

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

Legislative Document

No. 1852

S.P. 635

In Senate, April 30, 1997

**An Act to Reorganize and Clarify the Laws Relating to the
Establishment, Powers and Duties of the Bureau of Parks and Lands.**

Submitted by the Department of Conservation pursuant to Joint Rule 204.
Reference to the Committee on Agriculture, Conservation and Forestry suggested and
ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator KILKELLY of Lincoln.
Cosponsored by Representative BUNKER of Kossuth Township and
Senator CASSIDY of Washington, Representatives: CROSS of Dover-Foxcroft, DEXTER of
Kingfield, SHIAH of Bowdoinham.

2 **Sec. 16. 12 MRSA §9341**, as repealed and replaced by PL 1985,
c. 696, §1, is repealed.

4 **Sec. 17. 12 MRSA §9342**, as amended by PL 1985, c. 696, §2, is
6 further amended to read:

8 **§9342. Seasonal use only**

10 No person may place any trailer, camper, shelter or tent
12 from May 1st to November 30th at any public campsite maintained
or authorized pursuant to section 9341 ~~1825~~, subsection 4 and
14 keep that trailer, camper, shelter or tent so located, vacant or
occupied, for more than 14 days in any 30-day period. Persons
16 already having placed a trailer, camper, shelter or tent at such
a campsite for more than 14 days shall remove any such item and
18 leave at the request of the commissioner, ~~his~~ the commissioner's
designee or any fish and wildlife warden.

20 **Sec. 18. 14 MRSA §8104-A, sub-§1, ¶E**, as enacted by PL 1987,
c. 740, §4, is amended to read:

22 E. Watercraft, as defined in Title 12, section 662 ~~1872~~,
24 subsection ~~12~~ 14;

26 **Sec. 19. 14 MRSA §8104-A, sub-§2, ¶A**, as amended by PL 1995,
c. 630, §1, is further amended to read:

28 A. The construction, ownership, maintenance or use of:

30 (1) Unimproved land;

32 (2) Historic sites, including, but not limited to,
34 memorials, as defined in Title 12, section 601 ~~1801~~,
subsection ~~1~~ 5;

36 (3) Land, buildings, structures, facilities or
38 equipment designed for use primarily by the public in
connection with public outdoor recreation; or

40 (4) Dams;

42 **Sec. 20. 15 MRSA §1025**, as amended by PL 1995, c. 356, §4, is
44 further amended to read:

46 **§1025. Law enforcement officers**

48 A law enforcement officer making a warrantless arrest under
Title 17-A, section 15 may, without fee, take the personal
50 recognizance of any defendant for appearance on a charge of a

2 Class D or Class E crime. If authorized, a law enforcement
officer may, without fee, take the personal recognizance with
4 deposit in accordance with Title 12, section 675 1886; Title 12,
section 7053, subsection 2, paragraph C; and Title 12, section
6 9707. The law enforcement officer's authority under this section
continues as long as the arrestee remains in the officer's
custody.

8
10 **Sec. 21. 25 MRSA §2801-B, sub-§1, ¶B**, as amended by PL 1989,
c. 936, §2 and PL 1995, c. 502, Pt. E, §30, is further amended to
read:

12
14 B. Agents or representatives of the Department of
Conservation, Bureau of Parks and Lands, whose law
16 enforcement powers are limited to those specified in Title
12, section ~~602~~-~~subsection-5~~ 1821; or

18 **Sec. 22. 36 MRSA §1503, sub-§1-A**, as enacted by PL 1983, c.
572, §§6 and 12, is amended to read:

20
22 **1-A. Canoe.** "Canoe" has the same definition as that set
out in Title 12, section 662 1872, subsection 1 2.

24 **Sec. 23. 38 MRSA c. 1, sub-c. VIII**, as amended, is repealed.

26
28 **SUMMARY**

30 This bill clarifies the establishment, powers and duties of
the Bureau of Parks and Lands and its various programs in the
Department of Conservation. The bill completes a legislative
32 requirement for review of the statutes relating to the former
Bureau of Parks and Recreation and the former Bureau of Public
34 Lands in order to make certain procedures and practices
consistent within the new Bureau of Parks and Lands without
36 altering the essential missions, powers and purposes of the 2
former bureaus. The bill does not grant any new rule-making
38 authority to the bureau and, therefore, does not invoke the
provisions of the Maine Revised Statutes, Title 5, chapter 375,
40 subchapter II-A. This bill also repeals certain provisions of
law and consolidates various bureau programs into one chapter
42 while not altering the essential purposes and practices of these
programs as established in current law. The Maine Revised
44 Statutes, Title 12, chapter 220 accomplishes the following.

46 1. Subchapter I sets the definitions for the new bureau and
the various classes of lands in its jurisdiction. This
48 subchapter uses language from existing law to establish the
bureau, to specify powers of the bureau and the director and to
50 give the bureau the authority to accept donations, gifts, grants
and bequests of money or other personal property.

2 2. Subchapter II uses language from existing law to
3 specifically define the powers of the new bureau with regard to
4 state parks and historic sites. Substantive changes from current
5 law that are proposed in this subchapter are as follows.

6 A. Consent of the Commissioner of Conservation is added to
7 that of the Governor for the charging of user fees,
8 acquisition and conveyance of state parks and historic sites
9 and the granting of licenses and permits for use of state
10 park and historic site lands.

11 B. The bureau is given specific authority to transfer
12 management of state park and historic site lands to other
13 agencies or accept such responsibility from other agencies
14 with the consent of the Commissioner of Conservation and the
15 Governor.

16 C. Language is deleted that prohibits searches of dwellings
17 and railroad cars.

18 D. Specific authority is given to the bureau to administer
19 the Forest Recreation Resource Fund and to receive income
20 from campsites administered under this program on all lands
21 within its jurisdiction for that fund, which presently
22 receives income only from bureau lands.

23 E. Language is added to existing law to clarify that
24 administration of the state park campsite reservation system
25 by a private contractor is permissible.

26 F. Obsolete language is deleted regarding control of fires,
27 real estate subject to flowage, lifeguard training, an
28 official bureau seal and care of certain properties
29 transferred from the Federal Government.

30 3. Subchapter III uses language from existing law to
31 specifically define the powers of the new bureau with regard to
32 nonreserved public lands. Minor changes include the addition of
33 the words "nonreserved public lands" where needed to clearly
34 distinguish such lands from public reserved lands and the
35 reordering of existing subsections into a format that is
36 consistent with the one used for public reserved lands.
37 Substantive changes from current law in this subchapter are as
38 follows.

39 A. It adds a general policy on public access to nonreserved
40 lands similar to the one that already exists for public
41 reserved lands.

42 B. It establishes that the Nonreserved Public Lands
43 Management Fund accrues interest in the same manner as the
44 Public Reserved Lands Management Fund.

2 C. It requires the director to give notice of proposed
3 sales of nonreserved public lands similar to the notice
4 required for public reserved lands.

6 4. Subchapter IV uses language from existing law to
7 specifically define the powers of the new bureau with regard to
8 public reserved lands. Minor changes include the addition of the
9 words "public reserved lands" where needed to clearly distinguish
10 such lands from nonreserved public lands and the reordering of
11 existing subsections into a format that is consistent with the
12 one used for the nonreserved public lands. There are no
13 substantive changes from current law in this subchapter.

14 5. Subchapter V uses language from existing law to combine
15 the sections that apply to submerged and intertidal lands and
16 abandoned watercraft from 2 chapters into a single subchapter.
17 There are no substantive changes from current law.

20 6. Subchapter VI contains language from existing law
21 regarding the Allagash Wilderness Waterway to clarify that the
22 waterway is a program of the new bureau. This subchapter
23 provides no substantive change from existing law except that, to
24 be consistent with penalties for violation of rules on other
25 bureau lands, violation of rules regarding the waterway is
26 changed from a civil violation to a Class E crime.

28 7. Subchapter VII retains existing language regarding the
29 Maine Trails System. The only substantive change from existing
30 law is that the Commissioner of Conservation's consent is added
31 to that of the Governor as a requirement for land acquisition.

32 8. Subchapter VIII consolidates language from existing law
33 and formally establishes the Off-Road Recreational Vehicle
34 Division within the new bureau. Permitted use of the ATV
35 Recreational Management Fund is expanded to include land
36 purchases for use as ATV trails.

38 9. Subchapter IX moves the provisions of law that establish
39 the public facilities for boats from Title 38 to Title 12 and
40 makes necessary technical corrections.

42 The bill also changes references in the Maine Revised
43 Statutes to coincide with the new chapter, updates obsolete
44 language and makes technical corrections. It also removes
45 reference to specific punishments for Class E crimes.