

MAINE STATE LEGISLATURE

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STATE OF MAINE
129TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON ENVIRONMENT AND
NATURAL RESOURCES**

August 2019

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STATE OF MAINE

129TH LEGISLATURE
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LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 129th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

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; legislation died
DIED BETWEEN HOUSES..... House & Senate disagreed; legislation died
DIED IN CONCURRENCE..... defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE..... emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT..... legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY..... ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX..... chapter # of enacted public law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 129th Legislature is Thursday, September 19, 2019. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Environment and Natural Resources

Committee Amendment "A" (H-462)

This amendment clarifies the description under the State's water classification program of the portion of the Penobscot River, main stem, from the West Enfield Dam to the Milford Dam and the Stillwater Branch.

Enacted Law Summary

Public Law 2019, chapter 333 updates classifications for certain waters based on water quality data.

LD 1750 An Act To Establish Appliance Energy and Water Standards

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PLUECKER B CARSON B		

This bill enacts the Appliance Energy and Water Standards Act to be implemented, administered and enforced by the Department of Environmental Protection. The Act generally provides that, beginning January 1, 2021, a person is prohibited from selling or offering for sale in the State certain appliances and products unless they meet or exceed applicable energy and water standards adopted by rule by the department. Beginning January 1, 2022, a person is prohibited from installing for compensation in the State any of those appliances or products.

This bill was carried over to any special or regular session, or both, of the 129th Legislature by joint order, H.P. 1322.

LD 1775 An Act To Protect Sustenance Fishing

PUBLIC 463

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GIDEON S JACKSON T	OTP-AM	H-490

This bill creates a sustenance fishing designated use as a subcategory of the applicable fishing designated use for certain specified water body segments within Maine's water classification program where there is or may be sustenance fishing or increased fish consumption by members of the Indian tribes in Maine or other Maine citizens. This bill also requires that the Department of Environmental Protection adopt routine technical rules no later than March 1, 2020 that calculate and establish water quality criteria protective of human health for toxic pollutants and the sustenance fishing designated use as established by this bill. This bill limits the scope of the sustenance fishing designated use created by this bill by providing that, for all purposes, the sustenance fishing designated use created by this bill is deemed protected through water quality criteria for human health calculated and established for the identified water body segments.

Committee Amendment "A" (H-490)

To ensure proper application of the sustenance fishing designated use proposed in the bill, this amendment amends the bill by updating the classifications for certain waters based on water quality data and by clarifying the description of certain water body segments.

This bill as amended creates a sustenance fishing designated use as a subcategory of the applicable fishing designated use for certain specified water body segments within Maine's water classification program where there is or may be sustenance fishing or increased fish consumption by members of the Indian tribes in Maine or other

Joint Standing Committee on Environment and Natural Resources

Maine citizens. This bill as amended also requires that the Department of Environmental Protection adopt routine technical rules no later than March 1, 2020 that calculate and establish water quality criteria protective of human health for toxic pollutants and the sustenance fishing designated use as established by this bill. This bill as amended limits the scope of the sustenance fishing designated use created by this bill by providing that, for all purposes, including for the purposes of the State's water classification program, the federal Clean Water Act and related rules, regulations and guidance, the sustenance fishing designated use created by this bill as amended is deemed protected through water quality criteria for human health calculated and established for the identified water body segments using, in addition to the other assumptions used in developing human health criteria generally under the Maine Revised Statutes, Title 38, section 420, subsection 2 and rules adopted by the department, a fish consumption rate of 200 grams per day and a cancer risk level of one in 1,000,000, except for inorganic arsenic, the risk level for which is governed by Title 38, section 420, subsection 2, paragraph J. The designation in this bill as amended of specific waters subject to a sustenance fishing designated use is not intended to preclude a future designation of other such waters through a similar legislative process or as otherwise provided by law.

All aspects of this bill as amended, including the sustenance fishing designated use and the identification of specific water body segments subject to that use, are intended to have meaning and effect within the State's water classification program only and for purposes of calculating and establishing water quality criteria for human health sufficient to protect the sustenance fishing designated use only. Nothing in this bill as amended or the sustenance fishing designated use it establishes is intended to apply to or affect discharges of mercury, which are governed exclusively by separate provisions of law, including Title 38, section 420, subsection 1-B and section 413, subsection 11. This bill as amended changes the human health ambient criterion specified in Title 38, section 420, subsection 1-B, paragraph A, subparagraph (2) to reflect the 200 grams per day fish consumption rate that the Department of Environmental Protection is directed to use when deriving human health criteria for toxic pollutants to protect the sustenance fishing designated use; however, this change is not intended to affect the mercury discharge limits set forth in Title 38, section 420, subsection 1-B and section 413, subsection 11. Nothing in this bill as amended is intended to alter or affect in any way any provision of any of the State's state and federal Indian settlement acts, including the state Indian settlement acts in Title 30, chapters 601 and 603. No part of this bill as amended is intended to relate to or affect in any way any claims or disputes regarding any definition of Indian country, territory, lands, waters, reservations or rights of any kind under any other provision of state or federal law. No part of this bill as amended is intended to create or limit any right or protection under any other state or federal law, including the federal Clean Water Act, except as described in this summary, or any state or federal Indian settlement law or act, or create in any way a right to any particular quantity or quality of fish. The sole intent of this bill as amended is to establish a sustenance fishing designated use that is deemed protected for all purposes through water quality criteria for human health calculated and established through routine technical rulemaking using a specific minimum fish consumption rate and specified cancer risk levels for the waters expressly identified in the State's water classification program, which criteria are applicable for the purposes of the State's water classification program and the federal Clean Water Act.

Enacted Law Summary

Public Law 2019, chapter 463 creates a sustenance fishing designated use as a subcategory of the applicable fishing designated use for certain specified water body segments within Maine's water classification program where there is or may be sustenance fishing or increased fish consumption by members of the Indian tribes in Maine or other Maine citizens. The law also requires that the Department of Environmental Protection adopt routine technical rules no later than March 1, 2020 that calculate and establish water quality criteria protective of human health for toxic pollutants and the sustenance fishing designated use as established by this bill. The law limits the scope of the sustenance fishing designated use created by this bill by providing that, for all purposes, the sustenance fishing designated use created by this bill is deemed protected through water quality criteria for human health calculated and established for the identified water body segments.