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INLAND FISHERIES AND WILDLIFE

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

COMMITTEE AMENDMENT “ ” to H.P. 1182, L.D. 1763, “An Act to Regulate Nonwater-dependent Floating Structures on Maine's Waters”

Amend the bill by inserting after the title and before the enacting clause the following:

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

Whereas, the use of nonwater-dependent floating structures on the inland and coastal waters of this State has been increasing steadily; and

Whereas, these structures can be unsightly, are a potential source of pollution and may impact waterfront property values; and

Whereas, these structures can cause increased congestion on the water and at public water access points and cause navigation issues; and

Whereas, it is important to take immediate action to regulate these structures on the waters of this State before their numbers proliferate; 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,'

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

'Sec. 1. 12 MRSA §10001, sub-§43-A is enacted to read:

43-A. Nonwater-dependent floating structure. "Nonwater-dependent floating structure" has the same meaning as in Title 38, section 3301, subsection 10.

Sec. 2. 12 MRSA §10403, first ¶, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

Any municipal, county or state law enforcement officer or any harbor master appointed pursuant to section 13072 or Title 38, section 1 has the authority to enforce, in the respective jurisdictions, the watercraft laws in chapter 935, the nonwater-dependent floating structures laws in Title 38, chapter 37 and the rules related to those laws.

Sec. 3. 12 MRSA §13001, sub-§9-A is enacted to read:

9-A. Dock. "Dock" means a platform used for access to a water body or to secure, protect and provide access to a boat or ship. "Dock" includes a platform that extends from a shore over the water body or a floating platform attached to a mooring.

Sec. 4. 12 MRSA §13001, sub-§12-A is enacted to read:

12-A. Homemade watercraft. "Homemade watercraft" means a watercraft that is built by an individual for personal use using raw materials and that is not required to have a hull identification number assigned by a manufacturer that has been assigned a manufacturer identification code by the Recreational Boating Product Assurance Branch of the United States Coast Guard. "Homemade watercraft" may include, but is not limited to, open watercraft, auxiliary sail watercraft, paddle craft, houseboats, pontoon boats, personal watercraft, airboats and inflatable watercraft.

Sec. 5. 12 MRSA §13001, sub-§12-B is enacted to read:

12-B. Houseboat. "Houseboat" means a motorized vessel that is usually nonplaning and designed primarily for multipurpose accommodation spaces with low freeboard and little or no foredeck or cockpit.

Sec. 6. 12 MRSA §13001, sub-§15-A is enacted to read:

15-A. Mooring. "Mooring" has the same meaning as in Title 38, section 480-B, subsection 5-A.

Sec. 7. 12 MRSA §13001, sub-§17-A is enacted to read:

17-A. Navigation. "Navigation" means, with respect to a watercraft, the operation of the watercraft in a manner designed to avoid collisions on the water through adherence to rules of watercraft operation established by the department pursuant to chapter 935 and to applicable federal regulations.

Sec. 8. 12 MRSA §13001, sub-§27-B is enacted to read:

27-B. Vessel. "Vessel" means any watercraft or artificial contrivance used or capable of being used as a means of transportation on water.

Sec. 9. 12 MRSA §13001, sub-§28, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

28. Watercraft. "Watercraft" means any type of vessel, boat, canoe or ~~eraft~~ houseboat, excluding a seaplane, capable of being used as a means of transportation on water, ~~other than a seaplane, including~~ that satisfies all applicable laws and rules pertaining to navigation and safety equipment on watercraft. "Watercraft" includes motors, electronic and mechanical equipment and other machinery, whether permanently or temporarily attached, that are customarily used in the operations of the watercraft. "Watercraft" does not include a vessel, boat, canoe or ~~eraft~~ houseboat located and intended to be permanently docked in one location and not used as a means of transportation on water.

D. Is capable of navigation for the purposes of this chapter.

4. Watercraft defined. For the purposes of this section, "watercraft" has the same meaning as provided in Title 12, section 13001, subsection 28, ~~except that "watercraft" includes houseboats.~~ This subsection takes effect August 31, 2004.

Sec. 12. 38 MRSA c. 37 is enacted to read:

NONWATER-DEPENDENT FLOATING STRUCTURES

2. Coastal waters. "Coastal waters" has the same meaning as in section 542, subsection 3-A.

1 **3. Dock.** "Dock" has the same meaning as in Title 33, section 459, subsection 1,
2 paragraph A.

3 **4. Floating home.** "Floating home" means a nonwater-dependent floating structure
4 that is designed or has been substantially and structurally remodeled or redesigned to serve
5 primarily as a residence and that is not a watercraft. "Floating home" includes, but is not
6 limited to:

7 A. A floating house, floating camp or house barge; and

8 B. Any other floating structure used primarily as a residence that is not designed for
9 navigation as its primary purpose and is not capable of self-propulsion or use as a
10 means of transportation on water.

11 **5. Functionally water-dependent uses.** "Functionally water-dependent uses" has the
12 same meaning as in section 436-A, subsection 6.

13 **6. Houseboat.** "Houseboat" has the same meaning as in Title 12, section 13001,
14 subsection 12-B.

15 **7. Inland waters.** "Inland waters" has the same meaning as in Title 12, section 10001,
16 subsection 35.

17 **8. Internal waters.** "Internal waters" has the same meaning as in Title 12, section
18 13001, subsection 13.

19 **9. Mooring.** "Mooring" has the same meaning as in section 480-B, subsection 5-A.

20 **10. Nonwater-dependent floating structure.** "Nonwater-dependent floating
21 structure" means a waterborne structure that is supported wholly or partially by the
22 structure's own buoyancy and that supports a nonwater-dependent use, including a floating
23 home.

24 **11. Nonwater-dependent uses.** "Nonwater-dependent uses" means those uses that
25 can function in a location other than on the surface waters of the State and that do not
26 require, for their primary purpose, location on submerged lands or direct access to inland
27 waters or coastal waters.

28 **12. Watercraft.** "Watercraft" has the same meaning as in Title 12, section 13001,
29 subsection 28.

30 **§3302. Prohibition on nonwater-dependent floating structures**

31 Except as otherwise provided in this chapter, a person may not place or use a nonwater-
32 dependent floating structure in, on or over internal waters.

33 **§3303. Exceptions**

34 The following facilities and structures are not subject to the prohibition in section 3302:

35 **1. Functionally water-dependent uses.** Any facility or structure, the primary purpose
36 of which is a functionally water-dependent use;

37 **2. Swimming structures.** Any dock, wharf or swimming and diving float that is used
38 as a floating structure for swimming or diving or for the temporary tie-off of watercraft, is
39 placed on internal waters of the State and is temporarily or permanently anchored to the
40 bottom of those waters;

1 **3. Water toys.** Any floating water toy, including, but not limited to, air mattresses,
2 pool toys, floating noodles, swim rings, water mats and inflatable platforms smaller than
3 250 square feet in surface area;

4 **4. Ice fishing shacks.** Any ice fishing shack described in Title 12, section 6523 or
5 12661;

6 **5. Aquaculture facilities.** Any aquaculture facility for which the owner or operator
7 has obtained a lease from the Commissioner of Marine Resources pursuant to Title 12,
8 section 6072, 6072-A or 6072-B;

9 **6. Authorized nonwater-dependent floating structure.** Any nonwater-dependent
10 floating structure that has been approved for use as authorized under section 3304;

11 **7. Preexisting nonwater-dependent floating structures with preexisting leases.**
12 Any nonwater-dependent floating structure that existed prior to January 1, 2025 that is sited
13 pursuant to a lease issued by the submerged lands leasing program, established pursuant to
14 Title 12, section 1862, subsection 2, prior to January 1, 2025; and

15 **8. Other facilities and structures.** Any other facility or structure exempted from the
16 prohibition under section 3302 by rule adopted pursuant to section 3307.

17 **§3304. Provisions for continued use of authorized nonwater-dependent floating**
18 **structures**

19 **1. Eligibility.** Notwithstanding any provision of law to the contrary, the owner of a
20 nonwater-dependent floating structure that was in existence as of January 1, 2025 may
21 make application to the Department of Agriculture, Conservation and Forestry, Bureau of
22 Parks and Lands, referred to in this section as "the bureau," through the submerged lands
23 leasing program established pursuant to Title 12, section 1862 for a nonwater-dependent
24 floating structure lease on the internal waters of the State that authorizes the owner to
25 continue to operate the nonwater-dependent floating structure in accordance with the
26 requirements of this section when the following applies:

27 A. The applicant holds right, title or interest to the shorefront to which the nonwater-
28 dependent floating structure is attached; or

29 B. If the nonwater-dependent floating structure is not attached to the shore, the
30 applicant has right, title or interest to the adjacent upland shorefront and holds an
31 approved mooring from the United States Army Corps of Engineers or the municipality
32 in which the structure is located.

33 **2. Application requirements.** To be eligible for consideration for a lease to authorize
34 continued use under this section, an individual or entity must:

35 A. Submit by January 1, 2026 an application on forms provided by the bureau;

36 B. Provide proof of right, title or interest to the shorefront to which the nonwater-
37 dependent floating structure will be attached or, if the structure is not attached to the
38 shore, proof of right, title or interest to the adjacent upland shorefront and an approved
39 mooring from the United States Army Corps of Engineers or the municipality in which
40 the structure is located;

41 C. Provide the names of abutting property owners;

1 D. Provide the location, intended use, square footage and photo documentation of the
2 existing nonwater-dependent floating structure; and

3 E. Submit an application fee of \$500.

4 **3. Bureau procedures.** The bureau may take the following actions with respect to an
5 application under this section.

6 A. The bureau may request additional information from the applicant, government
7 agencies or other parties when necessary to complete its review of an application and
8 make a decision.

9 B. The bureau shall notify interested parties of receipt of a completed application. As
10 determined by the bureau on a case-by-case basis, interested parties may include, but
11 are not limited to, abutting landowners, landowners with overlapping littoral zones,
12 local municipal officials, harbor masters or others engaged in commercial marine
13 activities or who have notified the bureau of their interest in a particular project.
14 Interested parties must be given 30 days to provide the bureau with comments on a
15 completed application.

16 C. If the bureau determines that a letter of no objection is required from one or more
17 littoral abutters, the bureau shall send notice to the abutters and the applicant.

18 D. The bureau or its designee may conduct inspections of the proposed project site in
19 order to assess on-site conditions, the characteristics and uses of adjacent lands, waters
20 and structures and potential impacts on existing trusts.

21 E. After the initial 30-day review period under paragraph B, if the bureau determines
22 that it is appropriate, additional information may be requested from the applicant or
23 other parties or a public informational meeting may be scheduled in order to allow the
24 general public to provide additional information for consideration.

25 F. Once all requested information is received and any public meetings under paragraph
26 E have been concluded, the bureau shall issue preliminary findings. Preliminary
27 findings must be sent to the applicant and all parties who provided comments during
28 the initial review period and other interested parties.

29 G. Within 30 days of the issuance of preliminary findings under paragraph F, any party
30 may petition the bureau director to reconsider such findings by written request. The
31 bureau director may waive the reconsideration period if no comments are received
32 during the initial review period or if the comments that are received are determined to
33 not be related to public trust rights.

34 H. The bureau shall review any petitions for reconsideration under paragraph G and
35 related information and issue its final findings and decision. If the decision is to
36 approve the application, 2 original copies of the lease must be sent to the applicant for
37 signature.

38 **4. Bureau determination.** In making its determination with respect to an application
39 under this section, the bureau shall consider the following:

40 A. Whether the applicant has demonstrated that the applicant has sufficient right, title
41 or interest to the upland property, including intertidal land, adjacent to the littoral zone
42 in which the nonwater-dependent floating structure lease is sought. To demonstrate
43 right, title or interest, an applicant must provide:

1 (1) When the applicant owns the property, a copy of the deed to the property;

2 (2) When the applicant has a lease on the property, a copy of the lease. The lease
3 must be of sufficient duration and terms, as determined by the bureau, to permit
4 reasonable use of the facility; and

5 (3) When the applicant has an option to buy or lease the property, a copy of the
6 option agreement. The option agreement must contain terms considered sufficient
7 by the bureau to establish future title or a leasehold of sufficient duration;

8 B. Whether littoral zones and setback standards delineate the lease area adjacent to the
9 applicant's upland property and establish adequate separation between structures for
10 navigation and access both for the public and riparian owners. Littoral zones do not
11 delineate areas for the exclusive use of the applicant or other riparian owners. Littoral
12 zone boundaries are established by right angle projections from a baseline established
13 along the shoreline at the intersection of the high-water line and the side boundary of
14 each property. The littoral zone sidelines terminate at either the established
15 navigational channel, established anchorage identified as such by the United States
16 Army Corps of Engineers, the midline between opposing shorelines or 1,000 feet,
17 whichever is less. Setback standards are established from other existing structures and
18 an applicant's littoral zone boundary. When littoral zones overlap, structures must be
19 set back 25 feet from an applicant's littoral zone sidelines and must be 50 feet from
20 other existing structures;

21 C. Whether the proposed use of the lease area would unreasonably interfere with
22 customary or traditional public access ways;

23 D. Whether the proposed use of the lease area would unreasonably interfere with the
24 public trust rights of fishing, fowling and navigation;

25 E. Whether there are other commercial marine services or facilities in the proposed
26 lease area;

27 F. Whether the nonwater-dependent floating structure would unreasonably interfere
28 with ingress and egress of riparian owners;

29 G. Whether the nonwater-dependent floating structure would result in significant risk
30 to life or property in the vicinity of the use under conditions of weather and vessel
31 traffic;

32 H. Whether there is evidence in the record that any portion of the proposed lease area
33 has been designated for special protection by an agency authorized to make such
34 designations;

35 I. Whether the use conflicts with those aspects of the coastal policies or the coastal
36 policy guidelines in section 1801 that relate to the criteria considered by the bureau;

37 J. Whether the lease terms require the applicant to obtain all necessary federal, state
38 and local approvals; and

39 K. Whether the applicant has paid the fee required for processing the application.

40 The bureau may consult with other agencies and organizations as appropriate when
41 considering the terms of a submerged lands nonwater-dependent floating structure lease.

1 **5. Bureau approval required.** If approved for the issuance of a lease, the owner may
2 continue to operate the nonwater-dependent floating structure in accordance with the
3 requirements of this section and subject to the terms of the lease.

4 **6. Operational standards.** A nonwater-dependent floating structure that is authorized
5 to continue operating pursuant to a lease issued in accordance with this section must meet
6 all applicable standards in law or rule or the structure's authorization to continue operation
7 may be revoked through a termination of the lease. A nonwater-dependent floating
8 structure must meet the following criteria.

9 A. The structure must be labeled with the owner's name, telephone number and e-mail
10 address.

11 B. If the structure is located on coastal waters, it must comply with 33 United States
12 Code, Section 1322.

13 C. If the structure is located on inland waters, it must comply with section 423, have a
14 waterless composting or desiccating toilet, have a holding tank for which tank pumping
15 records must be provided upon request or have landside-only facilities, meaning no
16 toilet, shower or sink on board that discharges.

17 D. The structure is subject to inspection by representatives of the State to ensure
18 compliance with any of the provisions of applicable law or rule.

19 **7. Limitations.** The following limitations apply.

20 A. A lease may not be issued under this section for an area greater than 1,500 square
21 feet.

22 B. Once sited in accordance with a lease issued under this section, a nonwater-
23 dependent floating structure may not be sited in any other location on the internal
24 waters of the State.

25 C. A lease may be issued under this section for a 10-year term, which is renewable. If
26 the nonwater-dependent floating structure is destroyed or has met the end of its useful
27 life prior to the expiration of the lease, the lease authorization under this section
28 expires.

29 **8. Lease fees.** The following lease fees apply with respect to leases issued under this
30 section.

31 A. For a lease for an area that is 500 square feet or less, the annual lease fee is \$250.

32 B. For a lease for an area that is greater than 500 square feet and less than or equal to
33 1,000 square feet, the annual lease fee is \$500.

34 C. For a lease for an area that is greater than 1,000 square feet and less than or equal
35 to 1,500 square feet, the annual lease fee is \$1,000.

36 **9. Final agency action.** Decisions made by the bureau under this section constitute
37 final agency action for the purposes of judicial review under Title 5, chapter 375.

38 **§3305. Penalties; removal; abandonment**

39 **1. Penalties.** Except as provided in subsection 2, a person who violates section 3302
40 commits a civil violation for which a fine of not less than \$100 and not more than \$500
41 may be adjudged for each day of that violation, and the person may be ordered to pay

1 restitution to the primary enforcement authority for costs incurred in investigating the
2 violation and enforcing the provisions of this chapter.

3 **2. Repeat violations.** A person who violates section 3302 after having been
4 adjudicated as having committed 3 or more civil violations under section 3302 within the
5 previous 5-year period commits a Class E crime. In addition to any penalties that may be
6 imposed by law for each day of that violation, the person may be ordered to pay restitution
7 to the primary enforcement authority for costs incurred in investigating the violation and
8 enforcing the provisions of this chapter.

9 **3. Removal of structures.** A person who violates section 3302 shall remove the
10 violating nonwater-dependent floating structure from the internal waters that the structure
11 was placed or used in, on or over and is responsible for all costs associated with the removal
12 and the costs of any damage to persons or property caused by the structure's placement or
13 use.

14 **4. Abandoned structures.** An abandoned nonwater-dependent floating structure may
15 be removed, possessed, sold, destroyed or otherwise disposed of by the State, a
16 municipality or other primary enforcement authority. The authority provided under this
17 subsection does not affect the authority granted under Title 12, section 1866 related to the
18 removal of an abandoned watercraft pursuant to that section.

19 **§3306. Enforcement**

20 Any person described in Title 12, section 10403 may enforce the provisions of this
21 chapter.

22 **§3307. Rulemaking**

23 In consultation with the Department of Marine Resources and the Department of Inland
24 Fisheries and Wildlife, the Department of Agriculture, Conservation and Forestry may
25 adopt rules clarifying the application of the provisions of this chapter to watercraft,
26 houseboats, nonwater-dependent floating structures and nonwater-dependent uses, rules
27 clarifying or expanding the scope of the exceptions to the prohibition under section 3302
28 and other rules necessary for the implementation of this chapter. Rules adopted pursuant
29 to this section are major substantive rules as defined in Title 5, chapter 375, subchapter
30 2-A.

31 **Sec. 13. Report.** The Department of Inland Fisheries and Wildlife shall submit, no
32 later than February 1, 2026, a report to the Joint Standing Committee on Inland Fisheries
33 and Wildlife with updated information on nonwater-dependent floating structures in the
34 State and the implementation of this Act. The report may include recommendations for
35 statutory changes. The committee may report out a bill based on the report to the Second
36 Regular Session of the 132nd Legislature.'

37 Amend the bill by adding before the summary the following:

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

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

SUMMARY

This amendment replaces the bill. It implements a prohibition on the placement or use of a nonwater-dependent floating structure on internal waters of the State. As defined in the amendment, "nonwater-dependent floating structure" means a waterborne structure that is supported wholly or partially by the structure's own buoyancy and that supports a nonwater-dependent use. "Nonwater-dependent uses" is defined as those uses that can function in a location other than the surface waters of the State and that do not require, for their primary purpose, location on submerged lands or direct access to internal waters. The prohibition includes exceptions for functionally water-dependent uses, swimming structures, water toys, ice fishing shacks, aquaculture facilities, authorized nonwater-dependent floating structures, preexisting nonwater-dependent floating structures and other facilities and structures exempted through agency rulemaking. Criteria for authorized and preexisting nonwater-dependent floating structures are provided in the amendment. The amendment also establishes penalties for violating the prohibition on nonwater-dependent floating structures. Finally, the amendment directs the Department of Inland Fisheries and Wildlife to, by February 1, 2026, submit a report to the Joint Standing Committee on Inland Fisheries and Wildlife with updated information on nonwater-dependent floating structures in the State and the implementation of this legislation. The report may include recommendations for statutory changes. The committee may report out a bill based on the report to the Second Regular Session of the 132nd Legislature.

FISCAL NOTE REQUIRED

(See attached)