An Act To Protect Maine Lakes

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.

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

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

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

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 EE, §22 and affected by §30, is repealed and the following enacted in its place:

§410-M. Lakes assessment and protection

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

1. Education. Develops:

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

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

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

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

4. Water quality and habitat protection, restoration and maintenance. Directs and assists with activities that protect, restore and maintain lake water quality and the quality of habitat in lakes and on land surrounding lakes that affect the health and
integrity of lakes. The department shall develop partnerships pursuant to subsection 5 to assist with these activities; and

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

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

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

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

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

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

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

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

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

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

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

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

To aid in enforcing shoreland zoning ordinances, the following goals and requirements relating to establishing a photographic record of the shorelines of great ponds are established.
1. State's goals. The State's goals for establishing a photographic record of the shorelines of great ponds are as follows.

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

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

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

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

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

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

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

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

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

§450. Training for municipalities

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

Sec. 6. Landscape contractor certification program. By December 1, 2015, the Department of Environmental Protection shall develop an environmental leader
certification program for landscape contractors that provide landscape services to properties adjacent to surface waters of the State. The certification program must focus on low-maintenance landscape design and landscaping methods that are protective of water quality.

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

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

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

1. The number of property owners who received LakeSmart Awards;
2. The number of lake associations involved in helping promote the program;
3. The number of lakes for which property owners received LakeSmart Awards; and

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

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

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