

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1101

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H.P. 805

House of Representatives, March 5, 2019

**An Act To Amend the Shoreland Zoning Laws To Allow Pedestrian Walkways and Trails That Exclude Motorized Vehicles within the Shoreland Zone**

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

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative DOUDERA of Camden.  
Cosponsored by Senator LAWRENCE of York and  
Representatives: AUSTIN of Skowhegan, DENNO of Cumberland, DILLINGHAM of Oxford,  
DODGE of Belfast, GATTINE of Westbrook, MADIGAN of Waterville, Senator:  
WOODSOME of York.

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

2 **Sec. 1. 38 MRSA §439-A, sub-§4-D** is enacted to read:

3 **4-D. Exemption from setback requirements for pedestrian walkways and trails.**

4 In accordance with the provisions of this subsection, a municipality may adopt an  
5 ordinance that exempts pedestrian walkways and trails from the water and wetland  
6 setback requirements otherwise applicable under this section.

7 A. Notwithstanding subsection 4, a municipality may adopt an ordinance pursuant to  
8 this subsection that exempts a pedestrian walkway or trail from the otherwise  
9 applicable water or wetland setbacks if the following requirements are met:

10 (1) Use of motorized vehicles is prohibited on all positions of the pedestrian  
11 walkway or trail that are located within the shoreland zone as established by  
12 section 435, except that use of a motorized wheelchair, motorized scooter or  
13 similar motorized assistive device by a person with a disability that prevents the  
14 person from using a walkway or trail without a motorized assistive device may be  
15 allowed. Use of nonmotorized vehicles, including, but not limited to, bicycles,  
16 may be allowed;

17 (2) If cantilevered over a water body or wetland within the shoreland zone as  
18 established by section 435, the pedestrian walkway or trail does not extend over  
19 the water body or wetland more than 10 feet from the normal high-water line;

20 (3) If cantilevered over a water body or wetland within the shoreland zone as  
21 established by section 435, the pedestrian walkway or trail is attached to a  
22 structure that was constructed prior to 1971 and that is located within the  
23 shoreland zone;

24 (4) If the walkway or trail is cantilevered over a water body or wetland within  
25 the shoreland zone as established by section 435, the municipal planning board  
26 has determined there is no other practical means to construct the pedestrian  
27 walkway or trail without cantilevering over that segment of the water body or  
28 wetland. If there are no other practical means to construct the pedestrian  
29 walkway or trail, approaches to the cantilevered walkway or trail may also  
30 cantilever off adjacent retaining walls but no more than is necessary to access the  
31 cantilevered walkway or trail;

32 (5) The pedestrian walkway or trail is not located within a shoreland area zoned  
33 for resource protection;

34 (6) The pedestrian walkway or trail is located within a shoreland area that has  
35 previously been developed or, if located within a shoreland area that has not  
36 previously been developed, the walkway or trail is set back at least 25 feet from  
37 the normal high-water line of the water body or wetland;

38 (7) The pedestrian walkway or trail is constructed by a contractor certified in  
39 erosion control pursuant to section 439-B; and

40 (8) The pedestrian walkway or trail is owned and maintained either publicly or  
41 as a public-private partnership.

