

# MAINE STATE LEGISLATURE

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L.D. 1342

DATE: 4-28-03

(Filing No. H-196)

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
121ST LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 988, L.D. 1342, Bill, "An Act To Establish a Right of Entry for Surveyors Performing Surveying Services"

Amend the bill in section 1 in that part designated "~~§13913.~~" in subsection 4 in the last line (page 1, line 34 in L.D.) by inserting after the following: "~~cross.~~" the following: 'Notice provided as follows meets the requirement of this subsection:

A. Written notice delivered by hand to the landowner or to the residence of the landowner upon whose land the surveyor may enter or cross, delivered at least 24 hours prior to the surveyor's entering the land; or

B. Written notice mailed by first class mail to the landowner upon whose land the surveyor may enter or cross, postmarked at least 5 days prior to the surveyor's entering the land. The surveyor may rely on the address of the landowner as contained in the municipal property tax records or their equivalent.'

Further amend the bill in section 1 in that part designated "~~§13913.~~" by striking out all of subsection 5 (page 1, lines 36 to 39 in L.D.) and inserting in its place the following:

'5. Owner or occupant of land; duty of care; liability. The duty of care an owner or occupant owes to the professional

COMMITTEE AMENDMENT

land surveyor and the surveyor's assistant is the same as that owed a trespasser.'

Further amend the bill in section 1 in that part designated "§13913." by inserting after subsection 6 the following:

'7. Compliance with safety regulations. A professional land surveyor and the surveyor's assistant shall comply with all federal and state safety rules and regulations that apply to the land that they enter or cross pursuant to this section.'

### SUMMARY

This amendment makes 3 changes to the bill.

First, it establishes criteria that satisfy the requirement that reasonable effort be made to notify the landowner whose land the surveyor may need to enter or cross to carry out a survey. Written notice delivered by hand to the landowner or the landowner's residence at least 24 hours before entry, or written notice by first class mail postmarked at least 5 days before the entry both qualify as reasonable efforts to notify the landowner. The surveyor may rely on the mailing address in the property tax records for provision of notice by mail to the landowner.

Second, this amendment replaces the provision stating that the landowner is not liable for any injuries suffered by the surveyor on the landowner's property. This could be construed to provide that the landowner was not liable for intentional torts committed against the surveyor. Instead, this amendment provides that the duty of care owed by the owner or occupant of the land is the same duty of care owed to a trespasser. This duty of care, established by case law, is the duty to refrain from wantonly, willfully or recklessly causing harm to the surveyor or the surveyor's assistant.

Third, this amendment requires professional land surveyors and their assistants to comply with state and federal safety rules and regulations applicable to the land crossed or entered. For example, surveyors must comply with the rules and regulations governing gravel pits when on property on which a gravel pit is located.

FISCAL NOTE REQUIRED  
(See attached)



**121st Maine Legislature  
Office of Fiscal and Program Review**

**LD 1342**

**An Act to Establish a Right of Entry for Surveyors Performing  
Surveying Services**

**LR 0880(02)**

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Judiciary**

**Fiscal Note Required: Yes**

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**Fiscal Note**

Minor cost increase - Other Special Revenue Funds