involve lost or downed aircraft. The Department shall develop a formal plan for such activities and shall designate one person as coordinator of search and rescue within the Department and with other search and rescue agencies, both governmental and private. The Department shall attempt to establish and shall train regional volunteer organizations to assist with search and rescue and shall include them in plans and joint training exercises as appropriate.

Sec. 3. 12 MRSA §7794 is amended to read:

4. Fees. The fees for each original or renewal certificate of number with 2 validation stickers are as follows:

~~A.--All-watercraft-requiring-or-requesting-certificate-of-number-----\$4~~

Watercraft requiring or requesting certification of number shall be charged fees as follows based on overall length to the nearest foot:

<u>Less than 16 feet</u>	<u>\$ 4</u>
<u>16 feet or over but less than 26 feet</u>	<u>6</u>
<u>26 feet or over but less than 41 feet</u>	<u>10</u>
<u>41 feet or over but less than 66 feet</u>	<u>12</u>
<u>66 feet and over</u>	<u>14</u>

Sec. 4. 36 MRSA §2903-A is amended by adding the following at the conclusion of that section:

The Bureau of Parks and Recreation, and the Departments of Marine Resources, Inland Fisheries and Wildlife, and Transportation shall devise and agree to a system for determining the percentage of the State's "gasoline tax" and diesel fuel tax that is occasioned by purchases by boaters and whether this is for pleasure or commerce, and for salt or fresh water boating. The Bureau of Parks and Recreation shall assure that proper records are kept to provide input for this system. Beginning February 1, 1990 and every three years thereafter on that date the Bureau of Parks and Recreation shall issue to the joint standing committee of the Legislature with jurisdiction over taxation a report based on an analysis of data according to the provisions of this section. The Boating Facilities Fund shall be used to fund the costs of this activity.

Sec. 5. 37-B chapter 13 subchapter V is enacted to read:

Chapter 13

Subchapter V

Search and Rescue

§850. Search and Rescue Plan.

The Director of the Maine Emergency Management Agency shall prepare a State search and rescue plan encompassing all such activities including land, sea and air searches for persons, boats and airplanes. In the preparation of this plan the Director shall review such individual agency plans as currently exist and shall seek the advise and counsel of all currently designated federal and state search and rescue agencies and shall obtain their approval of the final plan. This plan shall

be completed no later than June 30, 1990. All search and rescue agencies shall cooperate with the Agency in the preparation of this plan. Responsibility for execution of the plan shall be with the individual State agencies which have overall responsibility for the area being searched or for aircraft, as appropriate. These agencies shall follow all the provisions of the approved plan.

This plan shall be reviewed and updated as necessary. The Director shall see that the plan and its revisions receive suitable dissemination on a timely basis. Individual agencies shall submit revisions to their search and rescue plans to the Director for comment and incorporation to the Agency's Statewide plan.

Sec. 6. 38 MRSA §321 is amended by adding the following paragraph at the conclusion of the section:

The Director shall conduct the periodic studies of the State's gasoline tax as specified in 36 MRSA §2903-A. He shall seek the advise of the Departments of Inland Fisheries and Wildlife, Marine Resources and Transportation relative to these studies and these Departments shall cooperate in the design and conduct of these studies.

STATEMENT OF FACT

Section 1 clarifies that the responsibility of the Department of Transportation for searching for lost aircraft extends to the coastal waters of the State which are defined as tidal waters up to 3 miles off-shore. It requires that State agencies, who so request, be informed of searches for lost aircraft, specifically requires that the Bureau of Marine Patrol be informed of searches for lost aircraft over coastal water, and places the responsibility for informing the Bureau with the Director of the Bureau of Aeronautics.

Section 2 makes the Department of Marine Resources the State agency responsible for all coastal search and rescue except that involving lost aircraft. Currently that Department has the authority, but not the responsibility, for such activity. It is not clear currently what State agency or agencies have that responsibility. This section also requires the Department to attempt to set up a network of qualified volunteer search and rescue organizations along the coast, similar to the current Eastern Casco Bay Search and Rescue Organization.

Additional watercraft required to support these responsibilities are to be funded by an increase in boating registration fees. Funding for the remainder of the activities specified in this section is to come from the General Fund. To the extent that this may not be possible, funding is to come from increase in the sales tax on boats.

Section 3 provides for an increase in boating registration fees graduated by size of the boat. Boats under 16 feet would receive no increase.

Sections 4 & 6 require the Bureau of Parks and Recreation to conduct a study every 3 years to ascertain the percent of the State's gasoline tax that is attributable to boating usage. This percentage is used in determining the portion of that tax which goes to the Boating Facilities Fund and the Department of Marine Resources. This study would be funded from the Boating Facilities Fund.

Section 5 directs the Maine Emergency Management Agency to develop a master plan for all State Search and Rescue activities. This plan is to be developed with the cooperation, advise and counsel of all agencies involved and their approval of the final plan is to be obtained. It is the intent of this legislation that the Agency not have a role in the implementation of this plan.