

MAINE STATE LEGISLATURE

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LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND TWELFTH LEGISLATURE
1985

CHAPTER 782

S.P. 950 - L.D. 2380

AN ACT to Confirm and Recognize Public Trust
Rights in Intertidal Land.

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

12 MRSA c. 202-A is enacted to read:

CHAPTER 202-ATHE PUBLIC TRUST IN INTERTIDAL LAND§571. Legislative findings and purpose

The Legislature finds and declares that the intertidal lands of the State are impressed with a public trust and that the State is responsible for protection of the public's interest in this land.

The Legislature further finds and declares that this public trust is part of the common law of Maine and generally derived from the practices, conditions and needs in Maine, from English Common Law and from the Massachusetts Colonial Ordinance of 1641-47. The public trust is an evolving doctrine reflective of the customs, traditions, heritage and habits of the Maine people. In Maine, the doctrine has diverged from the laws of England and Massachusetts. The public trust encompasses those uses of intertidal land essential to the health and welfare of the Maine people, which uses include, but are not limited to, fishing, fowling, navigation, use as a footway between points along the shore and use for recreational purposes. These recreational uses are among the most important to the Maine people today who use intertidal land for relaxation from the pressures of modern society and for enjoyment of nature's beauty.

The Legislature further finds and declares that the protection of the public uses referred to in this chapter is of great public interest and grave concern to the State.

§572. Definitions

As used in this chapter, the term "intertidal land" means all land of this State affected by the tides between the mean high watermark and either 100

rods seaward from the high watermark or the mean low watermark, whichever is closer to the mean high watermark.

§573. Public trust rights in intertidal land

1. Public trust rights. The public trust rights in intertidal land include the following:

A. The right to use intertidal land for fishing, fowling and navigation;

B. The right to use intertidal land for recreation; and

C. Any other trust rights to use intertidal land recognized by the Maine common law and not specifically abrogated by statute.

2. Limitations. The rights described in subsection 1 do not include:

A. The removal from the intertidal land of any sand, soil, rocks or other minerals;

B. Interference with any structure, development or improvement erected or maintained on intertidal land in accordance with the laws of this State;

C. The depositing of any refuse or waste on intertidal land or in the water covering intertidal land; or

D. Use or operation of motorized vehicles other than navigable watercraft, unless specifically authorized by state law or municipal ordinance.

3. Police powers. Municipalities shall have jurisdiction to exercise their police powers to control public use of intertidal land, except where such exercise is superseded by any state law.

4. Other public rights. This chapter does not affect public rights in intertidal land arising from custom, prescription, implied dedication, acquiescence or any other source. This chapter does not affect public rights in dry sand areas upland from intertidal land arising from custom, prescription, implied dedication, acquiescence, the public trust doctrine or any other source.