

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1172

H.P. 811

House of Representatives, March 25, 2009

**An Act To Allow a Municipality To Grant a Variance for the
Construction of a Parking Structure for a Person with a Permanent
Disability**

Reference to the Committee on State and Local Government suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CASAVANT of Biddeford.
Cosponsored by Senator ALFOND of Cumberland and
Representatives: JOHNSON of Greenville, KRUGER of Thomaston, LOVEJOY of Portland,
RANKIN of Hiram, RICHARDSON of Carmel, SUTHERLAND of Chapman, TUTTLE of
Sanford, WAGNER of Lewiston.

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

2 **Sec. 1. 30-A MRSA §4353, sub-§4-A,** as amended by PL 1995, c. 212, §1, is
3 repealed and the following enacted in its place:

4 **4-A. Disability variance; vehicle storage.** A disability variance may be granted
5 pursuant to this subsection.

6 A. The board may grant a variance to an owner of a dwelling for the purpose of
7 making that dwelling accessible to a person with a disability who resides in or
8 regularly uses the dwelling. The board shall restrict any variance granted under this
9 paragraph solely to the installation of equipment or the construction of structures
10 necessary for access to or egress from the dwelling by the person with the disability.

11 The board may impose conditions on the variance granted pursuant to this paragraph,
12 including limiting the variance to the duration of the disability or to the time that the
13 person with the disability lives in the dwelling. For the purposes of this paragraph,
14 the term "structures necessary for access to or egress from the dwelling" is defined to
15 include railing, wall or roof systems necessary for the safety or effectiveness of the
16 structure.

17 B. If authorized by the zoning ordinance establishing the board, the board may grant
18 a variance to an owner of a dwelling who resides in the dwelling and who is a person
19 with a permanent disability for the construction of a place of storage and parking for
20 a noncommercial vehicle owned by that person and no other purpose. The structure
21 must be attached to the dwelling owned by the person with a permanent disability by
22 a foundation and must have load-bearing walls. The width and length of the structure
23 may not be larger than 1 1/2 times the width and length of the noncommercial
24 vehicle. The owner shall submit proposed plans for the structure with the request for
25 the variance pursuant to this paragraph to the board.

26 The person with the permanent disability shall prove by a preponderance of the
27 evidence that the person's disability is permanent.

28 For purposes of this paragraph, "noncommercial vehicle" means a motor vehicle as
29 defined in Title 29-A, section 101, subsection 42 with a gross vehicle weight of no
30 more than 6,000 pounds, bearing a disability registration plate issued pursuant to
31 Title 29-A, section 521 and owned by the person with the permanent disability.

32 The board may impose conditions on the variance granted pursuant to this subsection.

33 For purposes of this subsection, "disability" has the same meaning as a physical or mental
34 disability under Title 5, section 4553-A.

35 **SUMMARY**

36 Current law allows a zoning board of appeals to grant a variance to a person with a
37 disability for the construction of equipment or structures necessary for access to or egress
38 from the dwelling.

1 This bill allows a zoning board, if allowed by the municipal ordinance establishing
2 the zoning board, to grant a variance for the construction of a structure for the storage of a
3 motor vehicle owned by a person with a permanent disability and registered in this State
4 with disability registration plates.