

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

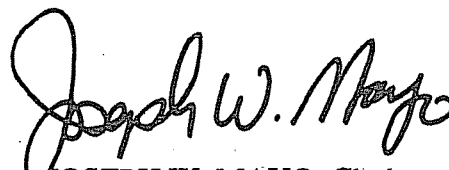
Legislative Document

No. 109

H.P. 79

House of Representatives, January 21, 1993

Reference to the Committee on Fisheries and Wildlife suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative WINN of Glenburn.

Cosponsored by Senator LUTHER of Oxford, Representative NORTON of Winthrop and Senator HARRIMAN of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-THREE

An Act to Improve Safety for Snowmobile and ATV Operators.

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

4 Sec. 1. 12 MRSA c. 720 is enacted to read:

6 CHAPTER 720

8 RESPONSIBILITY OF LANDOWNERS

10 §7891. Purpose

12 The purpose of this chapter is to create a safer environment for the operation of all-terrain vehicles and snowmobiles.

14 §7892. Duty of landowners, lessees or occupants

16 A landowner, lessee or occupant of land who has control over the placement of or continued existence of any potentially hazardous obstruction on that land shall clearly mark the obstruction with fluorescent orange tape or flags. For purposes of this chapter, "potentially hazardous obstruction" means any man-made object, including cables, which are strung, hung or otherwise suspended above the ground, any point of which is closer than 15 feet to the ground and under which a snowmobile or all-terrain vehicle can pass. A violation of this section is punishable in accordance the section 7901.

26 Sec. 2. 14 MRSA §159-A, sub-§§2 to 5, as enacted by PL 1979, c. 253, §2, are amended to read:

30 2. Limited duty. An Except as provided in subsection 4, 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 of any hazardous condition, use, structure or activity on these premises to persons entering for those purposes.

36 3. Permissive use. An Except as provided in subsection 4, an owner, lessee or occupant who gives permission to another to pursue recreational or harvesting activities on the premises shall does not thereby:

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

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

48 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.

2 4. **Limitations.** This section shall does not limit the
liability whieh that would otherwise exist:

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

6 B. For an injury suffered in any case where permission to
8 pursue any recreational or harvesting activities was granted
for a consideration other than the consideration, if any,
10 paid to the landowner by the State; ~~er~~

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

18 D. For a violation of Title 12, chapter 720.

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

STATEMENT OF FACT

26 Under this bill a landowner, lessee or occupant of land who
28 has control over the placement of or continued existence of any
30 potentially hazardous obstruction on that land shall clearly mark
the obstruction with fluorescent orange tape or flags. For
32 purposes of this provision, "potentially hazardous obstruction"
means any man-made object, including cables, which are strung,
34 hung or otherwise suspended above the ground, any point of which
is closer than 15 feet to the ground and under which a snowmobile
36 or all-terrain vehicle could potentially pass.

38 A violation of the Maine Revised Statutes, Title 12, section
7892 is a Class E crime under the general penalties section of
40 the Maine Revised Statutes, Title 12, Part 10.

42 This bill makes it clear that the duty created is an
exception to the general limitation on the duty of landowners,
44 lessees or occupants to keep their land safe for recreational
activities.