

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

R.O.S.

L.D. 539

DATE: 6-7-05

(Filing No. S-338)

JUDICIARY

Reported by:

MINORITY

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE
SENATE
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT 'A' to S.P. 165, L.D. 539, Bill, "An Act Authorizing Municipalities To Establish Walking Trails"

Amend the bill by striking out the title and substituting the following:

'An Act Authorizing Municipalities To Establish Municipal Trails'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 30-A MRSA §3108 is enacted to read:

§3108. Municipal trails

A municipality may establish municipal trails in accordance with this section. For purposes of this section, "municipal trail" means a series of tracts of land owned by the government, private landowners or both and provided for recreational use by the public.

1. Trail on municipal property. A municipality may establish a municipal trail on property owned by the municipality by an affirmative vote of a majority of its legislative body.

2. Trail on nonmunicipal property. A municipality may establish a municipal trail on nonmunicipally owned property by the acceptance of an easement or license from the property owner. A municipality's acceptance must be done by an affirmative vote of a majority of its legislative body. The easement or license may include, but is not limited to, intended public benefit, types of use, exclusions of use, hours of use, terms of easement or license and procedures for early termination.

COMMITTEE AMENDMENT

R. of S

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38

3. No duty concerning construction, grooming or maintenance. The establishment of a municipal trail does not create any duty upon the municipality or any private property owner who grants an easement pursuant to subsection 2 regarding the construction, grooming or maintenance of the municipal trail.

4. Liability. The Maine Tort Claims Act governs the liability of the municipality for that portion of the trail owned by the municipality or other governmental entity. Title 14, section 159-A governs the liability of any other owner.

5. Posting. The municipality shall post permitted uses and hours of use for each municipal trail established under this section.

6. Not a public way. A municipal trail is not a "public way" pursuant to Title 23, Part 3.

7. Discontinuance. The municipality may discontinue a municipal trail by an affirmative vote of its legislative body.

8. Not exclusive. Notwithstanding this section, pursuant to home rule authority, a municipality may establish a procedure for the creation of municipal trails that is different from the procedure established in this section.'

SUMMARY

This amendment is the minority report of the Joint Standing Committee on Judiciary.

This amendment replaces the bill. It establishes a simplified optional framework for the public, nonprofit organizations and municipal government to establish trails. It does not affect the liability of municipalities or private landowners already established under current law.