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An Act To Amend the Law Regarding Recreational Gold Prospecting

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, recreational gold prospecting may occur without a permit subject to certain conditions that do not take into account the differing environmental effects of different methods of recreational gold prospecting; and

Whereas, in order to provide access to recreational gold prospecting, enhanced regulation based on environmental effects and protection to certain stream segments that provide habitat to Atlantic salmon and brook trout before the next recreational gold prospecting season, this legislation must take effect as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §480-B, sub-§§1-C to 1-F are enacted to read:

1-C. Class 1 recreational gold prospecting. "Class 1 recreational gold prospecting" means recreational gold prospecting using manually operated equipment, including, but not limited to, a gold pan, sluice box or rocker box.

1-D. Class 2 recreational gold prospecting. "Class 2 recreational gold prospecting" means recreational gold prospecting using manually operated equipment and an electric pump or motorized pump not exceeding 7 horsepower.

1-E. Class 3 recreational gold prospecting. "Class 3 recreational gold prospecting" means recreational gold prospecting using a motorized suction dredge not exceeding 4 horsepower and with a suction dredge intake nozzle and suction hose not exceeding 2.5 inches in diameter.

1-F. Class 4 recreational gold prospecting. "Class 4 recreational gold prospecting" means recreational gold prospecting using a motorized suction dredge not exceeding 7 horsepower and with a suction dredge intake nozzle and suction hose greater than 2.5 inches and not exceeding 4 inches in diameter.

Sec. 2. 38 MRSA §480-B, sub-§5-C, as enacted by PL 2013, c. 536, §1, is repealed.

Sec. 3. 38 MRSA §480-B, sub-§8-B is enacted to read:

8-B. Recreational gold prospecting. "Recreational gold prospecting" means the operation of small-scale hand or motorized equipment for the removal, separation, refinement and redeposition of sediments and other substrates occurring below the normal high-water mark of a stream for the noncommercial, recreational discovery and collecting of gold specimens.

Sec. 4. 38 MRSA §480-Q, sub-§5-A, as amended by PL 2013, c. 536, §2, is further amended to read:

5-A. Recreational gold prospecting. Notwithstanding section 480-C, a permit is not required for ~~motorized~~ recreational gold prospecting as long as the provisions of this subsection are met.

A. A person may perform ~~motorized~~Class 3 and Class 4 recreational gold prospecting only from June 15th to September 15th and only with written permission of the relevant landowner.

A-1. A person may perform Class 1 and Class 2 recreational gold prospecting from January 1st to December 31st.

A-2. A person may not perform Class 4 recreational gold prospecting for more than 14 days in a 30-day period.

B. A person may not perform ~~motorized~~ recreational gold prospecting that causes an undue adverse effect on natural resources. The area in which the ~~motorized~~ recreational gold prospecting is performed must be kept free of litter, trash and any other materials that may constitute a hazardous or nuisance condition.

C. The following provisions limit the use of equipment in ~~motorized~~ recreational gold prospecting.

(1) Equipment may not have any fuel, oil or hydraulic leaks or cause any unlicensed discharge.

(2) Motorized equipment may not exceed 7 horsepower.

~~(3) The inside diameter of a suction dredge intake nozzle and hose may not exceed 4 inches.~~

(4) The area of a sluice may not exceed 10 square feet.

(5) A flume may not be used to transport water outside of a stream channel.

(6) A backhoe, bulldozer, excavator, power auger, skid loader, trencher or other similar mechanized equipment may not be used.

(7) Explosives may not be used.

D. A person may not use mercury, nitric acid or other chemicals for extraction in ~~motorized~~ recreational gold prospecting.

E. A person may not perform ~~motorized~~ recreational gold prospecting in a manner that:

(1) Disturbs a stream bank, including but not limited to digging into the bank or dredging or altering water flow within a stream channel in a manner that causes the bank to erode or collapse;

(2) Removes or damages vegetation or woody debris such as root wads, stumps or logs within a stream channel, on the bank or on nearby upland, including cutting or abrasion of trees;

(3) Diverts, dams or otherwise obstructs a stream;

(4) Deposits soil, rocks or any other foreign material from outside of the channel into a stream;
~~or~~

(5) Deposits stream bottom sediments or rocks onto the bank or upland.;

(6) For Class 3 recreational gold prospecting, displaces more than 2 cubic yards of gravel per day; or

(7) For Class 4 recreational gold prospecting, displaces more than 5 cubic yards of gravel per day.

F. Upon completion of one or more consecutive days of ~~motorized~~ recreational gold prospecting, a person who performed the ~~motorized~~ recreational gold prospecting shall smooth out dredge spoils and refill dredge holes below the normal high-water mark of the stream in order to restore the approximate original contours of the stream bottom and not deflect the current.

G. ~~Motorized~~Class 4 recreational gold prospecting is prohibited within the following areas:

(1) Waters closed to ~~motorized~~Class 4 recreational gold prospecting in the unorganized territories identified in rules adopted by the Department of Agriculture, Conservation and Forestry, Maine Land Use Planning Commission;

(2) Waters closed to ~~motorized~~Class 4 recreational gold prospecting identified in rules adopted by the Department of Environmental Protection;

- (3) Waters defined as Class AA waters pursuant to section 465; and
- (4) The following areas of critical or high-value brook trout or Atlantic salmon habitat:
- (a) Bemis Stream and tributaries in Township D and Rangeley Plantation;
 - (b) Bond Brook in the City of Augusta and the Town of Manchester;
 - (c) Bull Branch of Sunday River and tributaries in Grafton Township and Riley Township;
 - (d) Carrabassett River and tributaries in the Town of Carrabassett Valley, ~~Freeman Township, and~~ the Town of Kingfield, ~~Mount Abram Township and Salem Township~~ pupstream from a point located one mile above the dam in the Town of Kingfield;
 - (e) Cold Stream tributaries, including Tomhegan Stream, in Chase Stream Township, Johnson Mountain Township and West Forks Plantation;
 - (f) Enchanted Stream in Upper Enchanted Township and Lower Enchanted Township;
 - (g) Magalloway River and tributaries, including Little Magalloway River, in Bowmantown Township, Lincoln Plantation, Lynchtown Township, Magalloway Plantation, Oxbow Township, Parkertown Township and Parmachenee Township;
 - (h) Rapid River in the Town of Upton and Township C;
 - (i) Sheepscot River and tributaries, including the West Branch, in the Town of Alna, the Town of China, the Town of Freedom, the Town of Liberty, the Town of Montville, the Town of Palermo, the Town of Somerville, the Town of Whitefield and the Town of Windsor;
 - (j) South Bog Stream in Rangeley Plantation;
 - (k) Spencer Stream and Little Spencer Stream tributaries, including Kibby Stream in Kibby Township, Skinner Township, T.3, R.5 B.K.P. W.K.R., T.4, R.5 B.K.P. W.K.R., King and Bartlett Township and T.5, R.6 B.K.P. W.K.R.; and
 - (l) Togus Stream in the Town of Chelsea and the Town of Randolph.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill amends the law governing recreational gold prospecting. The bill establishes different classes of recreational gold prospecting based on the equipment used and establishes different requirements for each class.