

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1922

6
7 S.P. 758

In Senate, January 21, 1986

8 Approved for introduction by a majority of the Legislative Council
9 pursuant to Joint Rule 26.

Reference to the Committee on Judiciary suggested and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Najarian of Cumberland.

Cosponsored by Senator Trafton of Androscoggin, Speaker Martin of
Eagle Lake and Representative Wentworth of Wells.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SIX
16

17 AN ACT to Clarify Public Rights to Use
18 the Intertidal Zone.
19

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

22 12 MRSA c. 202-A is enacted to read:

23 CHAPTER 202-A

24 THE PUBLIC TRUST IN INTERTIDAL LAND

25 §571. Legislative findings and purpose

26 The Legislature finds and declares that the
27 intertidal lands of the State are impressed with a
28 public trust and that the State is responsible for
29 protection of the public's interest in this land.

30 The Legislature further finds and declares that
31 this public trust is part of the common law of Maine
32 and is originally derived from English Common Law and

1 Massachusetts Colonial Ordinance of 1641-47. The
2 public trust is an evolving doctrine reflective of
3 the customs and habits of the Maine people. The pub-
4 lic trust encompasses those uses of the intertidal
5 zone essential to the health and welfare of the Maine
6 people, which uses include, but are not limited to,
7 fishing, fowling, navigation, use as a footway be-
8 tween points along the shore and use for recreational
9 purposes. These recreational uses are among the most
10 important to the Maine people today who use the
11 intertidal zone for relaxation from the pressures of
12 modern society and for enjoyment of nature's beauty.

13 The Legislature further finds and declares that
14 misunderstanding concerning the extent of the
15 public's rights to use intertidal land for recrea-
16 tional purposes exists.

17 The Legislature further finds and declares that
18 the protection of the public uses referred to in this
19 chapter is of great public interest and grave concern
20 to the State and that the public benefit will be pro-
21 moted through a clear statement of the scope of the
22 public's rights to use intertidal land.

23 §572. Definitions

24 As used in this chapter, the term "intertidal
25 land" means all land of this State affected by the
26 tides between the natural high watermark and either
27 100 rods seaward from the high watermark or the natu-
28 ral low watermark, whichever is closer to the natural
29 high watermark.

30 §573. Public rights in intertidal land

31 1. Public rights. The public's rights in
32 intertidal lands include the following:

33 A. The right to use the land for fishing,
34 fowling and navigation;

35 B. The right to use the land for recreation; and

36 C. Any other rights to use the land recognized
37 by the Maine common law and not specifically ab-
38 rogated by law.

