

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out all of section 1 (page 1, lines 2 to 20 in L.D.)

Amend the bill by striking out all of section 3 (page 2, lines 30 to 41 in L.D.) and inserting the following:

‘**Sec. 3. 38 MRSA §439-B** is enacted to read:

§ 439-B. Contractors certified in erosion control

1. Definition. For purposes of this section, "excavation contractor" means an individual or firm engaged in a business that causes the disturbance of soil, including grading, filling and removal, or in a business in which the disturbance of soil results from an activity that the individual or firm is retained to perform.

2. Certification required. An excavation contractor conducting excavation activity in a shoreland area shall ensure that a person certified in erosion control practices by the department:

A. Is responsible for management of erosion and sediment control practices at the site; and

B. Is present at the site each day earth-moving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed.

The requirements of this subsection apply until erosion control measures that will permanently stay in place have been installed at the site or, if the site is to be revegetated, erosion control measures that will stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion have been installed.

3. Application. This section does not apply to activities resulting in less than one cubic yard of earth material being added or displaced.

4. Effective date. This section takes effect January 1, 2013.

Sec. 4. Report. By January 15, 2009, the Department of Environmental Protection shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a report evaluating strategies to diminish the impact of private roads, driveways and boat ramps on lake water quality. The report must include guidance to municipalities on appropriate road standards for the protection of lake water quality, a sample model ordinance and, in consultation with the Office of the Attorney General, an analysis of the constitutional issues regarding the public purpose doctrine raised by permitting a municipality to adopt an ordinance that includes an assessment of an annual fee on property owners for construction or maintenance of a private road to prevent degradation of water quality.’

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

The amendment removes from the bill the authority for municipalities to assess annual fees under certain conditions to property owners whose properties are accessed by a private road. The amendment clarifies that on-site supervision by an excavation contractor certified in erosion control must be of a sufficient duration to ensure that proper erosion and sedimentation control practices are followed and that the requirement that a contractor certified in erosion control be on site does not apply to activities resulting in less than one cubic yard of earth material being added or displaced. The amendment directs the Department of Environmental Protection to submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a report evaluating strategies to diminish the impact of private roads, driveways and boat ramps on lake water quality.