

MAINE STATE LEGISLATURE

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STATE OF MAINE
124TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during
the First Regular Session of the 124th Maine Legislature coming from the

JOINT STANDING COMMITTEE ON NATURAL RESOURCES

July 2009

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STATE OF MAINE

124TH 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 124th Maine Legislature.

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:

CARRIED OVER.....	Carried over to a subsequent session of the Legislature
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; bill died
ONTP (or Accepted ONTP report).....	Ought Not To Pass report accepted; bill died
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

The effective date for non-emergency legislation enacted in the First Regular Session of the 124th Legislature is September 12, 2009. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

Joint Standing Committee on Natural Resources

LD 260 An Act To Provide Access to Regional Greenhouse Gas Initiative Auction Funds to Maine Indian Tribes

ONTP

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

This bill requires 5 percent of the annual receipts of the Energy and Carbon Savings Trust Fund to be allocated to the Passamaquoddy Tribe at Indian Township, Passamaquoddy Tribe at Pleasant Point, Penobscot Nation, Houlton Band of Maliseet Indians and Aroostook Band of Micmacs.

LD 298 An Act Regarding the Labeling of Wood Pellet and Biomass Heating Fuel Sold in the State

**ACCEPTED
REPORT A
(ONTP)**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PINKHAM	ONTP A OTP-AM B REF TO ACF C	

This bill defines "biomass heating fuel" as wood pellets or corn or grain that is in a form designed to be used as heating fuel for residential purposes. It requires packages containing biomass heating fuel that are sold in this State to be labeled in a manner that clearly indicates whether the biomass heating fuel meets quality assurance standards established by the Department of Environmental Protection. It requires the Department of Environmental Protection to adopt major substantive rules to establish labeling standards for packages of biomass heating fuel weighing 60 pounds or less intended to be sold in stores to the general public that incorporate standards established by a national pellet fuels trade association and permit the use of the logo, terms and grades established by the national pellet fuels trade association only if the biomass heating fuel meets that association's relevant quality assurance standards. It makes a violation an unfair trade practice as prohibited by the Maine Revised Statutes, Title 5, section 207.

Committee Amendment "A" (H-54)

This amendment adds an appropriations and allocations section to the bill. This amendment was not adopted.

LD 330 An Act To Change the Classification of Certain Waters of the State

PUBLIC 163

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EBERLE SIMPSON	OTP-AM A OTP-AM B OTP-AM C	H-70

This bill does the following.

1. It adds a condition in the water classification law that allows the Legislature to make classification changes and set effective dates for those changes. It allows the commissioner to make changes in management to allow water quality to attain the new classification by an effective date determined by the Legislature.

Joint Standing Committee on Natural Resources

2. It upgrades the classification of Abbott Brook and tributaries in Lincoln Plantation from Class A to Class AA.
3. It upgrades the classification of Aunt Hannah Brook and its tributaries in Dixfield from Class B to Class A.
4. It upgrades the classification of the Kennebec River from downstream of the Shawmut Dam to the confluence with Messalonskee Stream, excluding impoundments, from Class C to Class B.
5. It upgrades the classification of tidal sections of tributaries entering the Kennebec River between the Sidney, Vassalboro and Augusta town line and a line drawn across the tidal estuary of the Kennebec River due east of Abagadasset Point from Class C to Class B, except that the tidal section of the Eastern River would remain Class C.
6. It upgrades the classification of Alder Stream and its tributaries from Class B to Class A and upgrades tributaries to Seboeis Stream from Class B to Class A.
7. It upgrades the classification of selected tributaries of Souadabscook Stream from Class B to Class A. It also upgrades the classification of tributaries to Mattamiscontis Stream from Class B to Class A.
8. It upgrades the classification of Crooked River at Scribners Mill from A to AA.
9. It upgrades the classification of South River and its tributaries from Class B to Class A.
10. It clarifies the Maine Revised Statutes, Title 38, section 467, subsection 13, paragraph A to recognize that the ecological functioning of the described section of the St. Croix River is more similar to a great pond than a river. The classification would be changed from Class B to Class GPA.
11. It changes the landmark used to designate the classification change from Class A to Class B on the St. John River.
12. It upgrades the classification of Beaver Brook and its tributaries in T.14 R.6 W.E.L.S., T.14 R.5 W.E.L.S., T.13 R.5 W.E.L.S., Portage Lake, Ashland, Castle Hill from Class B to Class A. It also upgrades the classification of Gardner Brook and its tributaries in T.14 R.5 W.E.L.S., T.13 R.5 W.E.L.S. and Wade from Class B to Class A.
13. It upgrades the classification of Violette Stream and its tributaries from its source to the confluence with Caniba Brook from Class B to Class A.
14. It upgrades the classification of the Little River and its tributaries in Berwick, North Berwick and Lebanon from Class B to Class A.
15. It clarifies that the segment of Trout Brook that serves as the town border between Cape Elizabeth and South Portland is Class C.
16. It clarifies that all of Stroudwater River in Portland, including its tributaries, is Class B.
17. It upgrades the classification of the upper reaches of the Nonesuch River to a point 1/2 mile downstream of Mitchell Hill Road crossing from Class C to Class B and upgrades the Stroudwater River and its tributaries in Scarborough to Class B.
18. It clarifies that Trout Brook downstream of the first point where the brook becomes the town boundary between South Portland and Cape Elizabeth is Class C.
19. It upgrades the Pemaquid River in Bristol, including tributaries, below Pemaquid Pond from Class B to Class A.

Joint Standing Committee on Natural Resources

20. It upgrades the classification of Black Brook, Kendall Brook and Tucker Brook in Lincolnville from Class B to Class A.

21. It upgrades the classification of tidal waters of The Basin, including The Narrows, east of a line drawn between 69°-51'-57" W. and 43°-48'-14" N. from Class SB to Class SA.

22. It provides for a report to the Joint Standing Committee on Natural Resources from the Department of Environmental Protection by January 15, 2010 concerning a review of reclassification procedures.

Committee Amendment "A" (H-70)

This amendment is the majority report of the committee. The amendment:

1. Strikes section 1 from the bill;
2. Adds language to the bill that keeps certain Kennebec River impoundments at Class C;
3. Strikes section 11 from the bill;
4. Adds language making Long Creek's main stem in Westbrook Class C;
5. Makes a typographical correction in section 24; and
6. Directs the Department of Environmental Protection to establish and implement a water quality sampling program for the lower Androscoggin River, to initiate the procedures for reclassification and to report to the Joint Standing Committee on Natural Resources. It authorizes the committee to report out legislation relating to the water sampling program to the Second Regular Session of the 124th Legislature.

Committee Amendment "B" (H-71)

This amendment is a minority report of the committee. The amendment differs from the majority report in that it strikes section 8 from the bill. The amendment also:

1. Strikes section 1 from the bill;
2. Adds language to the bill that keeps certain Kennebec River impoundments at Class C;
3. Strikes section 11 from the bill;
4. Adds language making Long Creek's main stem in Westbrook Class C;
5. Makes a typographical correction in section 24; and
6. Directs the Department of Environmental Protection to establish and implement a water quality sampling program for the lower Androscoggin River, to initiate the procedures for reclassification and to report to the Joint Standing Committee on Natural Resources. It authorizes the committee to report out legislation relating to the water sampling program to the Second Regular Session of the 124th Legislature.

This amendment was not adopted.

Committee Amendment "C" (H-72)

This amendment is a minority report of the committee. The amendment differs from the majority report in that it does not add language making the Long Creek, main stem in Westbrook Class C. The amendment also:

Joint Standing Committee on Natural Resources

1. Strikes section 1 from the bill;
2. Adds language to the bill that keeps certain Kennebec River impoundments at Class C;
3. Strikes section 11 from the bill;
4. Makes a typographical correction in section 24; and
5. Directs the Department of Environmental Protection to establish and implement a water quality sampling program for the lower Androscoggin River, to initiate the procedures for reclassification and to report to the Joint Standing Committee on Natural Resources. It authorizes the committee to report out legislation relating to the water sampling program to the Second Regular Session of the 124th Legislature.

This amendment was not adopted.

Enacted Law Summary

Public Law 2009, chapter 163 does the following.

1. It upgrades the classification of Abbott Brook and tributaries in Lincoln Plantation from Class A to Class AA.
2. It upgrades the classification of Aunt Hannah Brook and its tributaries in Dixfield from Class B to Class A.
3. It upgrades the classification of the Kennebec River from downstream of the Shawmut Dam to the confluence with Messalonskee Stream, excluding impoundments, from Class C to Class B. Waters impounded by the Hydro-Kennebec Dam and the Lockwood Dam in Waterville-Winslow are Class C.
4. It upgrades the classification of tidal sections of tributaries entering the Kennebec River between the Sidney, Vassalboro and Augusta town line and a line drawn across the tidal estuary of the Kennebec River due east of Abagadasset Point from Class C to Class B, except that the tidal section of the Eastern River would remain Class C.
5. It upgrades the classification of Alder Stream and its tributaries from Class B to Class A and upgrades tributaries to Seboeis Stream from Class B to Class A.
6. It upgrades the classification of selected tributaries of Souadabscook Stream from Class B to Class A. It also upgrades the classification of tributaries to Mattamiscontis Stream from Class B to Class A.
7. It upgrades the classification of Crooked River at Scribners Mill from A to AA.
8. It upgrades the classification of South River and its tributaries from Class B to Class A.
9. It clarifies the Maine Revised Statutes, Title 38, section 467, subsection 13, paragraph A to recognize that the ecological functioning of the described section of the St. Croix River is more similar to a great pond than a river. The classification would be changed from Class B to Class GPA.
10. It upgrades the classification of Beaver Brook and its tributaries in T.14 R.6 W.E.L.S., T.14 R.5 W.E.L.S., T.13 R.5 W.E.L.S., Portage Lake, Ashland, Castle Hill from Class B to Class A. It also upgrades the classification of Gardner Brook and its tributaries in T.14 R.5 W.E.L.S., T.13 R.5 W.E.L.S. and Wade from Class B to Class A.
11. It upgrades the classification of Violette Stream and its tributaries from its source to the confluence with Caniba Brook from Class B to Class A.

Joint Standing Committee on Natural Resources

- 12. It upgrades the classification of the Little River and its tributaries in Berwick, North Berwick and Lebanon from Class B to Class A.
- 13. It clarifies that the segment of Trout Brook that serves as the town border between Cape Elizabeth and South Portland is Class C.
- 14. It clarifies that all of Stroudwater River in Portland, including its tributaries, is Class B.
- 15. It upgrades the classification of the upper reaches of the Nonesuch River to a point 1/2 mile downstream of Mitchell Hill Road crossing from Class C to Class B and upgrades the Stroudwater River and its tributaries in Scarborough to Class B.
- 16. It clarifies that Trout Brook downstream of the first point where the brook becomes the town boundary between South Portland and Cape Elizabeth is Class C.
- 17. It upgrades the Pemaquid River in Bristol, including tributaries, below Pemaquid Pond from Class B to Class A.
- 18. It upgrades the classification of Black Brook, Kendall Brook and Tucker Brook in Lincolnville from Class B to Class A.
- 19. It upgrades the classification of tidal waters of The Basin, including The Narrows, east of a line drawn between 69°-51'-57" W. and 43°-48'-14" N. from Class SB to Class SA.
- 20. It specifies that Long Creek's main stem in Westbrook is Class C.
- 21. It provides for a report to the Joint Standing Committee on Natural Resources from the Department of Environmental Protection by January 15, 2010 concerning a review of reclassification procedures.
- 22. It directs the Department of Environmental Protection to establish and implement a water quality sampling program for the lower Androscoggin River, to initiate the procedures for reclassification and to report to the Joint Standing Committee on Natural Resources. It authorizes the committee to report out legislation relating to the water sampling program to the Second Regular Session of the 124th Legislature.

LD 348 An Act To Facilitate the Removal of Dams That Pose a Hazard to Public Safety and the Installation and Repair of Fishways

PUBLIC 75

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON	OTP-AM	S-21

This bill amends the Natural Resources Protection Act to specify that a permit is not required for:

- 1. The erection, maintenance, repair or alteration of a fishway in a dam or other artificial obstruction when required or performed by the Commissioner of Inland Fisheries and Wildlife or the Commissioner of Marine Resources;
- 2. Activity associated with the release of water from an abandoned dam pursuant to an order issued by the Department of Environmental Protection under the Maine Revised Statutes, Title 38, section 905; and
- 3. Activity associated with the breach or removal of a dam pursuant to a dam safety order issued by the Commissioner of Defense, Veterans and Emergency Management under Title 37-B, chapter 24.