

Date:

(Filing No. H-)

ENVIRONMENT AND NATURAL RESOURCES

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STATE OF MAINE HOUSE OF REPRESENTATIVES 132ND LEGISLATURE FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to H.P. 326, L.D. 497, “An Act Regarding the Department of Environmental Protection”

Amend the bill by striking out the title and substituting the following:

'An Act Regarding the Regulation of Significant Vernal Pools Under the Natural Resources Protection Act'

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

'Sec. 1. 38 MRSA §480-BB, sub-§1-A is enacted to read:

1-A. Significant vernal pool habitat; definitions. With respect to significant vernal pool habitat, define:

A. "Critical terrestrial habitat" to mean uplands and wetlands associated with significant vernal pools used by pool-breeding amphibians for migration, feeding and hibernation, in particular, forested wetlands and forested uplands that provide deep organic litter, coarse woody debris and canopy shade;

B. "Significant vernal pool habitat" to mean a significant vernal pool and that portion of the critical terrestrial habitat within 250 feet of the spring or fall high-water mark of the vernal pool depression; and

C. "Significant vernal pool protection zone" to mean that portion of the critical terrestrial habitat within 100 feet of the spring or fall high-water mark of a significant vernal pool depression. With respect to habitat management standards for significant vernal pool habitat, the rule must require no disturbance within the significant vernal pool depression and the significant vernal pool protection zone to the greatest extent practicable;

Sec. 2. 38 MRSA §480-BB, sub-§2, as amended by PL 2013, c. 231, §§4 and 5, is further amended to read:

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

C. Rules adopted under this section may not require an applicant for a license for a working waterfront activity on working waterfront land that is part of a state or federal brownfields program or a voluntary response action program under section 343-E to compensate for lost habitat function with a function of equal or greater value or to provide a compensation fee pursuant to section 480-Z;

4-A. Identification of significant vernal pools; drying. Provide that, when a vernal pool habitat has not previously been determined to be significant and the department or the Department of Inland Fisheries and Wildlife makes a determination concerning whether the vernal pool habitat is significant, either department may determine that the vernal pool habitat is not significant if:

B. The vernal pool is located in southern Maine and dries out after filling and before July 1st;

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

This amendment, which is the majority report of the committee, changes the title of and replaces the bill, which is a concept draft. It amends provisions of the Natural Resources Protection Act regarding significant wildlife habitat to require the following provisions in the Department of Environmental Protection's rules regulating significant vernal pools.

COMMITTEE AMENDMENT

1 vernal pool protection zone" must be defined to mean that portion of the critical terrestrial
2 habitat within 100 feet of the spring or fall high-water mark of a significant vernal pool
3 depression. With respect to habitat management standards for significant vernal pool
4 habitat, the rule must require no disturbance within the significant vernal pool depression
5 and the significant vernal pool protection zone to the greatest extent practicable.

6 2. It provides that, where the critical terrestrial habitat for a significant vernal pool is
7 bisected by one or more property boundaries, the critical terrestrial habitat located on a
8 property that does not contain the vernal pool depression must be afforded the same habitat
9 protections under the rule as the critical terrestrial habitat located on the property that
10 contains the vernal pool depression. The amendment also repeals a provision of law
11 providing that a landowner proposing to cause an impact on the buffer area defined for a
12 significant vernal pool habitat is not subject to regulation pursuant to the rule if the
13 significant vernal pool habitat depression is not on property owned or controlled by that
14 landowner.

15 3. It provides that, when a vernal pool habitat has not previously been determined to
16 be significant and the Department of Environmental Protection or the Department of Inland
17 Fisheries and Wildlife makes a determination concerning whether the vernal pool habitat
18 is significant, the rule must provide that either department may determine that the vernal
19 pool habitat is not significant if the vernal pool is located in northern Maine and dries out
20 after filling and before July 15th or the vernal pool is located in southern Maine and dries
21 out after filling and before July 1st.

22 **FISCAL NOTE REQUIRED**

23 **(See attached)**