

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

SECOND REGULAR SESSION-1996

Legislative Document

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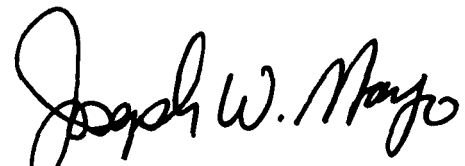
H.P. 1247

House of Representatives, January 16, 1996

**An Act to Describe Property Posting under the Criminal Trespass and
Trespass by Motor Vehicle Laws.**

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

Reference to the Joint Standing Committee on Criminal Justice 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. 17-A MRSA §402, sub-§1, ¶C**, as amended by PL 1989, c.
793, is further amended to read:

6 C. Enters any place from which that person may lawfully be
8 excluded and that is posted in a ~~manner prescribed by law~~
10 accordance with subsection 4 or in a manner reasonably
likely to come to the attention of intruders or that is
fenced or otherwise enclosed in a manner designed to exclude
intruders;

12 **Sec. 2. 17-A MRSA §402, sub-§4** is enacted to read:

14 4. For the purposes of subsection 1, paragraph C, property
16 is posted if it is marked with signs or paint in compliance with
18 this subsection. Any posted sign or paint marking actually seen
20 by an intruder is presumed to be posted in a manner reasonably
likely to come to the attention of intruders.

22 A. Signs must indicate that access is prohibited, that
24 access is prohibited without permission of the landowner or
the landowner's agent, or that access for a particular
purpose is prohibited.

26 B. Paint markings mean that access is prohibited without
28 permission of the landowner or the landowner's agent. Paint
30 markings must consist of 2 painted horizontal lines per
tree, post or other object.

32 (1) Each line must be a minimum of 2 inches high and
at least as long as the width of the object, but need
not be more than 8 inches long.

34 (2) Lines must be painted on the side of the tree,
36 post or other object that is visible to a person
38 approaching the restricted property and must be painted
within an area 3 feet to 6 feet above ground level.

40 (3) The paint must be silver or aluminum colored.

42 C. Signs or paint must mark the property at intervals no
44 greater than 100 feet and at all vehicular access entries
from a public road.

46 D. Signs or paint markings are required only on the portion
48 of the property where access is prohibited or limited.
Signs or paint posted in accordance with this section have
no effect on boundaries of property and do not constitute

2 claims of possession or adverse use in accordance with state
3 law.

4 E. A person commits criminal mischief and is subject to
5 prosecution under section 806 if that person, without
6 permission of the owner or owner's agent:

8 (1) Knowingly posts the property of another with a
9 sign or paint mark indicating that access is
10 prohibited, that access is prohibited without
11 permission or that access for a particular purpose is
12 prohibited; or

14 (2) Removes, mutilates, defaces or destroys a sign or
15 paint mark placed for purposes of this section.

16 Nothing in this subsection limits any manner of posting
17 reasonably likely to come to the attention of intruders.

20 **Sec. 2. 17-A MRSA §404, sub-§1**, as enacted by PL 1975, c. 499,
21 **§1**, is amended to read:

22 **1.** A person is guilty of trespass by motor vehicle if,
23 knowing that he that person has no right to do so, he that person
24 intentionally or knowingly permits a motor vehicle belonging to
25 him that person or subject to his that person's control to enter
26 or remain in or on:

28 A. The residential property of another; ~~or~~

30 B. The nonresidential property of another for a continuous
31 period in excess of 24 hours; ~~or~~

34 C. The nonresidential property of another that is:

36 (1) Posted in accordance with section 402, subsection 4;

38 (2) Posted to prohibit access by motor vehicles; or

40 (3) Posted in a manner reasonably likely to come to the
41 attention of intruders.

42 For purposes of this paragraph, property is posted to
43 prohibit access by motor vehicles if the property owner or
44 the owner's agent has posted the property boundaries at
45 points where they are crossed by roads or trails with signs
46 indicating that motor vehicle access is prohibited or with
47 paint markings that comply with section 402, subsection 4,
48 paragraph B.

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STATEMENT OF FACT

Current criminal law provides that a person commits criminal trespass if that person enters property "posted in a manner prescribed by law or in a manner reasonably likely to come to the attention of intruders." Although there are specific posting rules for state-owned property and certain other types of property, current law does not prescribe a generally applicable method of posting for purposes of criminal trespass nor does it clarify when posting is "reasonably likely to come to the attention of intruders."

This bill, which is the majority recommendation of the Commission to Study Trespass Laws, adds to the criminal trespass law one specific method of posting, allowing use of signs or paint markings to notify persons that entry upon the property constitutes criminal trespass. Markings must appear no more than 100 feet apart on all property boundaries, and must be placed at all vehicular access entries from a public street. Paint markings must meet specific standards set forth in the law.

The method of posting described in this bill is intended to give property owners and property users a clear method of posting, but it is not intended to be the only method of posting that would give rise to a criminal trespass violation. Any other posting that is made "in a manner reasonably likely to come to the attention of intruders" would also meet the terms of the statute.

The bill also makes clear that a landowner is only required to mark the portion of property where access is prohibited or limited. Any boundary marking for purposes of this law does not determine legal boundaries for purposes of title and does not constitute a claim of possession or adverse use. Finally, the bill specifies that destroying signs or markings on the property of another or posting land without the owner's permission is a criminal violation.

This bill also amends the law relating to trespass by motor vehicle. Under current law, a person is guilty of trespass by motor vehicle if that person permits a motor vehicle to enter or remain in or on the residential property of another for any period of time or the nonresidential property of another for a continuous period in excess of 24 hours, knowing that the person has no right to do so. This bill extends the crime of trespass by motor vehicle to include permitting a vehicle to enter or remain on the posted nonresidential property of another for any period of time.