

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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

J.S. McCarthy Company
Augusta, Maine
1995

this State and has expired within ~~30~~ 90 days, the offense is a traffic infraction.

Sec. B-7. 29-A MRSA §1921, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§1921. Television prohibited from vehicles

A person may not operate a motor vehicle equipped with a television viewer, screen or other means of visually receiving a television broadcast that is visible to the operator. This section does not apply to a law enforcement officer using a video camera or other video equipment for law enforcement purposes.

Sec. B-8. 29-A MRSA §2074, sub-§3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

3. Criminal offense. A person commits a Class E crime if that person operates a motor vehicle at a speed that exceeds the maximum rate of speed by 30 miles per hour or more.

The complaint for a violation of a speed limit must specify the speed at which the defendant is alleged to have operated a motor vehicle.

~~A person who operates a motor vehicle on the Maine Turnpike or the Interstate Highway System at a speed that exceeds the posted speed of 65 miles per hour commits a traffic infraction punishable by a fine of not less than \$50.~~

Sec. B-9. 29-A MRSA §2074, sub-§3-A is enacted to read:

3-A. Minimum fine. A person who operates a motor vehicle on the Maine Turnpike or the Interstate Highway System at a speed that exceeds the posted speed of 65 miles per hour by less than 30 miles per hour commits a traffic infraction punishable by a fine of not less than \$50.

Sec. B-10. 29-A MRSA §2080, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§2080. Operation of all-terrain vehicles

Notwithstanding any other provision of law, whenever an all-terrain vehicle is operated on a way, it is subject to all provisions of this Title, except chapters 5, 7, 13 and 15. Whenever an all-terrain vehicle is operated on a way, the operator is not subject to the provisions of chapter 11, except when the all-terrain vehicle is registered for highway use.

Sec. B-11. 29-A MRSA §2604, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§2604. Traffic infraction; general penalty

A traffic infraction must be punished by a fine of not less than \$25 nor more than ~~\$250~~ \$500 when no other penalty is specifically provided.

See title page for effective date.

CHAPTER 585

H.P. 1246 - L.D. 1708

An Act to Amend the Laws Relating to Recovery for Property Damage

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

Sec. 1. 14 MRSA §7551-B is enacted to read:

§7551-B. Trespass damages

1. Prohibition. A person who intentionally enters the land of another without permission and causes damage to property is liable to the owner in a civil action if the person:

A. Damages or throws down any fence, bar or gate; leaves a gate open; breaks glass; damages any road, drainage ditch, culvert, bridge, sign or paint marking; or does other damage to any structure on property not that person's own; or

B. Throws, drops, deposits, discards, dumps or otherwise disposes of litter, as defined in Title 17, section 2263, subsection 2, in any manner or amount, on property not that person's own.

2. Liability. If the damage to the property is caused intentionally, the person is liable to the owner for 2 times the owner's actual damages plus any additional costs recoverable under subsection 3, paragraphs B and C. If the damage to the property is not caused intentionally, the person is liable to the owner for the owner's actual damages plus any additional costs recoverable under subsection 3, paragraphs B and C.

3. Damages recoverable. The owner's damages include:

A. Actual damages, as measured by subsection 4;

B. Costs the owner may incur if the damage results in a violation of any federal, state or local law or ordinance and, as a result, the owner becomes the subject of an enforcement proceeding. These costs include attorney's fees, costs and the value of the owner's time spent on involvement in the enforcement proceeding; and

C. Reasonable attorney's fees for preparing the claim and bringing the court action under this section plus costs.

4. Measure of damages. For damage to property under subsection 1, paragraph A, the owner's damages may be measured either by the replacement value of the damaged property or by the cost of repairing the damaged property. For damages for disposing of litter, the owner's damages include the direct costs associated with properly disposing of the litter, including obtaining permits, and the costs associated with any site remediation work undertaken as a result of the litter.

5. Other actions barred. A recovery from a defendant under this section bars an action to recover damages under section 7552 from that defendant for the same specific damage.

Sec. 2. 14 MRSA §7552, as repealed and replaced by PL 1995, c. 450, §2, is amended by repealing and replacing the headnote to read:

§7552. Injury to land, forest products or agricultural products

Sec. 3. 14 MRSA §7552, sub-§§2, 3 and 4, as enacted by PL 1995, c. 450, §2, are amended to read:

2. Prohibitions. Without permission of the owner a person may not:

A. Cut down, destroy, damage or carry away any forest product, ornamental or fruit tree, agricultural product, stones, gravel, ore, goods or property of any kind from land not that person's own; or

~~B. Damage or throw down any fence, bar or gate, or leave a gate open, or break glass or do other damage to any structure on property not that person's own; or~~

C. Disturb, remove or destroy any lawfully established transit point, reference point, stake, plug, hub, guardstake, bench mark, pipe, iron, concrete post, stone post or other monument of any railroad, highway, public utility or other engineering location or survey or any such monument marking the bounds of public or private property.

3. Measure of damages. ~~Paragraphs A and B govern~~ This subsection governs the measurement of damages resulting from a violation of subsection 2.

A. When agricultural or forest products have been destroyed or carried away, the owner's damages may be measured either by the value of the lost products themselves or by the diminution

in value of the real estate as a whole resulting from the violation.

B. For lost trees, the owner may claim in lieu of market value the forfeiture amounts in Title 17, section 2510, subsection 2. In addition, the owner's damages may include the costs for re-generation of the stand in accordance with Title 12, section 8869.

C. When a monument or marker has been disturbed, removed or destroyed, the owner's damages may include the cost of replacing a monument or marker by a licensed surveyor.

4. Damages recoverable. Damages are recoverable as follows.

A. A person who negligently or without fault violates subsection 2 is liable to the owner for 2 times the owner's damages as measured under subsection 3 or \$250, whichever is greater.

B. A person who intentionally or knowingly violates subsection 2 is liable to the owner for 3 times the owner's damages as measured under subsection 3 or \$500, whichever is greater.

C. In addition to the damages recoverable under paragraphs A and B, a person who violates subsection 2 is also liable to the owner for the costs the owner may incur if the violation results in a violation of any federal, state or local law or ordinance and, as a result, the owner becomes the subject of an enforcement proceeding. These costs include attorney's fees, costs and the value of the owner's time spent on involvement in the enforcement proceeding.

Sec. 4. 14 MRSA §7552, sub-§8 is enacted to read:

8. Other actions barred. A recovery from a defendant under this section bars an action to recover damages under section 7551-B from that defendant for the same specific damage.

See title page for effective date.

CHAPTER 586

S.P. 665 - L.D. 1725

An Act to Clarify and Improve the Governor's Authority to Ban Out-of-door Fires and Restrict Human Activity during Periods of High Fire Danger