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ENVIRONMENT AND NATURAL RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 765, L.D. 1031, Bill, “An Act To Amend the Laws Governing Significant Wildlife Habitat”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 38 MRSA §480-BB, sub-§1, as enacted by PL 2005, c. 116, §5, is amended to read:

1. Definition of buffer area. Include a definition of the buffer area to be regulated; For purposes of this section:

A. Significant vernal pool habitat consists of a significant vernal pool and that portion of the critical terrestrial habitat within 100 feet of the spring or fall high water mark of the vernal pool depression;

B. High and moderate value inland waterfowl and wading bird habitat consists of an inland wetland complex and a 100-foot-wide zone surrounding the wetland complex; and

C. A buffer zone surrounding a shorebird nesting, feeding or staging area may not exceed 100 feet;

Sec. 2. 38 MRSA §480-BB, sub-§2, as enacted by PL 2005, c. 116, §5, is repealed and the following enacted in its place:

2. Certain landowners not subject to regulation. Provide the following exemptions to regulation.

A. A landowner proposing to cause an impact on the buffer area defined for a significant vernal pool habitat is not subject to regulation pursuant to the rule if the significant vernal pool habitat depression is not on property owned or controlled by that landowner.

B. If a vernal pool depression is bisected by a property boundary and a landowner proposing to cause an impact does not have permission to enter the abutting property,

COMMITTEE AMENDMENT

1 only that portion of the vernal pool depression located on property owned or
2 controlled by that landowner may be considered in determining whether the vernal
3 pool is significant. A written department determination that a vernal pool is not
4 significant pursuant to this paragraph remains valid regardless of timeframe;

5 **Sec. 3. 38 MRSA §480-BB, sub-§4**, as enacted by PL 2005, c. 116, §5, is
6 amended to read:

7 **4. Department of Environmental Protection may not assess fine in certain cases.**
8 Provide that the Department of Environmental Protection may not assess a fine against a
9 landowner who acted in accordance with a written field determination if the fine would
10 be based solely on information in the written field determination; ~~and~~

11 **Sec. 4. 38 MRSA §480-BB, sub-§5**, as enacted by PL 2005, c. 116, §5, is
12 amended to read:

13 **5. Process for voluntary identification.** Include a process for a landowner to
14 voluntarily identify the landowner's land as a significant vernal pool habitat and to
15 provide the Department of Inland Fisheries and Wildlife the authority to map the
16 significant vernal pool habitat; and

17 **Sec. 5. 38 MRSA §480-BB, sub-§6** is enacted to read:

18 **6. Artificial vernal pool.** Explicitly provide that an artificial vernal pool is exempt
19 from regulation as long as the vernal pool was not created in connection with a
20 compensation project pursuant to section 480-Z.

21 **Sec. 6. 38 MRSA §480-CC, sub-§1, ¶B**, as enacted by PL 2007, c. 290, §7 and
22 affected by §15, is amended to read:

23 B. "Shorebird roosting area" means a shorebird feeding or staging area that is also a
24 roosting area. "Shorebird roosting area" includes a ~~250-foot wide~~ 100-foot-wide
25 surrounding buffer referred to as "the roosting buffer."

26 **Sec. 7. 38 MRSA §480-EE**, as enacted by PL 2007, c. 290, §9 and affected by
27 §15, is amended to read:

28 **§480-EE. Significant wildlife habitat criteria; inland open water**

29 Regardless of its identification on maps as a high or moderate value waterfowl and
30 wading bird habitat, an upland area adjacent to a great pond is not considered high or
31 moderate value waterfowl and wading bird habitat for purposes of this article unless the
32 upland area is within ~~250~~ 100 feet of one or more freshwater wetlands that are high or
33 moderate value waterfowl and wading bird habitat.

34 **Sec. 8. PL 2007, c. 533, §3, sub-§1, ¶A** is amended to read:

35 A. When a vernal pool habitat has not previously been determined to be significant
36 and the Department of Environmental Protection or the Department of Inland
37 Fisheries and Wildlife makes a determination concerning whether the vernal pool
38 habitat is significant, either department may determine that the vernal pool habitat is
39 not significant if:

