

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

No. 1809

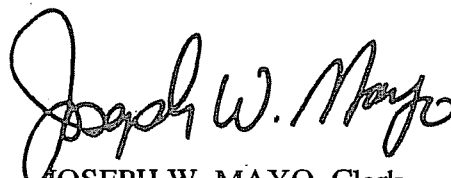
H.P. 1342

House of Representatives, January 31, 1994

An Act to Promote the Continued Use of Private Lands for Recreation.

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Legal Affairs suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Speaker MARTIN of Eagle Lake.
Cosponsored by Senator LAWRENCE of York and
Representatives: COLES of Harpswell, COTE of Auburn, GOULD of Greenville, JACQUES of
Waterville, MICHAUD of East Millinocket, ROTONDI of Athens, TARDY of Palmyra,
Senators: BERUBE of Androscoggin, CIANCHETTE of Somerset.

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

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4 **Sec. 1. 14 MRSA §159-A**, as amended by PL 1985, c. 762, §25,
is further amended to read:

6 **§159-A. Limited liability for recreational or harvesting**
 activities

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

12 A. "Premises" shall mean improved and unimproved lands,
14 private ways, roads, any buildings or structures on those
lands and waters standing on, flowing through or adjacent to
16 those lands.

18 B. "Recreational or harvesting activities" means
recreational activities conducted out of doors, including,
20 but not limited to, hunting, fishing, trapping, camping,
hiking, sight-seeing, operation of snow-traveling and
22 all-terrain vehicles, skiing, hang-gliding, boating,
sailing, canoeing, rafting, biking, picnicking or swimming
24 or activities that involve harvesting or gathering forest
products. It shall include entry, use of and passage over
26 premises in order to pursue these activities.

28 **2. Limited duty.** An owner, lessee, manager or occupant of
premises shall owe no duty of care to keep the premises safe for
30 entry or use by others for recreational or harvesting activities
or to give warning of any hazardous condition, use, structure or
32 activity on these premises to persons entering for those purposes.

34 **3. Permissive use.** An owner, lessee, manager or occupant
who gives permission to another to pursue recreational or
36 harvesting activities on the premises shall not thereby:

38 A. Extend any assurance that the premises are safe for
those purposes;

40 B. Make the person to whom permission is granted an invitee
42 or licensee to whom a duty of care is owed; or

44 C. Assume responsibility for or incur liability for any
injury to person or property caused by any act of persons to
46 whom the permission is granted.

48 **4. Limitations on section.** This section shall not limit the
liability which would otherwise exist:

50 A. For a willful or malicious failure to guard or to warn
52 against a dangerous condition, use, structure or activity;

2 B. For an injury suffered in any case where permission to
4 pursue any recreational or harvesting activities was granted
for a consideration other than the consideration, if any,
paid to the ~~landowner-by-the-State,-or~~ following:

6 (1) The landowner or the landowner's agent by the
8 State; or

10 (2) The landowner or the landowner's agent for use of
12 the premises on which the injury was suffered, provided
14 that the premises are not used primarily for commercial
recreational purposes and that the user has not been
granted the exclusive right to make use of the premises
for recreational activities; or

16 C. For an injury caused, by acts of persons to whom
18 permission to pursue any recreational or harvesting
activities was granted, to other persons to whom the person
20 granting permission, or the owner, lessee, manager or
occupant of the premises, owed a duty to keep the premises
safe or to warn of danger.

22 5. **No duty created.** Nothing in this section shall create a
24 duty of care or ground of liability for injury to a person or
property.

26 6. **Costs and fees.** The court shall award any direct legal
28 costs, including reasonable attorneys' fees, to an owner, lessee,
30 manager or occupant who is found not to be liable for injury to a
person or property pursuant to this section.

32
34 **STATEMENT OF FACT**

36 This bill makes changes to the laws governing the liability
of landowners for recreational or harvesting activities on their
38 land.

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44 This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.