

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 2, 1998 to June 19, 1999**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 18, 1999**

**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**  
**1999**

B-1. Notwithstanding paragraph B, the maximum penalty is \$5,000 for any violation of a law or an ordinance set forth in subsection 5, paragraph Q, if the violation occurs within an area zoned for resource protection.

**Sec. 2. 38 MRSA §439-A, sub-§5, ¶B,** as repealed and replaced by PL 1991, c. 66, Pt. A, §10, is amended to read:

B. Within a shoreland area zoned for resource protection abutting a great pond there may not be timber harvesting within the strip of land extending 75 feet inland from the normal high-water line except to remove safety hazards; ~~and~~ or if a municipality adopts an ordinance pursuant to this paragraph. A municipality may adopt an ordinance that allows limited timber harvesting within the 75-foot strip in the resource protection zone when the following conditions are met:

- (1) The ground is frozen;
- (2) There is no resultant soil disturbance;
- (3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
- (4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 1/2 feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
- (5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality; and

See title page for effective date.

---



---

## CHAPTER 371

H.P. 1340 - L.D. 1923

### An Act to Facilitate the Establishment of Trail Easements

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

**Sec. 1. 33 MRSA c. 30** is enacted to read:

## CHAPTER 30

### TRAIL EASEMENTS

#### §1581. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

##### **1. Holder.** "Holder" means:

A. A governmental body authorized to hold an interest in real property under the laws of this State or the United States, including a quasi-governmental entity such as a conservation commission, a regional planning commission or a water or sewer district; or

B. A nonprofit corporation including a land trust, the purposes or powers of which include the creation and maintenance of trails for use by the general public, for the conservation or preservation of open space, or both.

**2. Trail easement.** "Trail easement" means a nonpossessory interest of a holder in real property for the purposes of creating and maintaining a trail for use by the general public:

A. For pedestrian use;

B. For snowmobile use, if the instrument creating the easement provides for snowmobile use;

C. For use by all-terrain vehicles as defined in Title 12, section 7851 if the instrument creating the easement provides for the use of all-terrain vehicles; or

D. For any combination of the uses described in paragraphs A to C, as specified in the instrument creating the easement.

#### §1582. Creation, conveyance, acceptance and duration

**1. Trail easement.** Except as otherwise provided in this chapter, a trail easement may be created, conveyed, recorded, assigned, released, modified, terminated or otherwise altered or affected in the same manner as other easements created by written instrument.

**2. Right or duty.** No right or duty in favor of or against a holder arises under a trail easement unless the right or duty is accepted by the holder.

**3. Limitation.** Except as provided in this chapter, a trail easement is unlimited in duration unless the instrument creating it provides otherwise.

**4. Interest.** An interest in real property in existence at the time a trail easement is created is not impaired by the trail easement unless the owner of the interest is a party to the trail easement or consents to it.

### **§1583. Judicial actions**

**1. Action or intervention.** An owner of an interest in the real property burdened by a trail easement or a holder of the trail easement may bring or intervene in an action affecting the easement.

**2. Intervention only.** The State or a political subdivision of the State in which the real property burdened by a trail easement is located may intervene in an action affecting the easement.

**3. Power of court.** This chapter does not affect the power of a court to enforce a trail easement by injunction or proceeding in equity or to modify a trail easement in accordance with principles of law and equity.

### **§1584. Validity**

A trail easement is valid and enforceable even if:

**1. Not appurtenant to interest in real property.** It is not appurtenant to or does not run with an interest in real property;

**2. Assigned to another holder.** It can be or has been assigned to another holder;

**3. Not recognized at common law.** It is not of a character that has been recognized traditionally at common law;

**4. Negative burden.** It imposes a negative burden;

**5. Affirmative obligations.** It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;

**6. Benefit does not touch or concern real property.** The benefit does not touch or concern real property;

**7. No privity of estate or of contract.** There is no privity of estate or of contract; or

**8. Does not run to successors or assigns.** It does not run to the successors or assigns of the holder.

### **§1585. Applicability**

**1. Trail easement created after effective date.** This chapter applies to any interest created after the effective date of this chapter that meets the definition of "trail easement" as set forth in section 1581.

**2. Chapter does not invalidate interest.** This chapter does not invalidate any interest, whether designated as a trail easement or otherwise, that is enforceable under other laws of this State.

See title page for effective date.

---



---

## **CHAPTER 372**

**H.P. 1152 - L.D. 1649**

### **An Act to Strengthen Maine's Research and Development Capacity in Renewable Energy Resources**

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

**Sec. 1. 35-A MRSA §3210, sub-§5,** as enacted by PL 1997, c. 316, §3, is amended to read:

**5. Funding for research and development; community demonstration projects.** The commission by rule shall establish a program allowing retail consumers of electricity to make voluntary contributions to fund renewable resource research and development and to fund demonstration community projects using renewable energy technologies. The State Planning Office shall administer the program. The program must:

A. Include a mechanism for customers to indicate their willingness to make contributions;

B. Provide that transmission and distribution utilities collect and account for the contributions and forward them to the commission; and

C. Provide for a distribution of the funds to the University of Maine System, the Maine Maritime Academy or the Maine Technical College System for renewable resource research and development; and

D. Provide for a distribution of the funds to Maine-based nonprofit organizations that qualify under the federal Internal Revenue Code, Section 501(c)(3), consumer-owned electric cooperatives, community-based nonprofit organizations and community action programs for demonstration community projects using renewable energy technologies.

Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

**Sec. 2. 35-A MRSA §3210, sub-§6** is enacted to read: