

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1914

H.P. 1331

House of Representatives, March 16, 1999

**An Act Concerning Tribal Jurisdiction over Rights-of-way Over or
Abutting Tribal Lands and the Collection of Fines from Violations
Occurring on Tribal Lands and Rights-of-way.**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative SOCTOMAH of the Passamaquoddy Tribe.
Cosponsored by Representatives: AHEARNE of Madawaska, DESMOND of Mapleton,
GOODWIN of Pembroke, SIROIS of Caribou.

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

Sec. 1. 30 MRSA §6206, sub-§§1 and 3, as enacted by PL 1979, c. 732, §§1 and 31, are amended to read:

1. **General Powers.** Except as otherwise provided in this Act, the Passamaquoddy Tribe and the Penobscot Nation, within their respective Indian territories, ~~shall~~ have, exercise and enjoy all the rights, privileges, powers and immunities, including, but without limitation, the power to enact ordinances and collect taxes, and ~~shall be~~ are subject to all the duties, obligations, liabilities and limitations of a municipality of and subject to the laws of the State, ~~provided, however, that as long as~~ as internal tribal matters, including membership in the respective tribe or nation, the right to reside within the respective Indian territories, tribal organization, tribal government, tribal elections and the use or disposition of settlement fund income ~~shall are~~ not be subject to regulation by the State. The Passamaquoddy Tribe has concurrent authority over any public or private right-of-way and over any railroad, utility or other right-of-way that are not owned by the tribe but bordered on one or both sides by Passamaquoddy Indian territory to enact tribal ordinances not inconsistent with state law. The Passamaquoddy Tribe and the Penobscot Nation shall designate such officers and officials as are necessary to implement and administer those laws of the State applicable to the respective Indian territories and the residents thereof ~~of the respective Indian territories.~~ Any resident of the Passamaquoddy Indian territory or the Penobscot Indian territory who is not a member of the respective tribe or nation nonetheless ~~shall be~~ is equally entitled to receive any municipal or governmental services provided by the respective tribe or nation or by the State, except those services ~~which that~~ are provided exclusively to members of the respective tribe or nation pursuant to state or federal law, and ~~shall be~~ is entitled to vote in national, state and county elections in the same manner as any tribal member residing within Indian territory.

3. **Ordinances.** The Passamaquoddy Tribe and the Penobscot Nation each ~~shall have~~ has the right to exercise exclusive jurisdiction within its respective Indian territory ~~and the Passamaquoddy Tribe has the same rights over any public or private right-of-way and over any railroad, utility or other right-of-way that are not owned by the tribe but bordered on one or both sides by Passamaquoddy Indian territory~~ over violations by members of either tribe or nation of tribal ordinances adopted pursuant to this section or section 6207. The decision to exercise or terminate the jurisdiction authorized by this section ~~shall be~~ is made by each tribal governing body. Should either tribe or nation choose not to exercise, or to terminate its

exercise of, jurisdiction as authorized by this section or
section 6207, the State shall--have has exclusive jurisdiction
over violations of tribal ordinances by members of either tribe
or nation within the Indian territory and over any public or
private right-of-way and right-of-way passing through or adjacent
to the Indian territory of that tribe or nation. The State shall
have has exclusive jurisdiction over violations of tribal
ordinances by persons not members of either tribe or nation.

**Sec. 2. 30 MRSA §6207, sub-§§1, 2 and 7, as enacted by PL 1979,
c. 732, §§1 and 31, are amended to read:**

1. Adoption of ordinances by tribe. Subject to the
limitations of subsection 6, the Passamaquoddy Tribe and the
Penobscot Nation ~~each shall~~ have exclusive authority within their
respective Indian territories and the Passamaquoddy Tribe has the
same authority over any public or private right-of-way and over
any railroad, utility or other right-of-way that are not owned by
the tribe but bordered on one or both sides by Passamaquoddy
Indian territory to ~~promulgate~~ adopt and enact ordinances
regulating:

A. Hunting, trapping or other taking of wildlife; and

B. Taking of fish on any pond in which all the shoreline
and all submerged lands are wholly within Indian territory
and ~~which that~~ is less than 10 acres in surface area.

Such ordinances ~~shall--be~~ are equally applicable, on a
nondiscriminatory basis, to all persons regardless of whether
such person is a member of the respective tribe or nation
~~provided,--however,~~ except that subject to the limitations of
subsection 6, such ordinances may include special provisions for
the sustenance of the individual members of the Passamaquoddy
Tribe or the Penobscot Nation. In addition to the authority
provided by this subsection, the Passamaquoddy Tribe and the
Penobscot Nation, subject to the limitations of subsection 6, may
exercise within their respective Indian territories all the
rights incident to ownership of land under the laws of the State.

2. Registration stations. The Passamaquoddy Tribe and the
Penobscot Nation shall establish and maintain registration
stations for the purpose of registering bear, moose, deer and
other wildlife killed within their respective Indian territories
or within any public or private right-of-way and within any
railroad, utility or other right-of-way that are not owned by the
tribe but bordered on one or both sides by Passamaquoddy Indian
territory and shall adopt ordinances requiring registration of
such wildlife to the extent and in substantially the same manner
as such wildlife are is required to be registered under the laws

of the State. These ordinances requiring registration shall--be
are equally applicable to all persons without distinction based
on tribal membership. The Passamaquoddy Tribe and the Penobscot
Nation shall report the deer, moose, bear and other wildlife
killed and registered within their respective Indian territories
or within any public or private right-of-way and within any
railroad, utility or other right-of-way bordered on one or both
sides by Passamaquoddy Indian territory to the Commissioner of
Inland Fisheries and Wildlife of the State at such times as the
commissioner deems determines appropriate. The records of
registration of the Passamaquoddy Tribe and the Penobscot Nation
shall must be available, at all times, for inspection and
examination by the commissioner.

7. Transportation of game. Fish lawfully taken within
Indian territory or in waters subject to commission regulation
and wildlife lawfully taken within Indian territory or within any
public or private right-of-way and within any railroad, utility
or other right-of-way bordered on one or both sides by
Passamaquoddy Indian territory and registered pursuant to
ordinances adopted by the Passamaquoddy Tribe and the Penobscot
Nation, may be transported within the State.

Sec. 3. 30 MRSA §6210, sub-§2, as amended by PL 1995, c. 388,
§7 and affected by §8, is further amended to read:

**2. Joint authority of tribal and state law enforcement
officers.** Law enforcement officers appointed by the Passamaquoddy
Tribe or the Penobscot Nation have the authority within their
respective Indian territories and state and county law
enforcement officers have the authority within both Indian
territories to enforce rules or regulations adopted by the
commission under section 6207, subsection 3 and to enforce all
laws of the State other than those over which the Passamaquoddy
Tribe or the Penobscot Nation has exclusive jurisdiction under
section 6209-A, subsection 1 and section 6209-B, subsection 1,
respectively. Law enforcement officers appointed by the
Passamaquoddy Tribe and state and county law enforcement officers
have the authority over any public or private right-of-way and
over any railroad, utility or other right-of-way that are not
owned by the tribe but bordered on one or both sides by
Passamaquoddy Indian territory to enforce the tribe's ordinances
adopted under sections 6206 and 6207, subsection 1 and to enforce
the criminal, juvenile, civil and domestic relations laws of the
State.

Sec. 4. 30 MRSA §6210, sub-§5 is enacted to read:

5. Penalties and fines. Any civil penalties or criminal
fines imposed for a violation of any tribal or State law within

the Indian territory of the Passamaquoddy Tribe or within any public or private right-of-way and within any railroad, utility or other right-of-way that are not owned by the tribe but bordered on one or both sides by Passamaquoddy Indian territory must be remitted by the court imposing the penalty or fine to the Passamaquoddy Tribe.

Sec. 5. Effective date. This Act does not take effect with respect to the Passamaquoddy Tribe, its lands and lands adjacent thereto unless, within 60 days after the adjournment of the Legislature, the Secretary of State receives written notification by the Joint Tribal Council of the Passamaquoddy Tribe that the tribe has agreed to the provisions of this Act pursuant to 25 United States Code, Section 1725(c), copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes.

SUMMARY

This bill clarifies tribal jurisdiction over rights-of-way over or abutting tribal lands and the collection of fines from violations occurring on tribal lands and rights-of-way.