

MAINE STATE LEGISLATURE

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DATE: 2/29/96

(Filing No. H- 730)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1245, L.D. 1707, Bill, "An Act to Clarify the Landowner Liability Laws"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 14 MRSA §159-A, as amended by PL 1993, c. 622, §1, is further amended 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" means improved and unimproved lands, private ways, roads, any buildings or structures on those lands and waters standing on, flowing through or adjacent to those lands.

B. "Recreational or harvesting activities" means recreational activities conducted out-of-doors, including, but not limited to, hunting, fishing, trapping, camping, environmental education and research, hiking, sight-seeing, operating snow-traveling and all-terrain vehicles, skiing, hang-gliding, dog sledding, equine activities, boating, sailing, canoeing, rafting, biking, picnicking, swimming or activities involving the harvesting or gathering of forest, field or marine products. It includes entry of, volunteer maintenance and improvement of, use of and passage over premises in order to pursue these activities. "Recreational

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2 or harvesting activities" does not include commercial
3 agricultural or timber harvesting.

4 **2. Limited duty.** An owner, lessee, manager, holder of an
5 easement or occupant of premises does not have a duty of care to
6 keep the premises safe for entry or use by others for
7 recreational or harvesting activities or to give warning of any
8 hazardous condition, use, structure or activity on these premises
9 to persons entering for those purposes. This subsection applies
10 regardless of whether the owner, lessee, manager, holder of an
11 easement or occupant has given permission to another to pursue
12 recreational or harvesting activities on the premises.

13 **3. Permissive use.** An owner, lessee, manager, holder of an
14 easement or occupant who gives permission to another to pursue
15 recreational or harvesting activities on the premises does not
16 thereby:

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

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

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

24 **4. Limitations on section.** This section does not limit the
25 liability that would otherwise exist:

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

28 B. For an injury suffered in any case where permission to
29 pursue any recreational or harvesting activities was granted
30 for a consideration other than the consideration, if any,
31 paid to the following:

32 (1) The landowner or the landowner's agent by the
33 State; or

34 (2) The landowner or the landowner's agent for use of
35 the premises on which the injury was suffered, provided
36 that as long as the premises are not used primarily for
37 commercial recreational purposes and that as long as
38 the user has not been granted the exclusive right to
39 make use of the premises for recreational activities; or

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

8 **5. No duty created.** Nothing in this section creates a duty
9 of care or ground of liability for injury to a person or property.
10

11 **6. Costs and fees.** The court shall award any direct legal
12 costs, including reasonable attorneys' fees, to an owner, lessee,
13 manager, holder of an easement or occupant who is found not to be
14 liable for injury to a person or property pursuant to this
15 section.'
16

17
18 **STATEMENT OF FACT**

19
20 This amendment adds the following activities to the list of
21 activities specifically included in the definition "recreational
22 and harvesting activities": environmental education and research,
23 volunteer maintenance and improvement of premises and the
24 harvesting of marine and field products, such as herbs, berries
25 and wild edibles. The amendment clarifies that "recreational and
26 harvesting activities" does not include commercial agricultural
27 or timber harvesting. The amendment also adds "easement holders"
28 to the list of persons protected by the law.