

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 424

H.P. 310

House of Representatives, February 23, 1989

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

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative CLARK of Millinocket.

Cosponsored by Representative DUFFY of Bangor, Representative HUSSEY of Milo and President PRAY of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

**An Act to Provide Free Noncommercial Use of Public Reserved Lands
and Lands for Maine's Future.**



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

3 Sec. 1. 5 MRSA §6209, sub-§7 is enacted to read:

5 7. Access. The public shall have free, noncommercial use
7 of lands acquired under this chapter. The board or any agency
9 may not unreasonably restrict public access to these lands.

11 Sec. 2. 12 MRSA §555, sub-§§1 and 2, as enacted by PL 1975, c.
13 339, §6, are amended to read:

15 1. Director to prosecute trespass cases. The Director of
17 the Bureau of Public Lands is authorized and directed to
19 prosecute cases of trespass on lands under the care, custody,
21 control or management of the Bureau of Public Lands, including
23 ~~public-reserved-lands-and,~~ but not limited to, lands transferred
25 pursuant to the provisions of section 552, subsection 1,
27 paragraph E.

29 2. Liability of trespassers. If any person unlawfully
31 enters or trespasses upon state-owned lands or upon any public
33 reserved lot, while such land is under the care, custody, control
35 or management of the Bureau of Public Lands, by cutting,
37 destroying, taking or carrying away any trees, timber, wood,
39 grass or other materials under or upon said lands without the
41 express written consent of the bureau, he that person and all
43 participating persons ~~participating--therein~~ are trespassers,
45 jointly and severally liable in damages for such trespasses, and
47 they may be sued ~~therefor~~ for trespass in any county. The measure
49 of damages is the highest price such materials would bring at the
51 their usual place of sale ~~thereof~~. If the trespass is willful,
the court shall assess treble damages and the costs of
maintaining the action. For the purposes of this section, a
trespass shall be conclusively deemed to have been willful if the
land upon which the materials were cut, destroyed or taken, or
from which the materials were carried away, was posted with
conspicuous notices of state ownership at or near the point where
roads entered into the state-owned land; or if the land is
otherwise posted or identified in a manner reasonably likely to
come to the attention of intruders; or if the intruder had actual
knowledge of the fact of state ownership.

43 Sec. 3. 12 MRSA §556, as enacted by PL 1975, c. 339, §6, is
45 amended to read:

47 §556. Public access

49 1. Legislative policy. The Legislature declares that it
51 shall be the policy of the State to keep the public reserved
lands as a public trust; and that full and free public access to
the public reserved lands, to the extent permitted by law,
together with the right to reasonable use thereof of these lands,

1 shall be the privilege of every citizen of Maine. The Legislature
2 further declares that it recognizes that such free and reasonable
3 public access may be restricted to assure the optimum value of
4 such lands as a public trust, but that such restrictions, if and
5 when imposed, shall be in strict accordance with the requirements
6 set out in this section.

7
8 **2. Establishment of restriction on public access.** The
9 Director of the Bureau of Public Lands shall have the authority
10 to restrict public access to ~~any portion~~ portions of the public
11 lands ~~or public reserved lots~~ under the care, custody, control or
12 management of the Bureau of Public Lands by publishing written
13 notice of the restrictions at least once during the same week in
14 the state paper, 2 other papers of general circulation and the
15 paper for the immediate vicinity of the area to be restricted, if
16 any; and to the extent practicable, by posting notice of such the
17 restrictions at known access points to the land. Restrictions
18 shall be imposed only when they reasonably relate to the
19 protection of the public health, welfare or safety, or to the
20 protection of the economic interests or natural resources of the
21 State.

22 **2-A. Restrictions prohibited on certain lands.**
23 Notwithstanding subsection 2, the Director of the Bureau of
24 Public Lands shall not unreasonably restrict the public's free,
25 noncommercial use of or restrict the public's access to public
26 reserved lands or lands acquired under the Lands for Maine's
27 Future Fund under Title 5, chapter 353.

28
29 **3. Penalty.** If any person unlawfully enters state lands ~~or~~
30 ~~public reserved lots~~ where access has been restricted pursuant to
31 subsection ~~1~~ 2, or any other law, or remains thereon in defiance
32 of a lawful order to leave, which was personally communicated to
33 ~~him~~ that person by an authorized employee of the State, ~~he~~ that
34 person shall be guilty of trespass and shall be fined not less
35 than \$100 for each day during which such trespass occurred.

36
37 **4. Authorization to enter restricted lands.** Any employee of
38 the State of Maine or any of its political subdivisions may be
39 authorized by the director to communicate orders to leave state
40 lands ~~or public reserved lots~~ restricted in accordance with
41 subsection ~~1~~ 2 or other law. All such authorization shall be in
42 writing.

43
44
45 **STATEMENT OF FACT**

46
47
48 This bill proposes to ensure free, noncommercial public
49 access to public reserved lands and lands acquired under the
Lands for Maine's Future Fund.