

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
124<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



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

**JOINT STANDING COMMITTEE ON NATURAL RESOURCES**

July 2009

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# STATE OF MAINE

124<sup>TH</sup> LEGISLATURE  
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## 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 124<sup>th</sup> 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 124<sup>th</sup> 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*

for funding investigations and the cleanup of tank-related oil discharges at voluntary response action program sites and sites contaminated by discharges during the delivery of oil to an oil storage facility. The Joint Standing Committee on Natural Resources is authorized to report out legislation related to the report.

6. It makes a technical correction to the format of the law governing liability for fund disbursements by repealing the current and future versions of the law and the confusing effective date provisions. It enacts the same language in a manner that clarifies the effective date of each provision of law.

**LD 1333**

### **An Act To Ensure that Replacement Culverts Permit Fish Passage**

**PUBLIC 460**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PINGREE MITCHELL E	OTP-AM MAJ OTP-AM MIN	H-514 S-348 GOODALL

Part A of this bill creates the Climate and Energy Planning Act of 2009, which:

1. Requires analysis of the climate effects on and resulting from state planning decisions;
2. Requires the analysis to be made available for public review and comment;
3. Requires state planning decisions to be consistent with the State's greenhouse gas emission reduction goals as established in the Maine Revised Statutes, Title 38, section 576;
4. Requires that after adoption of relevant major substantive rules by the Department of Environmental Protection the department undertake the same analysis and ensure the same consistency with the State's greenhouse gas emission goals when evaluating applications for and issuing licenses, permits or other approvals for developments or subdivisions subject to Title 38, section 483-A, waste discharges subject to Title 38, section 413, air emissions subject to Title 38, section 590 and discharges subject to state certification under the federal Clean Water Act, 33 United States Code, Section 1341. The department is directed to propose to the Legislature a fee schedule to cover its costs in administering this requirement; and
5. Allows the department to establish waivers from the otherwise applicable requirements of the Climate and Energy Planning Act of 2009 and requires the department to establish a list of qualified greenhouse gas emission reduction measures that demonstrably reduce the greenhouse gas emissions resulting from projects and activities expected to be subject to the requirements of the Act.

Part B of this bill:

1. Adds attainment of the state greenhouse gas emission reduction goals set out in the Maine Revised Statutes, Title 38, section 576 to the purposes and goals of the growth management program;
2. Adds attainment of the state greenhouse gas emission reduction goals set out in Title 38, section 576 to the purposes of the laws governing the Maine Land Use Regulation Commission and requires that development and amendment of land use districts and standards be consistent with the Climate and Energy Planning Act of 2009. It also requires the commission to review the effects of increased traffic on private roads when reviewing permit applications for developments of residential subdivisions. It also amends the definition of "subdivision" in management districts and protection districts in the unorganized townships;

## *Joint Standing Committee on Natural Resources*

3. Amends the Natural Resources Protection Act permit exception for the maintenance and repair of stream crossings to ensure the activities eligible for the exception achieve natural stream flows and provide for the passage of aquatic organisms. It also limits the Natural Resources Protection Act permit exception for the maintenance and repair of existing road culverts in protected natural resource areas to ensure that natural stream flows are achieved and the passage of aquatic organisms is not blocked;
4. Authorizes the Department of Transportation to acquire rights-of-way for construction of bicycle and pedestrian ways that are not adjacent to existing highway rights-of-way. In addition, it requires state, regional and local decisions regarding transportation planning, projects and facilities to include full consideration of bicycle and pedestrian ways and intermodal connections to public transit systems and requires that the final plans, projects and facilities include bicycle and pedestrian ways and intermodal connections as appropriate, unless there is no need for such ways or connections or they would conflict with public safety or involve excessive costs;
5. Requires the Maine Land Use Regulation Commission and the Department of Conservation, Maine Forest Service to review and update their rules, standards, practices and guidelines for road construction to reflect current best practices to facilitate passage of aquatic and terrestrial organisms;
6. Requires the Department of Environmental Protection to amend its rules, Chapter 305, Permit by Rule, to require municipalities to achieve natural stream flow and facilitate passage of aquatic organisms when repairing or maintaining roads and stream crossings; and
7. Requires the Executive Department, State Planning Office to review and update its rules, standards and guidelines governing local and regional planning activities to incorporate best practices to reduce the climate change effects on and resulting from those activities.

### **Committee Amendment "A" (H-514)**

This amendment is the majority report of the Joint Standing Committee on Natural Resources. The amendment strikes the provisions in the bill that require reviews of climate effects in state planning and project decisions and replaces those provisions with a requirement for state authorities to establish policies and guidelines to lower overall energy use, lessen the State's reliance on fossil fuels and reduce greenhouse gas emissions and a requirement that state authorities incorporate energy criteria in planning and long-term project decisions. The amendment strikes the provisions in the bill that require review of climate effects in state licensing decisions and replaces those provisions with a requirement that developments in the organized areas of the State that are subject to approval under the site location of development law and developments in the unorganized territories that would be subject to the site location of development law if the development was in an organized area of the State may not result in or contribute to unreasonable emissions of greenhouse gases, and it requires the Department of Environmental Protection and the Maine Land Use Regulation Commission to adopt major substantive rules. It authorizes the establishment of a mitigation compensation fund. The amendment requires the Department of Environmental Protection and the Maine Land Use Regulation Commission to submit an interim report by January 7, 2010 and final reports by January 7, 2011 related to the major substantive rulemaking. This amendment adds an appropriations and allocations section to the bill.

The amendment retains, with changes, provisions in the bill that:

1. Add the protection of state resources from climate change to the goals of the growth management program;
2. Amend exceptions in the Natural Resources Protection Act for the maintenance and repair of stream crossings and of existing road culverts; and
3. Require the Department of Environmental Protection to amend its rules to require municipalities to achieve natural stream flow and upstream and downstream passage of aquatic organisms when repairing or maintaining roads and stream crossings.

## *Joint Standing Committee on Natural Resources*

### **Committee Amendment "B" (H-515)**

This amendment is the minority report of the Joint Standing Committee on Natural Resources. The amendment replaces the bill. The amendment requires state authorities to establish policies and guidelines to lower energy use, lessen the State's reliance on fossil fuels and reduce greenhouse gas emissions associated with state-owned buildings. The amendment requires the Department of Environmental Protection to submit a report on the policies and guidelines established by state authorities to the joint standing committee of the Legislature having jurisdiction over natural resources matters every 4 years. The amendment also establishes a stakeholder group to evaluate measures available to Maine people and businesses to reduce reliance on fossil fuels, to stabilize and reduce greenhouse gas emissions and to incorporate the measures into land use and licensing for private development. This amendment was not adopted.

### **Senate Amendment "A" To Committee Amendment "A" (S-348)**

This amendment strikes out all of Committee Amendment "A" except the part that amends the exceptions in the Natural Resources Protection Act for the maintenance and repair of stream crossings and of existing road culverts and clarifies that the provisions apply only to water courses containing fish. The amendment also specifies that forestry management activities are exempted from the new standards.

### **Enacted Law Summary**

Public Law 2009, chapter 460 amends the Natural Resources Protection Act permit exceptions for the maintenance and repair of stream crossings and for the maintenance and repair of existing road culverts to require that natural stream flows are achieved and the passage of aquatic organisms is not blocked. It clarifies that the provisions apply only to water courses containing fish. It requires the Department of Environmental Protection to amend its rules to require municipalities to achieve natural stream flow and upstream and downstream passage of aquatic organisms when repairing or maintaining roads and stream crossings and clarifies that the rule changes apply only to water courses containing fish. It provides that rules adopted pursuant to or to implement provisions of the Act are major substantive rules that must be submitted to the Legislature by January 1, 2011. It also specifies that forestry management activities are exempted from the new standards.

**LD 1386      An Act Pertaining to Response Costs Incurred by the Department of  
Environmental Protection under the Waste Motor Oil Disposal Site  
Remediation Program**

**PUBLIC 304**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOODALL	OTP-AM	S-204

This bill provides that the Finance Authority of Maine may use proceeds of revenue obligation securities to fund the costs of the cleanup of certain waste motor oil disposal sites implemented by the Department of Environmental Protection for eligible responsible parties.

### **Committee Amendment "A" (S-204)**

This amendment amends the provisions in the bill regarding an alternative method for payment to the Department of Environmental Protection for cleanup performed at waste motor oil disposal sites. The amendment clarifies that the alternative procedure may be used only upon issuance of a certificate of final response costs and a final remedy selection at the Ellsworth, Casco and Presque Isle waste motor oil disposal sites. It provides that the department may only receive payment after January 15, 2010 or after all response costs at the Plymouth waste motor oil disposal site have been paid to eligible persons, whichever occurs first. It clarifies the future liability of eligible responsible parties against suits by the State and third parties. It requires the department to negotiate in good faith with persons