

MAINE STATE LEGISLATURE

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STATE OF MAINE
123RD LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills and adopted amendments and laws enacted or finally passed during the First Regular Session of the 123rd Maine Legislature coming from the

JOINT STANDING COMMITTEE ON NATURAL RESOURCES

July 2007

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STATE OF MAINE

123RD LEGISLATURE

FIRST REGULAR SESSION

LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS



This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 123rd Maine Legislature, which was in session from December 6, 2006 to June 21, 2007.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

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
NOT PROPERLY BEFORE THE BODY.....	Ruled out of order by the presiding officers; bill died
INDEF PP.....	Bill Indefinitely Postponed
ONTP (or Accepted ONTP report).....	Ought Not To Pass report accepted
OTP-ND.....	Committee report Ought To Pass In New Draft
P&S XXX.....	Chapter # of enacted Private & Special Law
PASSED.....	Joint Order passed in both bodies
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 that the effective date for non-emergency legislation enacted in the First Regular Session is **September 20, 2007**. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

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5. It requires consideration of case-specific issues in connection with host community benefits for state-owned facilities.

Chapter 406 was enacted with a mandate preamble.

LD 1477

An Act Concerning the Natural Resources Protection Laws and Related Provisions

**PUBLIC 290
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KOFFMAN	OTP-AM	H-388 S-224 RAYE

This bill:

1. Clarifies the definition of "permanent structure" for the natural resources protection laws;
2. Amends the section concerning identification by maps to be consistent with previous amendments to the definition of "significant wildlife habitat" in the natural resources protection laws by qualifying the mapping requirement through a reference to the Maine Revised Statutes, Title 38, section 480-B, subsection 10, paragraphs A and B. It also removes out-of-date language concerning jurisdiction and mapping requirements that applied to wetlands of 10 acres or more when section 480-B was amended in 1995;
3. Repeals the exemption for alteration of freshwater wetlands associated with the construction, operation, maintenance or repair of an interstate pipeline;
4. Amends an applicability section to be consistent with previous amendments to the definition of "significant wildlife habitat";
5. Amends Title 38, section 490-D, subsection 1 of the borrow pit law to provide that the Department of Environmental Protection may allow excavation in a significant wildlife habitat provided a permit is obtained pursuant to the protection of natural resources laws;
6. Amends Title 38, section 490-Z, subsection 1 of the quarry law to provide that the Department of Environmental Protection may allow excavation in a significant wildlife habitat provided a permit is obtained pursuant to the protection of natural resources laws;
7. Enacts a section providing supplemental provisions concerning shorebird feeding, staging and roosting areas. It includes supplemental definitions and permitting standards for cutting within roosting buffers and feeding buffers that apply in addition to otherwise applicable standards under the protection of natural resources laws;
8. Enacts a section to allow the Department of Inland Fisheries and Wildlife to determine that an area is not a significant wildlife habitat due to the impact of development in existence on June 8, 2006 and continuing in existence on the date of the determination, although the area otherwise conforms with significant wildlife criteria adopted by the Department of Environmental Protection for shorebird nesting, feeding and staging areas or high and moderate value inland waterfowl and wading bird habitat. Certain factors and requirements are specified;
9. Amends Resolve 2005, chapter 183, which approved amendments to chapter 335, Significant Wildlife Habitat, a major substantive rule of the Department of Environmental Protection, to clarify that an activity in, on, over or adjacent to a significant vernal pool habitat or potential significant vernal pool habitat is eligible for

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permit by rule if certain habitat standards are met by adding a citation to the regulatory standards;

10. Provides that changes to the Maine Revised Statutes, Title 38, sections 480-CC and 480-DD and changes to Resolve 2005, chapter 183 are applicable as of June 8, 2006. The bill also provides that changes to the Department of Environmental Protection's rules on significant wildlife habitat that are adopted pursuant to this legislation as well as additional corrections, clarifications and minor changes of the significant wildlife habitat rules are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The bill also provides that the Department of Environmental Protection's rules concerning permit by rule must be amended to allow certain specified activities to be authorized under permit by rules if applicable standards are met. The Department of Environmental Protection's rules on permit by rule and amendments to those rules are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A and

11. Provides the short title for the Maine Revised Statutes, Title 38, chapter 3, subchapter 1, article 5-A of "the Natural Resources Protection Act."

Committee Amendment "A" (H-388)

This amendment clarifies that a person lawfully harvesting marine organisms or vegetation is not required to obtain a permit under the natural resources protection laws to engage in those activities in a coastal wetland containing a high or moderate value wading bird habitat or shorebird feeding or staging area.

It removes from the bill the provision that repeals the exemption for alteration of freshwater wetlands associated with the construction, operation, maintenance or repair of an interstate pipeline.

It changes the definition of "shorebird feeding area" that is in the bill to include a 100-foot-wide surrounding buffer.

It removes from the bill supplemental cutting standards for shorebird feeding buffers.

It allows the Department of Inland Fisheries and Wildlife to determine that an area is not a significant wildlife habitat due to the topography in existence on June 8, 2006.

It clarifies that upland areas that abut open water on great ponds and are more than 250 feet from freshwater wetlands are not regulated under the natural resources protection laws.

It requires the Department of Environmental Protection to notify municipalities and members of the Legislature who represent residents of those municipalities if a shorebird nesting, feeding or staging area, a significant vernal pool habitat or a high or moderate value waterfowl and wading bird habitat is identified by the Department of Inland Fisheries and Wildlife after the effective date of the bill.

It requires the Department of Environmental Protection to amend its rules to clarify that significant wildlife habitat that is not fully contained within a freshwater wetland is not subject to the department's adjacency jurisdiction under the Maine Revised Statutes, Title 38, section 480-C.

It requires the Department of Environmental Protection to develop a proposal for mitigation and compensation standards for tidal and freshwater significant wildlife habitat.

Senate Amendment "A" (S-224)

The amendment clarifies that the cutting standards applied within 100 feet of a shorebird feeding area are those that are used within 75 feet of a coastal wetland under shoreland zoning.

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The amendment also makes 2 changes to the proposed exemption for lawful harvesting. It clarifies that the exemption applies to waterfowl as well as wading bird habitat and that the removal of vegetation or displacement of soil associated with lawful harvesting activities is not a violation of the natural resources protection laws.

Enacted Law Summary

Public Law 2007, chapter 290:

1. Provides the short title for the Maine Revised Statutes, Title 38, chapter 3, subchapter 1, article 5-A of "the Natural Resources Protection Act."
2. Clarifies the definition of "permanent structure" for the natural resources protection laws;
3. Amends the section concerning identification by maps to be consistent with previous amendments to the definition of "significant wildlife habitat" in the natural resources protection laws by qualifying the mapping requirement through a reference to the Maine Revised Statutes, Title 38, section 480-B, subsection 10, paragraphs A and B. It also removes out-of-date language concerning jurisdiction and mapping requirements that applied to wetlands of 10 acres or more when section 480-B was amended in 1995;
4. Amends an applicability section to be consistent with previous amendments to the definition of "significant wildlife habitat";
5. Amends Title 38, section 490-D, subsection 1 of the borrow pit law to provide that the Department of Environmental Protection may allow excavation in a significant wildlife habitat provided a permit is obtained pursuant to the protection of natural resources laws;
6. Amends Title 38, section 490-Z, subsection 1 of the quarry law to provide that the Department of Environmental Protection may allow excavation in a significant wildlife habitat provided a permit is obtained pursuant to the protection of natural resources laws;
7. Clarifies that a person lawfully harvesting marine organisms or vegetation is not required to obtain a permit under the natural resources protection laws to engage in those activities in a coastal wetland containing a high or moderate value waterfowl or wading bird habitat or shorebird feeding or staging area. It also clarifies that the removal of vegetation or displacement of soil associated with lawful harvesting activities is not a violation of the natural resources protection laws;
8. Enacts a section providing supplemental provisions concerning shorebird feeding, staging and roosting areas. It includes supplemental definitions and permitting standards for cutting within roosting buffers and feeding buffers that apply in addition to otherwise applicable standards under the protection of natural resources laws;
9. Enacts a section to allow the Department of Inland Fisheries and Wildlife to determine that an area is not a significant wildlife habitat due to the topography or impact of development in existence on June 8, 2006 and continuing in existence on the date of the determination, although the area otherwise conforms with significant wildlife criteria adopted by the Department of Environmental Protection for shorebird nesting, feeding and staging areas or high and moderate value inland waterfowl and wading bird habitat. Certain factors and requirements are specified;
10. Clarifies that upland areas that abut open water on great ponds and are more than 250 feet from freshwater wetlands are not regulated under the natural resources protection laws;
11. Requires the Department of Environmental Protection to notify municipalities and members of the Legislature who represent residents of those municipalities if a shorebird nesting, feeding or staging area, a significant vernal

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pool habitat or a high or moderate value waterfowl and wading bird habitat is identified by the Department of Inland Fisheries and Wildlife after the effective date of chapter 290;

12. Amends Resolve 2005, chapter 183, which approved amendments to chapter 335, Significant Wildlife Habitat, a major substantive rule of the Department of Environmental Protection, to clarify that an activity in, on, over or adjacent to a significant vernal pool habitat or potential significant vernal pool habitat is eligible for permit by rule if certain habitat standards are met by adding a citation to the regulatory standards;

13. Provides that changes to the Maine Revised Statutes, Title 38, sections 480-CC and 480-DD and changes to Resolve 2005, chapter 183 are applicable as of June 8, 2006. It also provides that changes to the Department of Environmental Protection's rules on significant wildlife habitat that are adopted pursuant to this legislation as well as additional corrections, clarifications and minor changes of the significant wildlife habitat rules are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. It also provides that the Department of Environmental Protection's rules concerning permit by rule must be amended to allow certain specified activities to be authorized under permit by rules if applicable standards are met. The Department of Environmental Protection's rules on permit by rule and amendments to those rules are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;

14. Requires the Department of Environmental Protection to amend its rules to clarify that significant wildlife habitat that is not fully contained within a freshwater wetland is not subject to the department's adjacency jurisdiction under the Maine Revised Statutes, Title 38, section 480-C; and

15. Requires the Department of Environmental Protection to develop a proposal for mitigation and compensation standards for tidal and freshwater significant wildlife habitat.

Public Law 2007, chapter 290 was enacted as an emergency measure effective June 14, 2007.

**LD 1488 An Act To Reduce Contamination in the Home from the Release of
Brominated Flame Retardants**

ONTP

Sponsor(s)

Committee Report

Amendments Adopted

ONTP

This bill further restricts the sale of products containing a class of chemical flame retardants known as polybrominated diphenyl ethers. The bill exempts products made from recycled material and certain replacement parts from the restrictions. The bill changes the reporting requirement on brominated flame retardants from annually to every 2 years. The bill authorizes the Department of Environmental Protection to require a manufacturer to provide a certificate of compliance if there are grounds to suspect that a product is being offered for sale in violation of the law.

**LD 1500 An Act To Allow the Department of Environmental Protection To
Charge Interest for Late Payment of Fees**

PUBLIC 187

Sponsor(s)

Committee Report

Amendments Adopted

MARTIN

OTP

The bill requires the Department of Environmental Protection to charge interest at a rate of 15% per annum and authorizes the department to pursue enforcement, including suspension or revocation of a license, for the failure of a licensee to pay licensing fees by the due date.

Enacted Law Summary