

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1286

S.P. 390

In Senate, February 28, 2001

An Act to Extend Landowner Limited Liability to Environmental Liability.

Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MARTIN of Aroostook.
Cosponsored by Representative CRABTREE of Hope and
Senators: KNEELAND of Aroostook, NUTTING of Androscoggin, Representatives: CARR
of Lincoln, DUNLAP of Old Town, GOOLEY of Farmington.

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

4 **Sec. 1. 14 MRSA §159-D** is enacted to read:

6 **§159-D. Limited liability for environmental damage**

8 **1. Definitions.** As used in this section, unless the
context otherwise indicates, the following terms have the
following meanings.

10 **A. "Damage"** means damage to the air, land or water of the
12 State or any other environmental damage subject to civil or
administrative action by a private person or department or
14 agency of the State.

16 **B. "Person"** means an owner, lessee, manager or occupant of
or holder of an easement over premises.

18 **C. "Premises"** has the same meaning as in section 159-A,
20 subsection 1, paragraph A.

22 **2. Limited liability.** A person who would otherwise be a
24 responsible party for damage to a premises is not liable for the
damage if the person can establish by a preponderance of the
26 evidence that the damage was caused solely by an unauthorized act
or omission of a 3rd party who is not that person's employee or
agent. A person seeking relief from liability for the acts or
28 omission of a 3rd party causing damage to the premises must
demonstrate by a preponderance of the evidence that the person
30 exercised due care and took precautions with respect to
foreseeable acts or omissions by 3rd parties or the consequences
32 that could foreseeably result from such acts or omissions in
light of all relevant facts and circumstances. For purposes of
34 this subsection, a person may demonstrate the exercise of due
care if the person did not know or have reason to know that a 3rd
36 party was causing the damage.

38 **Sec. 2. 17-A MRSA §111** is enacted to read:

40 **§111. Environmental damage caused by 3rd party**

42 **1.** It is an affirmative defense when a person who would
otherwise be a responsible party for damage to a premises can
44 establish by a preponderance of the evidence that the damage was
caused solely by an unauthorized act or omission of a 3rd party
46 who is not that person's employee or agent. A person pleading
the affirmative defense must demonstrate by a preponderance of
48 the evidence that the person exercised due care and took
precautions with respect to foreseeable acts or omissions by 3rd
50 parties or the consequences that could foreseeably result from

2 such acts or omissions in light of all relevant facts and
3 circumstances. For purposes of this subsection, a person may
4 demonstrate the exercise of due care if the person did not know
5 or have reason to know that a 3rd party was causing the damage.

6 2. As used in this section, unless the context otherwise
7 indicates, the following terms have the following meanings.

8
9 A. "Damage" means damage to the air, land or water of the
10 State or any other environmental damage subject to criminal
11 prosecution by the State.

12
13 B. "Person" means an owner, lessee, manager or occupant of
14 or holder of an easement over premises.

15
16 C. "Premises" has the same meaning as in Title 14, section
17 159-A, subsection 1, paragraph A.

20 SUMMARY

21
22 This bill creates civil limited liability and a criminal
23 affirmative defense for owners and occupiers of land for
24 environmental damage caused by 3rd persons without knowledge of
the owners and occupiers.