

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 829

H.P. 563

House of Representatives, March 10, 2015

**An Act To Amend the Trespass Laws Pertaining to Railroad
Property**

Reference to the Committee on Judiciary suggested and ordered printed.

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative SHAW of Standish.
Cosponsored by Representative: SHORT of Pittsfield.

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

2 **Sec. 1. 4 MRSA §164, sub-§17**, as amended by PL 2003, c. 414, Pt. B, §2 and
3 affected by c. 614, §9, is further amended to read:

4 **17. Marine resources bureau.** Establish in each division a marine resources
5 bureau. The Chief Judge shall appoint a clerk of the District Court in each division as
6 violations clerk for the marine resources bureau in that division.

7 The violations clerk shall accept written appearances, waivers of trial, pleas of guilty and
8 payments of fines and costs in marine resources offense cases, subject to the limitations
9 prescribed in this subsection. The violations clerk serves under the direction and control
10 of the judge of the court for which the violations clerk is appointed.

11 A. A marine resources offense means any violation of any provision of Title 12,
12 chapters 601 to 627 and chapters 935, 937 and 939, or any rules adopted by the
13 Commissioner of Marine Resources pursuant to those chapters.

14 B. The Chief Judge shall by order, which may from time to time be amended,
15 suspended or repealed, designate the marine resources offenses within the authority
16 of the violations clerk, except that the offenses may not include any offense for which
17 a mandatory minimum term of imprisonment is provided by law. The court shall
18 establish schedules, within the limits prescribed by law, of the amount of fines to be
19 imposed for the offenses. The order of the court establishing the schedules must be
20 prominently posted in the place where the fines are paid. Fines and costs must be
21 paid to, receipted by and accounted for by the violations clerk in accordance with
22 these provisions.

23 C. Any person charged with any marine resources offense within the authority of the
24 violations clerk may file an appearance in person or by mail before the violations
25 clerk. Any person may enter a plea admitting the violation charged and waiver of trial
26 and pay the fine, and costs, established for the violation charged. Any person
27 entering a plea admitting the infraction charged must be informed of that person's
28 rights, including the right to stand trial, that that person's signature to a plea admitting
29 the violation charged will have the same effect as a judgment of the court and that the
30 record of adjudication will be sent to the Commissioner of Marine Resources.

31 D. Any person who has been found guilty of or who has signed a plea of guilty to, or
32 who has been found to have committed or who has signed a plea admitting or
33 admitting with an explanation, one or more previous marine resources offenses
34 subject to this subsection within a 12-month period may not appear before the
35 violations clerk unless the court, by order, permits that appearance. Each waiver of
36 hearing filed under this subsection must recite on the oath or affirmation of the
37 offender whether or not the offender has been previously found guilty of or to have
38 committed or has previously signed a plea of guilty to, admitting or admitting with an
39 explanation to, one or more marine resources offenses within a 12-month period.
40 Any person swearing falsely to such a statement is, upon conviction, subject to a fine
41 of not more than \$50.

1 E. The Chief Judge, following notification to the Chief Justice of the Supreme
2 Judicial Court or the Chief Justice's delegate, may authorize such forms and
3 procedures as the Chief Judge considers appropriate to carry out this subsection; ~~and~~

4 **Sec. 2. 4 MRSA §164, sub-§18**, as amended by PL 2003, c. 414, Pt. B, §3 and
5 affected by c. 614, §9, is further amended to read:

6 **18. Forest service bureau.** Establish in each division a forest service bureau. The
7 Chief Judge shall appoint the clerk of the District Court in each division as violations
8 clerk for the forest service bureau.

9 The violations clerk shall accept written appearances, waivers of trial, pleas of guilty and
10 payments of fines and costs in forest service offense cases, subject to the limitations
11 prescribed in this subsection. The violations clerk serves under the direction and control
12 of the judge of the court for which that clerk is appointed.

13 A. For purposes of this subsection, a forest service offense means any violation of
14 Title 12, chapters 801, 805, 807, 809, 935, 937 and 939 and section 10203, subsection
15 6 and sections 10651, 10653 and 11221 or any rules adopted by the Director of the
16 Maine Forest Service pursuant to those chapters.

17 B. The Chief Judge shall by order, which may from time to time be amended,
18 suspended or repealed, designate the forest service offenses within the authority of
19 the violations clerk, except that the offenses may not include any offense for which a
20 mandatory minimum term of imprisonment is provided by law. The court shall
21 establish schedules, within the limits prescribed by law, of the amount of fines to be
22 imposed for the offenses. The order of the court establishing the schedules must be
23 prominently posted in the place where the fines are paid. Fines and costs must be
24 paid to, receipted by and accounted for by the violations clerk in accordance with
25 these provisions.

26 C. A person charged with a forest service offense within the authority of the
27 violations clerk may file an appearance in person or by mail before the violations
28 clerk. A person may enter a plea admitting the violation charged and a waiver of trial
29 and pay the fine and costs established for the violation charged. A person entering a
30 plea admitting the violation charged must be informed of the person's rights,
31 including the right to stand trial, that the person's signature to a plea admitting the
32 violation charged has the same effect as a judgment of the court and that the record of
33 adjudication will be sent to the Director of the Maine Forest Service.

34 D. A person who, within a 12-month period, has been found guilty of, has signed a
35 plea of guilty to, has been found to have committed or has signed a plea admitting, or
36 admitting with an explanation, one or more previous forest service offenses subject to
37 this subsection may not appear before the violations clerk unless the court, by order,
38 permits that appearance. Each waiver of hearing filed under this subsection must
39 recite on the oath or affirmation of the offender whether the offender was previously
40 found guilty of or committed or previously signed a plea of guilty to or signed a plea
41 admitting, or admitting with an explanation, one or more forest service offenses
42 within a 12-month period. A person swearing falsely to such a statement is subject,
43 upon conviction, to a fine of not more than \$50.

1 E. The Chief Judge, following notification to the Chief Justice of the Supreme
2 Judicial Court or the Chief Justice's delegate, may authorize forms and procedures as
3 the Chief Judge considers appropriate to carry out this subsection-; and

4 **Sec. 3. 4 MRSA §164, sub-§19** is enacted to read:

5 **19. Railroad bureau.** Establish in each division a railroad bureau. The Chief Judge
6 shall appoint a clerk of the District Court in each division as violations clerk for the
7 railroad bureau in that division.

8 The violations clerk shall accept written appearances, waivers of trial, pleas of guilty and
9 payments of fines and costs in railroad offense cases, subject to the limitations prescribed
10 in this subsection. The violations clerk serves under the direction and control of the judge
11 of the court for which the violations clerk is appointed.

12 A. A railroad offense means any violation of any provision of Title 23, section 7007,
13 subsection 1 or 2.

14 B. The Chief Judge shall by order, which may from time to time be amended,
15 suspended or repealed, designate the railroad offenses within the authority of the
16 violations clerk. The court shall establish schedules, within the limits prescribed by
17 law, of the amount of fines to be imposed for the offenses. The order of the court
18 establishing the schedules must be prominently posted in the place where the fines
19 are paid. Fines and costs must be paid to, receipted by and accounted for by the
20 violations clerk in accordance with these provisions.

21 C. A person charged with any railroad offense within the authority of the violations
22 clerk may file an appearance in person or by mail before the violations clerk. A
23 person may enter a plea admitting the violation charged and a waiver of trial and pay
24 the fine and costs established for the violation charged. A person entering a plea
25 admitting the infraction charged must be informed that that person's rights, including
26 the right to stand trial, and that that person's signature to a plea admitting the
27 violation charged have the same effect as a judgment of the court.

28 D. A person who has been found guilty of or who has signed a plea of guilty to, or
29 who has been found to have committed or who has signed a plea admitting or
30 admitting with an explanation, one or more previous railroad offenses subject to this
31 subsection within a 12-month period may not appear before the violations clerk
32 unless the court, by order, permits that appearance. Each waiver of hearing filed
33 under this subsection must recite on the oath or affirmation of the offender whether or
34 not the offender has been previously found guilty of or has committed or has
35 previously signed a plea of guilty to, admitting or admitting with an explanation to,
36 one or more railroad offenses within a 12-month period. Any person swearing falsely
37 to such a statement is, upon conviction, subject to a fine of not more than \$50.

38 E. The Chief Judge, following notification to the Chief Justice of the Supreme
39 Judicial Court or the Chief Justice's delegate, may authorize such forms and
40 procedures as the Chief Judge considers appropriate to carry out this subsection.

41 **Sec. 4. 23 MRSA §7007, sub-§3**, as enacted by PL 2003, c. 452, Pt. L, §12 and
42 affected by Pt. X, §2, is amended to read:

