

Office of Policy and Legal Analysis

Date: 3-29-21
To: Joint Standing Committee on Inland Fisheries and Wildlife
From: Jon Clark, Deputy Director, OPLA
Re: [LD 394](#), "An Act To Protect Maine's Loons and Other Wildlife in the Issuance of a Permit To Hold a Regatta, Race or Boat or Water-ski Exhibition" (Ordway)

Bill Summary

This bill requires a person obtaining a permit to hold a regatta, race, boat exhibition or water ski exhibition:

- To provide reasonable protection, as prescribed by the Commissioner, for wildlife, wildlife habitat and water quality and
- To take reasonable precautions to safeguard wildlife, wildlife habitat and water quality.

Current law and how the bill would amend current law may be found at end of this summary.

Testimony

3-1-21

Brief overview:

- Proponents: current law requires the person obtaining the permit to safeguard persons and property; goal is to include reasonable protections to safeguard wildlife, wildlife habitat and water quality as well.
- Proponents: high-speed *motorboat races* on Watchik Pond and the presence of nesting loons on that pond -- main reason for the bill.
- Kiwanis Club that runs the races on Watchic Pond indicated it will be taking more proactive measures (field glasses and spotters) to find birds and avoid running the motorboat races when loons are seen in the area.
- Proponents: loons are particularly vulnerable in motorboat races: don't leave territory during race, dive to escape, and can pop up unexpectedly. Boat strikes a leading cause of loon mortality.

Additional information:

- Proponents indicated concerns about highspeed motor boat races. DIFW issues permits for motorboat races, waterski exhibitions, motorboat exhibitions, boat parades as well as for non-motorized events such as sail boat regattas and canoe/kayak races.
 - DIFW has provided a chart illustrating its permitting process for these various events ([info provided by DIFW](#))
- DIFW information on permits issued (see table next page), indicates 15 of the 17 motorboat race permits issued in the last 3 years were for Watchik Pond
- State information on the pond may be accessed [here](#). The lake is described as covering 448 acres.
- Watchic Lake Association indicates "one or two loon families on the lake each year."

➤ # of permits issues by DIFW (provided by DIFW):

2018	Permit Type	Number of Events Scheduled	
	Motorboat Race	3 (all were on Watchic Lake)	
	Canoe/Kayak/Row Race	25	
	Boat Parade	1	
	Regatta (Sailboat Race)	26	
	Motorboat Exhibition	14	
	Water Ski-Show	2	Total for the season: 71
2019	Motorboat Race	8 (Six of these were on Watchic Lake)	
	Canoe/Kayak/Row Race	19	
	Boat Parade	1	
	Regatta (Sailboat Race)	38	
	Motorboat Exhibition	18	
	Water Ski-Show	0	Total for the season: 84
2020	Motorboat Race	6 (all were on Watchic Lake)	
	Canoe/Kayak/Row Race	9	
	Boat Parade	1	
	Regatta (Sailboat Race)	11	
	Motorboat Exhibition	10	
	Water Ski-Show	1	Total for the season: 38

DIFW Notes:

Please note that some permits are written for multiple events/event types/days.

We often issue one permit per organization if necessary. The numbers above represent every event that was scheduled for the season by category.

A handful of the events scheduled for 2020 were cancelled due to COVID.

We have no reports that the Motorboat Race events for the 2020 season were cancelled.

- Current law [12 MRSA 13068-A \(9\)](#) prohibits operating a watercraft so as to pursue, molest, harass, drive or herd any wild animal or wild bird. DIFW indicated the enforcement challenge in connecting a loon found dead on Watchic after a race in 2018 (determined to be killed by a prop) with that race or any specific boat in the race.

Possible Amendments:

- Current law provides that a person may not hold a regatta, race, boat exhibition or water ski exhibition without a permit from the commissioner; it also provides that the commissioner *may issue* a permit (without further qualification).
- Richard Wiggin offered an amendment in his [testimony](#). Mr. Wiggin's amendment would provide that the commissioner may issue a permit "if the Commissioner determines that the regatta, race, or exhibition will not unreasonably endanger public safety, wildlife, wildlife habitat, or water quality."

Fiscal Impact Not yet determined

Current law

Highlighting shows proposed language from bill

§13061. Permit to hold regatta, race, boat exhibition or water-ski exhibition

1. Permit required. A person may not hold a regatta, race, boat exhibition or water-ski exhibition without a permit from the commissioner issued under subsection 2.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

2. Issuance. The commissioner may issue a permit to a person permitting the person to hold a regatta, race, boat exhibition or water-ski exhibition on any of the internal waters of this State.

3. Application. The person in charge of a regatta, race, boat exhibition or water-ski exhibition shall request the permit required under subsection 1 from the commissioner at least 15 days prior to the event. The request must be in writing and must set forth the date, time and location of the event. The person in charge of a proposed motorboat race shall send a letter of intent 60 days prior to the event to municipal officers of the municipality or municipalities in which the race will occur. A copy of the letter of intent must be forwarded to the commissioner with the request for a permit to hold any motorboat race.

4. Requirements. The following requirements apply to permits issued under this section.

A. The person obtaining the permit under subsection 2 shall provide reasonable protection, as prescribed by the commissioner, from water traffic interference and hazards and shall take reasonable precautions to safeguard persons and property.

A-1. The person obtaining the permit under subsection 2 shall provide reasonable protection, as prescribed by the commissioner, for wildlife, wildlife habitat and water quality and shall take reasonable precautions to safeguard wildlife, wildlife habitat and water quality.

B. During any event authorized pursuant to subsection 1, the officials conducting it shall conspicuously display one or more orange warning flags of a size not less than 4 feet by 4 feet while the event is in progress. The officials shall remove the warning flag or flags for reasonable periods of time during the event to allow nonparticipating watercraft to pass through the area.

4-A. Penalty. The following penalties apply to violations of subsection 4.

A. A person who violates subsection 4 commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

B. A person who violates subsection 4 after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

5. Unlawfully crossing event area. Except in an emergency, an operator of a watercraft may not cross the area of a regatta, race, boat exhibition authorized under subsection 1 or water-ski exhibition when the warning flag required under subsection 4, paragraph B is displayed.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.