

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

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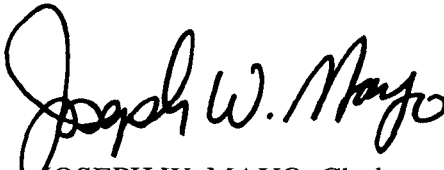
H.P. 1246

House of Representatives, January 16, 1996

An Act to Amend the Laws Relating to Recovery for Property Damage.

Reported by Representative JACQUES for the Commission to Study Trespass Laws pursuant to Resolve 1995, chapter 53.

Reference to the Joint Standing Committee on Judiciary suggested and printing ordered under Joint Rule 20.


JOSEPH W. MAYO, Clerk

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

2
4 **Sec. 1. 14 MRSA §7551-B** is enacted to read:

6 **§7551-B. Civil damages**

8 A person who enters the land of another without permission
10 and causes damage to property is liable to the owner in a civil
12 action. The owner may recover 3 times the owner's actual
14 damages, plus costs and reasonable attorney's fees for preparing
16 the claim and bringing a court action.

18 **Sec. 2. 14 MRSA §7552, sub-§2, ¶¶B and C**, as enacted by PL
20 1995, c. 450, §2, are amended to read:

22 B. Damage or throw down any fence, bar or gate, ~~or~~; leave a
24 gate open, ~~or~~; break glass; damage any road, drainage ditch,
26 culvert or bridge; or do other damage to any structure on
28 property not that person's own; ~~or~~

30 C. Disturb, remove or destroy any lawfully established
32 transit point, reference point, stake, plug, hub,
34 guardstake, bench mark, pipe, iron, concrete post, stone
36 post or other monument of any railroad, highway, public
38 utility or other engineering location or survey or any such
40 monument marking the bounds of public or private property; ~~i~~
42 or

44 **Sec. 3. 14 MRSA §7552, sub-§2, ¶D** is enacted to read:

46 D. Throw, drop, deposit, discard, dump or otherwise dispose
48 of litter, as defined in Title 17, section 2263, subsection
50 2, in any manner or amount, on property not that person's
52 own.

54 **Sec. 4. 14 MRSA §7552, sub-§§3 and 4**, as enacted by PL 1995, c.
56 450, §2, are amended to read:

58 **3. Measure of damages.** Paragraphs ~~A and B~~ govern This
60 subsection governs the measurement of damages resulting from a
62 violation of subsection 2.

64 A. When agricultural or forest products have been destroyed
66 or carried away, the owner's damages may be measured either
68 by the value of the lost products themselves or by the
70 diminution in value of the real estate as a whole resulting
72 from the violation.

74 B. For lost trees, the owner may claim in lieu of market
76 value the forfeiture amounts in Title 17, section 2510,
78 subsection 2. In addition, the owner's damages may include

2 the costs for regeneration of the stand in accordance with
Title 12, section 8869.

4 C. For damage to property under subsection 2, paragraph B,
6 the owner's damages may be measured either by the
8 replacement value of the damaged property or by the cost of
10 repairing the damaged property.

12 D. For the disposal of litter, the owner's damages include
14 the direct costs associated with properly disposing of the
16 litter, including permits, and the costs associated with any
18 site remediation work undertaken as a result of the litter.

20 **4. Damages recoverable.** Damages are recoverable as follows.

22 A. A person who negligently or without fault violates
24 subsection 2 is liable to the owner for 2 times the owner's
damages as measured under subsection 3 or \$250, whichever is
greater.

26 B. A person who intentionally or knowingly violates
28 subsection 2 is liable to the owner for 3 times the owner's
damages as measured under subsection 3 or \$500, whichever is
greater.

30 C. In addition to the damages recoverable under paragraphs
32 A and B, a person who violates subsection 2 is also liable
34 to the owner for the costs the owner may incur if the
36 violation results in a violation of any federal, state or
38 local ordinance or law and, as a result, the owner becomes
40 involved in an enforcement proceeding. These costs include
42 legal fees and the value of the owner's time spent on
44 involvement in the enforcement proceeding.

36 STATEMENT OF FACT

38 This bill amends 2 provisions relating to recovery for
40 damage to property. The first provision allows landowners to
recover treble damages for property damaged by a trespasser on
42 posted or unposted land. It also provides for recovery of costs
and reasonable attorney's fees.

44 The second provision amends the law allowing for recovery of
46 enhanced damages from a person who destroys or damages trees,
agricultural products or survey markers. In addition to
48 recovering double damages for negligent damage and treble damages
for intentional damage, the owner is entitled to recover the
50 reasonable costs of professional services, including attorney's
fees.

2 This bill extends the law to permit enhanced recovery by the
owner for damage to any road, drainage ditch, culvert or bridge
4 or for disposal of litter, and outlines how such damage is to be
measured. The bill also provides for a minimum damage award of
\$250 for negligent damage and \$500 for intentional damage.

6
8 Finally, the bill permits an owner to recover any costs the
owner may incur if the damage results in a violation of any other
ordinance or law and, as a result, the owner becomes involved in
10 an enforcement proceeding. These costs include legal fees and
the value of the owner's time spent on involvement in the
12 enforcement proceeding.