



# 126th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2014

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Legislative Document

No. 1744

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H.P. 1250

House of Representatives, January 23, 2014

### An Act To Protect Maine Lakes

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative McCABE of Skowhegan.  
Cosponsored by Senator GRATWICK of Penobscot and  
Representatives: BLACK of Wilton, CHIPMAN of Portland, GRAHAM of North Yarmouth,  
HAMANN of South Portland, HICKMAN of Winthrop, McLEAN of Gorham, POWERS of  
Naples, Senator: JOHNSON of Lincoln.

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

2 **Sec. 1. 38 MRSA §410-L, first ¶**, as enacted by PL 1997, c. 643, Pt. YY, §1, is  
3 amended to read:

4 The Lakes Assessment and Protection Program is established within the department  
5 to monitor and protect the health and integrity of the State's lakes through activities  
6 identified in section 410-M.

7 **Sec. 2. 38 MRSA §410-M**, as amended by PL 2011, c. 655, Pt. EE, §22 and  
8 affected by §30, is repealed and the following enacted in its place:

9 **§410-M. Lakes assessment and protection**

10 In implementing the Lakes Assessment and Protection Program, the commissioner  
11 shall ensure that the department:

12 **1. Education.** Develops:

13 A. Educational materials that inform the public about the health and functions of  
14 lakes in the State; the value of lakes to the residents, communities and economy of  
15 the State and wildlife in the State; the sources of risk posed to the health and integrity  
16 of lakes; and actions that individuals can take to help preserve the health and water  
17 quality of lakes. The department shall make the educational materials readily  
18 available on its publicly accessible website and through other outreach resources; and

19 B. Educational materials designed for classroom instruction relating to the health and  
20 integrity of lakes in the State. To the extent possible, the department shall serve as a  
21 resource to schools and teachers. The department shall make the educational  
22 materials readily available to schools;

23 **2. Monitoring lakes and conducting research.** Monitors lakes and conducts  
24 research relating to the ecology and health of lakes, the vulnerability of and risks to lakes,  
25 the relationship between lake water quality and development, the design and effectiveness  
26 of best management practices and the effectiveness of efforts to protect lakes. The  
27 department shall integrate the use of water quality monitors, academic institutions and  
28 other lake monitoring resources in monitoring pursuant to this subsection. The  
29 department shall make data collected pursuant to this subsection and the department's  
30 analysis of the data regularly available on its publicly accessible website and through  
31 other outreach resources. The department shall include the data and analysis in the report  
32 submitted to the Legislature pursuant to section 464, subsection 3, paragraph A;

33 **3. Compliance monitoring and enforcement.** Promotes and monitors compliance  
34 with and enforcement of the natural resources protection laws, the mandatory shoreland  
35 zoning laws, the storm water management laws, the erosion and sedimentation control  
36 laws and other state and local laws providing standards for the protection of lakes;

37 **4. Water quality and habitat protection, restoration and maintenance.** Directs  
38 and assists with activities that protect, restore and maintain lake water quality and the  
39 quality of habitat in lakes and on land surrounding lakes that affect the health and

1 integrity of lakes. The department shall develop partnerships pursuant to subsection 5 to  
2 assist with these activities; and

3 **5. Partnerships.** Develops partnerships with lake associations, municipalities,  
4 businesses, academic institutions, water quality monitors and other interested individuals  
5 to increase public understanding about risks posed to the health and integrity of lakes and  
6 actions that can be taken to reduce those risks and sustain lake water quality. To the  
7 extent possible, the department shall provide technical and financial assistance to partners  
8 pursuant to this subsection. A partnership developed pursuant to this subsection may  
9 assist the department in water quality and habitat protection, restoration and maintenance  
10 activities pursuant to subsection 4.

11 **Sec. 3. 38 MRSA §418-B** is enacted to read:

12 **§418-B. Restrictions on application of fertilizers, herbicides, pesticides and soil**  
13 **amendments**

14 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
15 following terms have the following meanings.

16 A. "Fertilizer" means a substance containing one or more recognized plant nutrients  
17 that is used for its plant nutrient content and designed for use or claimed to have  
18 value in promoting plant growth. "Fertilizer" does not include animal and vegetable  
19 manures that are not manipulated, marl, lime, limestone or topsoil.

20 B. "Herbicide" means a substance or mixture of substances used to destroy,  
21 desiccate, defoliate or prevent the growth of unwanted vegetation.

22 C. "Pesticide" means any substance or mixture of substances intended for preventing,  
23 destroying, repelling or mitigating any pest and any substance or mixture of  
24 substances intended for use as a plant regulator, defoliant or desiccant.

25 D. "Soil-amending ingredient" means any substance that is intended to improve the  
26 chemical, biological or physical characteristics of the soil.

27 E. "Soil amendment" means any product consisting of a soil-amending ingredient  
28 and other ingredients.

29 **2. Prohibition.** Notwithstanding any other provision of law, a person may not apply  
30 a fertilizer, herbicide, pesticide, soil-amending ingredient or soil amendment within 25  
31 feet of fresh surface waters, except that a person may apply a fertilizer, herbicide,  
32 pesticide, soil-amending ingredient or soil amendment within 25 feet of fresh surface  
33 waters for agricultural production from April 1st to October 15th on ground that is not  
34 frozen.

35 **Sec. 4. 38 MRSA §444-B** is enacted to read:

36 **§444-B. Photographic record of shorelines to assist enforcement**

37 To aid in enforcing shoreland zoning ordinances, the following goals and  
38 requirements relating to establishing a photographic record of the shorelines of great  
39 ponds are established.

1           **1. State's goals.** The State's goals for establishing a photographic record of the  
2 shorelines of great ponds are as follows.

3           A. By December 31, 2016, it is the goal of the State to have a photographic record of  
4 the shorelines of 50% of great ponds bordered by at least 10 developed lots.

5           B. By December 31, 2018, it is the goal of the State to have a photographic record of  
6 the shorelines of 70% of great ponds bordered by at least 10 developed lots.

7           C. By December 31, 2020, it is the goal of the State to have a photographic record of  
8 the shorelines of 90% of great ponds bordered by at least 10 developed lots.

9           **2. Shoreline inventories.** The department, municipalities and the Maine Land Use  
10 Planning Commission shall provide leadership in achieving the State's goals in subsection  
11 1. To minimize costs, the department, municipalities and the Maine Land Use Planning  
12 Commission shall work with lake associations, land trusts, community groups, colleges  
13 and universities and volunteers to create photographic records of the shorelines of  
14 developed great ponds and shall work to update the records in 2020 and every 5 years  
15 thereafter.

16           **3. Priority great ponds.** The department shall develop and make available to the  
17 public biennially a list of priority great ponds for developing a photographic record of the  
18 shorelines of great ponds. Priority must be based on water quality conditions, density of  
19 shoreline development, projections of future development and the absence of an existing  
20 photographic record of the complete shoreline.

21           **4. Rules.** The department shall adopt rules to implement this section. Rules adopted  
22 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,  
23 subchapter 2-A. By January 15, 2015, the department shall adopt rules requiring:

24           A. An applicant for a permit for development within a shoreland zone to provide to  
25 the permitting authority a preconstruction photograph and a postconstruction  
26 photograph of the shoreline vegetation and development site; and

27           B. A municipal permitting authority to visit a proposed development site prior to  
28 final approval of a permit for development within a shoreland zone.

29           **Sec. 5. 38 MRSA §450** is enacted to read:

30           **§450. Training for municipalities**

31           The department and the Department of Agriculture, Conservation and Forestry shall  
32 develop and make available to municipal officials and code enforcement officers training  
33 relating to the provisions of this article including the importance of the law in protecting  
34 the quality of surface waters of the State, changes in department rules relating to  
35 shoreland zoning and municipal enforcement obligations. The training must be provided  
36 in multiple locations in the State and may be provided in conjunction with other training  
37 programs.

38           **Sec. 6. Landscape contractor certification program.** By December 1, 2015,  
39 the Department of Environmental Protection shall develop an environmental leader

1 certification program for landscape contractors that provide landscape services to  
2 properties adjacent to surface waters of the State. The certification program must focus  
3 on low-maintenance landscape design and landscaping methods that are protective of  
4 water quality.

5 **Sec. 7. Vacancies.** By December 31, 2014, the Department of Environmental  
6 Protection shall hire qualified personnel for vacant staff positions that have been  
7 authorized by the Legislature for the purpose of education, monitoring, research and  
8 enforcement activities related to the protection of the health and integrity of the State's  
9 lakes.

10 **Sec. 8. Reducing water quality impacts of camp roads, logging roads,**  
11 **driveways and boat launches.** The Department of Environmental Protection shall  
12 evaluate options and develop a strategy for reducing risks to the water quality of lakes of  
13 the State from camp roads, logging roads, driveways and boat launches. In conducting  
14 the evaluation, the department shall seek input from the Maine Land Use Planning  
15 Commission, lake associations, municipalities, conservation organizations and other  
16 stakeholders. By December 1, 2015, the department shall submit its recommendations to  
17 the joint standing committee of the Legislature having jurisdiction over environmental  
18 and natural resources matters, and the committee may report out a bill relating to the  
19 recommendations to the Second Regular Session of the 127th Legislature.

20 **Sec. 9. Promoting voluntary certification for pollution reduction**  
21 **measures by lakefront property owners.** By December 1, 2014, the Department of  
22 Environmental Protection shall evaluate the status of the LakeSmart program, which was  
23 transferred from the department to the Maine Lakes Society. The evaluation must include  
24 the following information for a period beginning on the date management of the program  
25 was transferred:

- 26 1. The number of property owners who received LakeSmart Awards;
- 27 2. The number of lake associations involved in helping promote the program;
- 28 3. The number of lakes for which property owners received LakeSmart Awards; and
- 29 4. Implementation challenges experienced by the Maine Lakes Society.

30 The evaluation must also include information relating to the financial sustainability of  
31 the LakeSmart program. The department shall solicit information necessary for the  
32 evaluation from the Maine Lakes Society and shall evaluate whether additional funding  
33 or technical resources from the department would help ensure the success of the program.  
34 The department shall make a report of its evaluation available for public comment. By  
35 January 15, 2015, the department shall submit the report and public comments to the joint  
36 standing committee of the Legislature having jurisdiction over environmental and natural  
37 resources matters. The committee may report out a bill relating to the report to the First  
38 Regular Session of the 127th Legislature.

1 **SUMMARY**

2 This bill amends the laws governing the Lakes Assessment and Protection Program.  
3 It prohibits the application of fertilizers, herbicides, pesticides and soil amendments  
4 within 25 feet of fresh surface waters. It establishes goals for developing a photographic  
5 record of the shorelines of lakes. It directs the Department of Environmental Protection  
6 and the Department of Agriculture, Conservation and Forestry to develop training for  
7 municipalities relating to the laws regulating shoreland zoning. It also directs the  
8 Department of Environmental Protection to:

- 9 1. Develop an environmental leader certification program for landscape contractors;  
10 2. Fill vacant staff positions;  
11 3. Evaluate options and develop a strategy for reducing risks to lake water quality  
12 from camp roads, logging roads, driveways and boat launches; and  
13 4. Evaluate the LakeSmart program.