

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

New Draft of H. P. 243, L. D. 288 (New Title)  
FIRST REGULAR SESSION

---

---

ONE HUNDRED AND NINTH LEGISLATURE

---

---

**Legislative Document**

**No. 1588**

---

---

H. P. 1350

House of Representatives, April 30, 1979

Reported by Mr. Gray from the Committee on Judiciary. Printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

---

---

STATE OF MAINE

---

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

---

**AN ACT Concerning the Liability of Landowners for Recreational or Harvesting  
Activities on their Land.**

---

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

**Sec. 1.** 12 MRSA c. 333, as amended, is repealed.

**Sec. 2.** 14 MRSA § 159-A is enacted to read:

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

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

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

**B. "Recreational or harvesting activities"** shall mean recreational activities conducted out of doors, including hunting, fishing, trapping, camping, hiking, sight-seeing, operation of snow-traveling vehicles, skiing, boating, sailing, canoeing, rafting or swimming or activities that involve harvesting or gathering forest products. It shall include entry, use of and passage over premises in order to pursue these activities.

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

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

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

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

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

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

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

B. For an injury suffered in any case where permission to 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

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

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

#### STATEMENT OF FACT

This new draft combines the provisions of L. D.'s 262, 288 and 360 into a single provision. It moves the present limitations on liability for certain recreational activities out of the inland fisheries and wildlife laws and into the title relating to civil procedure.

The new draft also clarifies the language of these provisions and expands the limitations on liability to recreational activities on water and to harvesting or gathering of forest products.