

MAINE STATE LEGISLATURE

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Date: 6/9/15

L.D. 670
(Filing No. H-355)

JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 451, L.D. 670, Bill, "An Act To Amend the Laws Governing the Unlawful Cutting of Trees"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 14 MRSA §7552, sub-§3, ¶B, as amended by PL 1999, c. 339, §1, is repealed and the following enacted in its place:

B. Except within areas that have been zoned for residential use, for lost trees the owner may choose to claim:

- (1) The market value of the lost trees;
- (2) The diminution in value of the real estate as a whole resulting from the violation;
- (3) The forfeiture amounts determined in Title 17, section 2510, subsections 2 and 3; or
- (4) If the lost trees are ornamental or fruit trees, the costs of replacing, replanting and restoring the trees with trees of comparable size and the same or equivalent species and the actual costs for cleanup of damage caused during the cutting.

In addition, the owner's damages for lost trees that are not ornamental or fruit trees may include the costs for regeneration of the stand in accordance with Title 12, section 8869.

The court may reduce the damages awarded for good cause shown when the cutting of trees was done negligently or without fault.

Public utilities, as defined in Title 35-A, section 102, and contractors performing work for public utilities are not liable for damages under this paragraph for lost trees the trimming or removal of which is necessary to provide safe and reliable service to the customers of the public utilities.

COMMITTEE AMENDMENT

ROFS

COMMITTEE AMENDMENT "A" to H.P. 451, L.D. 670

1 calculated based on: the market value of the lost trees; the diminution in value of the real
2 estate as a whole resulting from the unlawful cutting of the trees; the forfeiture amounts
3 determined in the Maine Revised Statutes, Title 17, section 2510, subsections 2 and 3; or,
4 if the lost trees are ornamental or fruit trees, the costs of replacing, replanting and
5 restoring the trees with trees of comparable size and the same or equivalent species and
6 the actual costs for cleanup of damage caused during the cutting. If the trees are not
7 ornamental or fruit trees, the owner may claim in addition the costs for regeneration of
8 the stand in accordance with Title 12, section 8869. The court may reduce the damages
9 awarded for good cause shown when the cutting of trees was done negligently or without
10 fault.

11 The amendment further provides that the owner of land that is zoned for residential
12 use may choose how damages are measured. The owner may choose to have the damages
13 calculated based on: the market value of the lost trees; the diminution in value of the real
14 estate as a whole resulting from the unlawful cutting of the trees; the forfeiture amounts
15 determined in Title 17, section 2510, subsections 2 and 3; or, regardless of whether the
16 lost trees are ornamental or fruit trees, the costs of replacing, replanting and restoring the
17 trees with trees of comparable size and the same or equivalent species and the actual costs
18 for cleanup of damage caused during the cutting.

19 Current law establishes recoverable damages based on the manner in which the
20 owner has claimed damages and multiplied by 2 if the unlawful cutting was negligent or
21 without fault, and multiplied by 3 if the person acted intentionally or knowingly. This
22 amendment authorizes an additional award of punitive damages if the person acted with
23 malice.

24 The amendment deletes the cap on the recovery of costs of professional services for
25 asserting a claim, including attorney's fees. It also repeals a reference to interest on
26 damages because the current general law allows the award of prejudgment and post-
27 judgment interest in all cases as provided in Title 14, sections 1602-B and 1602-C,
28 respectively.

29 The amendment provides that public utilities and their contractors are not liable for
30 damages when the cutting or removal of trees is necessary to improve the safety and
31 reliability of the public utilities' delivery of products and services.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



Approved: 05/26/15 *MAC*

127th MAINE LEGISLATURE

LD 670

LR 982(02)

An Act To Amend the Laws Governing the Unlawful Cutting of Trees

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-355)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Increases the number of civil suits.

The collection of additional filing fees may also increase General Fund revenue by minor amounts.