

MAINE STATE LEGISLATURE

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STATE OF MAINE
118TH LEGISLATURE

SECOND REGULAR SESSION
AND
SECOND SPECIAL SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
INLAND FISHERIES AND WILDLIFE

MAY 1998

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**ONE HUNDRED EIGHTEENTH LEGISLATURE
SECOND REGULAR AND SECOND SPECIAL SESSIONS**

**Summary Of Legislation Before The Joint Standing Committees
May 1998**

We are pleased to provide this summary of bills that were considered by the Joint Standing Committees of the Maine Legislature. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE.....Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....House & Senate disagree; bill died
DIED IN CONCURRENCE.....One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....Action incomplete when session ended; bill died
EMERGENCY.....Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....Bill failed to get majority vote
FAILED MANDATE ENACTMENT.....Bill imposing local mandate failed to get 2/3 vote
INDEF PP.....Bill Indefinitely Postponed
ONTP..... Ought Not To Pass report accepted
OTP ND..... Committee report Ought To Pass In New Draft
OTP ND/NT..... Committee report Ought To Pass In New Draft/New Title
P&S XXX..... Chapter # of enacted Private & Special Law
PUBLIC XXX..... Chapter # of enacted Public Law
RESOLVE XXX..... Chapter # of finally passed Resolve
UNSIGNED.....Bill held by Governor
VETO SUSTAINED.....Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is June 30, 1998 and July 9, 1998 for the Second Special Session. Second Special Session laws include Public Laws beginning with Chapter 718, Private and Special Laws beginning with Chapter 82 and Resolves beginning with Chapter 117.

LD 1479

An Act to Decriminalize Various Fish and Game Violations and Enhance Collectibility of Associated Penalties

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS	ONTP	

LD 1479 proposed to decriminalize a number of fish and wildlife violations.

LD 1730

An Act to Implement the Recommendations of the Great Pond Task Force

PUBLIC 739

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT	OTP-AM A	S-600
COWGER	OTP-AM B	S-686 KILKELLY
	OTP-AM C	S-691 KILKELLY
	ONTP D	

LD 1730 was carried over by the Joint Standing Committee on Natural Resources and was re-referred during the Second Regular Session as a joint referral to the Joint Standing Committee on Inland Fisheries and Wildlife and the Joint Standing Committee on Natural Resource.

LD 1730 proposed to implement the recommendations of the Great Ponds Task Force by:

1. Establishing the Lakes Heritage Trust Fund in the Executive Department to protect, preserve and enhance the quality and value of the State's great ponds. The fund was to be administered by the Land and Water Resources Council and the council authorized to accept monetary contributions into the fund. The fund was be capitalized in part from 2 revenue sources proposed in the bill: a one-time registration fee for motorless watercraft and an annual \$10 water quality impact fee assessed on residential dwellings on lots within the watershed of a great pond.
2. Redefining the term "personal watercraft" to include jet propelled watercraft 14 feet or less in length.
3. Directing the Commissioner of Inland Fisheries and Wildlife to adopt rules governing the use, operation and type of watercraft that may be used on great ponds less than 200 acres in surface area and requires the commissioner to consider potential wildlife impacts, environmental values, including noise, and the traditional uses of a water body when adopting rules governing the horsepower, use, operation or type of watercraft allowed on a water body.
4. Increasing the registration fee for motorboats. The fee for the first motorboat registered by a person in a year was proposed to be increased from \$4 to \$15, with the fee for all subsequent registrations remaining at \$4.
5. Creating a new one-time registration fee for motorless watercraft by requiring a person to pay \$10 for each motorless canoe, kayak, sailboard, sailboat or rowboat.
6. Creating a new recreational motorboat rental and leasing license with an annual fee of \$50.

7. Prohibiting the operation of a motorboat on certain waters on Mt. Desert Island and within 1000 feet of the intake of a public drinking water supply.
8. Prohibiting the operation of a personal watercraft without a safety sticker; leasing or renting a motorboat without a license; wake jumping by operators of personal watercraft; operating a motorboat without proper safety instruction; and operating an airmobile or other motorboat in excess of allowable noise limits.
9. Prohibiting the use of personal watercraft on great ponds located wholly within the unorganized territories except as provided in rules adopted by the Commissioner of Inland Fisheries and Wildlife. The bill also proposed to allow the commissioner a 2-year period to adopt rules governing the use and operation of personal watercraft on great ponds less than 200 acres in the organized areas. On and after June 1, 1999, the use of personal watercraft on those great ponds would have been prohibited unless the commissioner had adopted rules prior to that date specifying the use and operation of personal watercraft on those waters. Great ponds within the jurisdiction of the Maine Tribal-State Commission were to be temporarily exempted from the prohibition until such time as the commissioner provided recommendations on the use of personal watercraft on great ponds to the Legislature.
10. Requiring the Commissioner of Inland Fisheries and Wildlife to establish a motorboat safety education program for persons from 12 to 16 years of age.
11. Limiting the liability of a lake association from personal injury, property damage or death caused by the placement or maintenance by the association of navigational aid markers located and maintained under the provisions of a permit and in accordance with the State's marking system of waterways.
12. Changing from \$2.20 per \$500 in value to \$2.42 per \$500 in value the transfer tax that applies to property located within the watershed of a great pond. The additional revenue generated by this tax was targeted for watercraft enforcement, education and training and the protection and enhancement of water quality in Maine lakes.
13. Assessing an annual \$10 water quality impact fee on each residential dwelling unit located within the watershed of a great pond. Revenues from this assessment are targeted at education and training of code enforcement officers and for the Lakes Heritage Trust Fund.
14. Increasing from 200 to 1,000 feet the allowable radius of the protection zone around intakes of public drinking water supplies.

Committee Amendment "A" (S-600) was the majority report of the Inland Fisheries and Wildlife Committee and the Natural Resources Committee. It was one of four committee reports. The amendment replaced the bill.

This amendment prohibits the operation of personal watercraft on remote and undeveloped ponds having at least one outstanding resource value that are wholly or partly within the jurisdiction of the Maine Land Use Regulation Commission. That provision would currently affect 242 ponds. The amendment also prohibits personal watercraft from lakes that are more than 2/3 in the Maine Land Use Regulation Commission jurisdiction and that have more than 1/2 of their shoreline in conservation ownership for low-impact public recreation. That provision would currently affect 3 great ponds. The amendment also prohibits motorboats with internal combustion motors on 5 ponds on Mount Desert Island that are entirely within Acadia National Park and prohibits motors greater than 10 horsepower on 2 other great ponds wholly within the park.

The amendment also expands the authority of the Commissioner of Inland Fisheries and Wildlife to regulate surface waters uses in the State by allowing the commissioner to regulate, in addition to horsepower, the use, operation and type of watercraft on great ponds for reasons that include, in addition to public safety, wildlife or environmental concerns, noise and traditional uses of the water body. Under this amendment, the commissioner may initiate rulemaking without being petitioned to do so. The petition process is amended to require that petitions from organized areas of the State be signed by 50 persons from the affected town, rather than 25, and to allow a petition from an unorganized territory to have fewer than 25 signatures of residents of that territory if the majority of residents in that territory is less than 25.

The amendment also requires that motorboat rental and leasing agents obtain a certificate from the Department of Inland Fisheries and Wildlife in order to lawfully rent or lease motorboats after January 1, 1999, with the exception of commercial sporting camps and campgrounds. The amendment also grants immunity to lake associations from personal injury, property damage or death caused by the association's buoys and increases from 200 to 400 feet the maximum distance a water utility or municipality may place buoys and limit activities around intakes to public water supplies.

The amendment also authorizes the Maine Indian Tribal-State Commission to adopt rules to regulate horsepower and use of motors on waters less than 200 acres that are entirely within Indian territory. That authority does not take effect until approved by the Passamaquoddy Tribe and the Penobscot Nation, as required by the Indian land claims settlement.

The amendment also establishes 16 years of age as the minimum age to operate a personal watercraft and creates new civil penalties for operating a motorboat in excess of certain noise limits and for tampering with a motorboat muffler system.

The amendment also requires the Maine Land Use Regulation Commission, Department of Inland Fisheries and Wildlife and Department of Conservation, Bureau of Parks and Lands to report to the Legislature next session on the scope of their authority to regulate surface water uses and to make recommendations for regulating water bodies within their jurisdiction. It also requires the Department of Inland Fisheries and Wildlife to report back separately on a proposal for a safety training and education program for motorboat operators on inland waters.

The amendment also adds an appropriation section and a fiscal note to the bill.

Senate Amendment "C" to Committee Amendment "A" (S-686) proposed to remove the provision in the majority report authorizing the Commissioner of Inland Fisheries and Wildlife to regulate the use, operation and type of watercraft on great ponds. This would leave the department with its existing authority to regulate horsepower of watercraft based on safety issues when petitioned to do so.

The amendment also proposed to add an unallocated section to the bill requiring the Commissioner of Inland Fisheries and Wildlife to submit a report to the first and second regular sessions of the 119th Legislature on the use, operation and type of watercraft on great ponds within the organized areas of the State based on recommendations voluntarily submitted to the commissioner by the municipalities in 1998 and 1999. Each report must be accompanied by legislation to implement municipal recommendations supported by the department and may include additional proposals from the department itself. Municipalities that choose to submit recommendations must first hold a public hearing and must include a description of the resources the municipality or municipalities will use to enforce those regulations if enacted.

Senate Amendment "F" to Committee Amendment "A" (S-691) proposed to strike the motorboat rental and leasing agent certificate requirements proposed in Committee Amendment "A" and replace them with similar

provisions that apply only to agents that rent or lease personal watercraft. The amendment also exempts property owners who offer renters the use of their registered personal watercraft from obtaining such a certificate.

Enacted law summary

Public Law 1997, chapter 739 does the following:

1. Prohibits the operation of personal watercraft on remote and undeveloped ponds having at least one outstanding resource value that are wholly or partly within the jurisdiction of the Maine Land Use Regulation Commission(242 ponds; 8% of all LURC ponds).
2. Prohibits personal watercraft from waters that are more than two thirds in LURC jurisdiction and that have more than half of their shoreline in conservation ownership for low impact public recreation (Currently Mooselookmeguntic Lake, Donnell Pond and Tunk Lake qualify under this provision)
3. Prohibits internal combustion motors on five ponds on Mount Desert Island that are entirely within Acadia National Park and prohibits motors greater than 10 horsepower on two other great ponds wholly within the Park;
4. Requires the Commissioner of Inland Fisheries and Wildlife to submit a report to the First and Second Regular Session of the 119th Legislature on the use, operation and type of watercraft on great ponds within the organized areas of the state based on recommendations voluntarily submitted to the commissioner by the municipalities. Each report must be accompanied by legislation to implement recommendations supported by the department, and may include additional proposals from the department itself. Municipalities that choose to submit recommendations must first hold a public hearing and must include a description of the resources the municipality or municipalities will use to enforce those regulations if enacted.
5. Requires that personal watercraft rental and leasing agents obtain a certificate from the Department of Inland and Fisheries and Wildlife in order to lawfully rent or lease personal watercraft after January 1, 1999, with the exception of commercial sporting camps, campgrounds and property owners who offer personal watercraft for use by people who rent or lease that property;
6. Grants immunity to lake associations from personal injury, property damage or death caused by the association's buoys;
7. Increases from 200 to 400 feet the maximum distance a water utility or municipality may place buoys and limit activities around intakes to public water supplies;
8. Authorizes the Maine Indian Tribal-State Commission to adopt rules to regulate horsepower and use of motors on waters less than 200 acres that are entirely within Indian Territory. (That authority does not take effect until approved by the Passamaquoddy Tribe and the Penobscot Nation, as required by the Land Claims Settlement Act.)
9. Establishes 16 as the minimum age to operate a personal watercraft;
10. Creates new civil penalties for operating a motorboat in excess of certain noise limits and for tampering with a motorboat muffler system.

11. Requires LURC, DIFW and BPL to report to the Legislature next session on the scope of their authority to regulate surface water uses and to make recommendations for regulating water bodies within their jurisdiction; and
12. Requires the DIFW to report back separately on a proposal for a safety training and education program for motorboat operators on inland waters.

LD 1801

**An Act to Adopt Long-range Changes in the Methods by Which
Whitewater Rafting Trips Are Allocated among Licensees**

PUBLIC 730

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS	OTP-AM MAJ OTP-AM MIN	S-530

LD 1801 proposed to amend the commercial whitewater rafting laws in the following manner.

1. Set a recreational use limit for commercial passengers on the Kennebec River of 1,000 per day, effectively increasing the number of passengers allowed on Saturdays from 800 to 1,000 passengers. These 200 new allocations must be auctioned by the Department of Inland Fisheries and Wildlife by December 1, 1997 and the proceeds distributed equally between the General Fund and the department.
2. Require the Department of Inland Fisheries and Wildlife to designate certain unallocated days during which an outfitter may carry up to 120 passengers per unallocated day.
3. Establish a limit of 240 passengers per day on the Dead River for an outfitter.
4. Repeal the 5-year term for awarded allocations and specifies that the department may suspend, revoke or reduce the number of allocations when the department determines it is advisable to do so for better management or protection of public safety and welfare. The department may also suspend or revoke the allocations of an outfitter who fails to meet certain specified requirements.
5. Repeal the current allocation procedures and the requirement that the department allocate the right to conduct whitewater trips, instead giving the department the discretion to make allocations. Allocations may be transferred between outfitters subject to approval by the department. An outfitter is required to submit reports to the department documenting river use.

Committee Amendment "A" (S-530) is the majority report of the Joint Standing Committee on Inland Fisheries and Wildlife. This amendment replaced the bill. The amendment proposed several changes in the manner in which whitewater rafting is regulated in the State.

This amendment also adds an appropriation section and fiscal note to the bill.

Committee Amendment "B" (S-531) is the minority report of the Joint Standing Committee on Inland Fisheries and Wildlife. The amendment replaces the bill.

The report differs from the majority report in that it does not include any increase in the use limits on the Kennebec or any increase in the number of allocations that may be held by an outfitter.