

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

Date: (Filing No. H-)

INLAND FISHERIES AND WILDLIFE

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 843, L.D. 1225, Bill, “An Act To Limit the Use of Ropes and Buoys in Swim Areas in Great Ponds”

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

'An Act Concerning Swim Area Permits'

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

'Sec. 1. 12 MRSA §1896, as amended by PL 2001, c. 693, §3 and affected by §11 and amended by PL 2011, c. 657, Pt. W, §7 and PL 2013, c. 405, Pt. A, §24, is further amended to read:

§1896. Boating Facilities Fund

There is created within the bureau the Boating Facilities Fund, referred to in this subchapter as the "fund." The fund, as funded under Title 36, section 2903-D, subsection 1, must be available to the director in carrying out the duties of the bureau under this subchapter. This fund is a continuous carrying account. The fund also receives fees collected under subchapter 10 and is available to the director in carrying out the duties specified under subchapter 10.

Sec. 2. 12 MRSA §1900, sub-§§3 to 5, as enacted by PL 2009, c. 312, §1, are amended to read:

3. Swim area prohibition. A person may not establish or maintain a swim line or a developed swim area without a permit issued under subsection 4.

~~A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 or more than \$500 may be adjudged. Each day a person violates this subsection is a separate violation.~~

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

COMMITTEE AMENDMENT

1 **4. Issuance of permit; revocation.** The director may issue a permit to establish and
2 maintain a swim line or a developed swim area within the water safety zone only to a
3 qualified entity ~~to establish and maintain a developed swim area within the water safety~~
4 ~~zone~~ and only if the swim line or developed swim area is designed solely to provide
5 recreational swimming opportunities for the public.

6 A. If the director determines, after notice and an opportunity for hearing, that a swim
7 line or developed swim area is being used for purposes other than to provide
8 recreational swimming opportunities for the public, the director may revoke the
9 permit.

10 B. If the Commissioner of Inland Fisheries and Wildlife believes that a swim line or
11 a developed swim area is being used for purposes other than to provide recreational
12 swimming opportunities for the public and is interfering with boating or fishing, the
13 commissioner shall notify the director and may request that the permit for the swim
14 line or developed swim area be revoked pursuant to paragraph A.

15 The length of the area delineated by a swim line or of a developed swim area may not
16 exceed 50% of the entire length of the shore frontage of the property from which the
17 developed swim area or the area delineated by a swim line extends or 200 feet, whichever
18 is greater, except that in no event may the developed swim area or the area delineated by
19 a swim line extend beyond the shore frontage of the property. The length of the
20 developed swim area or of an area delineated by a swim line must be measured parallel to
21 the shore.

22 **5. Fee; expiration.** Permits issued under subsection 4 expire 5 years after the date
23 of issuance. The director shall establish by rule a fee for the permits, ~~except that a~~
24 ~~developed swim area established and operated by the State or a governmental entity or a~~
25 ~~recreational camp may not be charged a fee and its permit does not expire as long as no~~
26 ~~alterations to the developed swim area are made after the permit is issued.~~ All revenues
27 from fees must be deposited in the Boating Facilities Fund created under section 1896.'

28 SUMMARY

29 This amendment, which is the majority report, replaces the bill. This amendment
30 modifies the swim area law as follows. It:

31 1. Provides that a swim line or developed swim area may not exceed 50% of the
32 entire length of the shore frontage of the property from which the developed swim area or
33 the area delineated by a swim line extends or 200 feet, whichever is greater, except that in
34 no event may the developed swim area or the area delineated by a swim line extend
35 beyond the shore frontage of the property. The length of the developed swim area or of
36 an area delineated by a swim line must be measured parallel to the shore;

37 2. Removes the special penalties for establishing a swim area without a permit. It
38 leaves in place the general civil penalty applicable under the Maine Revised Statutes,
39 Title 12, section 1806;

40 3. Removes the permit fee exemptions for governmental entities and recreational
41 camps and requires that all permits expire after 5 years;

1
2
3
4
5
6
7
8
9
10

4. Provides that permit fee revenues go into the Boating Facilities Fund and may be used in administering the swim area law; and

5. Provides that a permit for a swim line or a developed swim area may be issued only if the swim line or developed swim area is designed solely to provide recreational swimming opportunities for the public. If the director determines, after notice and opportunity for hearing, that a swim line or a developed swim area is being used for purposes other than to provide recreational swimming opportunities for the public, the director may revoke the permit.

FISCAL NOTE REQUIRED

(See attached)