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Legislative Document

No. 1350

S.P. 458

In Senate, April 6, 2017

An Act To Amend the Law Regarding Recreational Gold Prospecting

(EMERGENCY)

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator SAVIELLO of Franklin.

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

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

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

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

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

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

16 **1-C. Class 1 recreational gold prospecting.** "Class 1 recreational gold
17 prospecting" means recreational gold prospecting using manually operated equipment,
18 including, but not limited to, a gold pan, sluice box or rocker box.

19 **1-D. Class 2 recreational gold prospecting.** "Class 2 recreational gold
20 prospecting" means recreational gold prospecting using manually operated equipment and
21 an electric pump or motorized pump not exceeding 7 horsepower.

22 **1-E. Class 3 recreational gold prospecting.** "Class 3 recreational gold prospecting"
23 means recreational gold prospecting using a motorized suction dredge not exceeding 4
24 horsepower and with a suction dredge intake nozzle and suction hose not exceeding 2.5
25 inches in diameter.

26 **1-F. Class 4 recreational gold prospecting.** "Class 4 recreational gold prospecting"
27 means recreational gold prospecting using a motorized suction dredge not exceeding 7
28 horsepower and with a suction dredge intake nozzle and suction hose greater than 2.5
29 inches and not exceeding 4 inches in diameter.

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

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

33 **8-B. Recreational gold prospecting.** "Recreational gold prospecting" means the
34 operation of small-scale hand or motorized equipment for the removal, separation,
35 refinement and redeposition of sediments and other substrates occurring below the
36 normal high-water mark of a stream for the noncommercial, recreational discovery and
37 collecting of gold specimens.

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

3 **5-A. Recreational gold prospecting.** Notwithstanding section 480-C, a permit is
4 not required for ~~motorized~~ recreational gold prospecting as long as the provisions of this
5 subsection are met.

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

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

11 A-2. A person may not perform Class 4 recreational gold prospecting for more than
12 14 days in a 30-day period.

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

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

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

21 (2) Motorized equipment may not exceed 7 horsepower.

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

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

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

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

28 (7) Explosives may not be used.

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

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

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

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

- 1 (3) Diverts, dams or otherwise obstructs a stream;
- 2 (4) Deposits soil, rocks or any other foreign material from outside of the channel
3 into a stream; ~~or~~
- 4 (5) Deposits stream bottom sediments or rocks onto the bank or upland;
- 5 (6) For Class 3 recreational gold prospecting, displaces more than 2 cubic yards
6 of gravel per day; or
- 7 (7) For Class 4 recreational gold prospecting, displaces more than 5 cubic yards
8 of gravel per day.
- 9 F. Upon completion of one or more consecutive days of ~~motorized~~ recreational gold
10 prospecting, a person who performed the ~~motorized~~ recreational gold prospecting
11 shall smooth out dredge spoils and refill dredge holes below the normal high-water
12 mark of the stream in order to restore the approximate original contours of the stream
13 bottom and not deflect the current.
- 14 G. ~~Motorized~~ Class 4 recreational gold prospecting is prohibited within the following
15 areas:
- 16 (1) Waters closed to ~~motorized~~ Class 4 recreational gold prospecting in the
17 unorganized territories identified in rules adopted by the Department of
18 Agriculture, Conservation and Forestry, Maine Land Use Planning Commission;
- 19 (2) Waters closed to ~~motorized~~ Class 4 recreational gold prospecting identified
20 in rules adopted by the Department of Environmental Protection;
- 21 (3) Waters defined as Class AA waters pursuant to section 465; and
- 22 (4) The following areas of critical or high-value brook trout or Atlantic salmon
23 habitat:
- 24 (a) Bemis Stream and tributaries in Township D and Rangeley Plantation;
- 25 (b) Bond Brook in the City of Augusta and the Town of Manchester;
- 26 (c) Bull Branch of Sunday River and tributaries in Grafton Township and
27 Riley Township;
- 28 (d) Carrabassett River and tributaries in the Town of Carrabassett Valley,
29 ~~Freeman Township, and~~ the Town of Kingfield, ~~Mount Abram Township and~~
30 ~~Salem Township~~ upstream from a point located one mile above the dam in
31 the Town of Kingfield;
- 32 (e) Cold Stream tributaries, including Tomhegan Stream, in Chase Stream
33 Township, Johnson Mountain Township and West Forks Plantation;
- 34 (f) Enchanted Stream in Upper Enchanted Township and Lower Enchanted
35 Township;
- 36 (g) Magalloway River and tributaries, including Little Magalloway River, in
37 Bowmantown Township, Lincoln Plantation, Lynchtown Township,
38 Magalloway Plantation, Oxbow Township, Parkertown Township and
39 Parmachenee Township;

- 1 (h) Rapid River in the Town of Upton and Township C;
- 2 (i) Sheepscot River and tributaries, including the West Branch, in the Town
3 of Alna, the Town of China, the Town of Freedom, the Town of Liberty, the
4 Town of Montville, the Town of Palermo, the Town of Somerville, the Town
5 of Whitefield and the Town of Windsor;
- 6 (j) South Bog Stream in Rangeley Plantation;
- 7 (k) Spencer Stream and Little Spencer Stream tributaries, including Kibby
8 Stream in Kibby Township, Skinner Township, T.3, R.5 B.K.P. W.K.R., T.4,
9 R.5 B.K.P. W.K.R., King and Bartlett Township and T.5, R.6 B.K.P.
10 W.K.R.; and
- 11 (l) Togus Stream in the Town of Chelsea and the Town of Randolph.

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

14 **SUMMARY**

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