

MAINE STATE LEGISLATURE

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STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

March 4, 1980

Mr. Donald Ramsay
14 Clinton Street
Portland, Maine 04103

Dear Mr. Ramsay:

I have received your letter inquiring about the proper content of signs for posting property to give notice to the general public regarding trespassing. Specifically, you asked three questions: (1) whether a sign reading "Posted Keep Out" or "No Trespassing" would be legally sufficient; (2) whether a sign for posting must contain the signature of the owner or the owner's spouse; and (3) if a signature is necessary, whether the words "By Order Of" must precede the signature. Since I am not authorized to render opinions to private citizens (5 M.R.S.A. § 195), I would ask that you treat this letter as an informal statement of my beliefs on the questions you raise.

At the outset, it must be noted that in order for a person to maintain a civil cause of action for trespass to land it is not necessary for the owner to fence his land or otherwise give notice to the general public that he does not want others entering his property; every unauthorized entry on the land of another is a trespass and the trespasser can be held civilly liable. Foley v. H. F. Farnham Co., 135 Me. 29, 34, 188 A. 708 (1936). Where the owner of land does, however, post his property, the trespasser may be in violation of Maine's "criminal trespass" law.

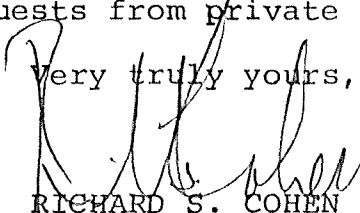
The Maine Criminal Code provides that "[a] person is guilty of criminal trespass if, knowing that he is not licensed or privileged to do so: [h]e enters in any secured premises. . . ." 17-A M.R.S.A. § 402(1)(A). The phrase "secured premises" includes "any place from which persons may lawfully be excluded and which is posted in a manner prescribed by law or in a manner reasonably likely to come to the attention of intruders." 17-A M.R.S.A. § 402(2). There is currently no Maine statute which prescribes the manner or content of signs for the purpose of the State's meeting its burden of proof regarding this element

of the crime of "criminal trespass." In our view, all that would be necessary would be for the sign to clearly indicate that the owner of the property does not allow entry on his land and the posting in conspicuous places of as many of these signs as are necessary to ensure that they are "reasonably likely to come to the attention" of the trespasser.

Turning to your specific questions, I believe that either one of the two phrases you have proposed for the contents of "posting" signs is sufficient. In regard to your second and third questions, the signature of the owner or the owner's spouse is not required.

In closing, I would like to apologize for the delay in answering your letter. I am sure you can appreciate the enormous demands placed on my office immediately before and during a session of the Legislature. I want to assure you, however, that to the extent time allows, we attempt to respond to informational requests from private citizens.

Very truly yours,



RICHARD S. COHEN
Attorney General

RSC/ec

cc: Honorable Nancy H. Payne