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Legislative Document

No. 223

S.P. 74

In Senate, February 1, 2011

An Act To Require Written Permission for Recreational Access to Cropland, Pastureland and Orchards

Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator SAVIELLO of Franklin.
Cosponsored by Senator: TRAHAN of Lincoln.

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

2 **Sec. 1. 12 MRSA §10658** is enacted to read:

3 **§10658. Recreational use of cropland, pastureland and orchards; written**
4 **permission required**

5 **1. Prohibition.** A person engaging in a recreational activity regulated under this
6 Part may not conduct that activity on privately owned cropland or privately owned
7 pastureland or in a privately owned orchard without the written permission of the owner
8 or lessee of that cropland, pastureland or orchard. As used in this subsection, "cropland"
9 means acreage in tillage rotation, land being cropped and land in bush fruits, and
10 "pastureland" means acreage devoted to the production of forage plants used for animal
11 production. This subsection may not be construed to limit or expand a landowner's
12 property rights.

13 A. A person who violates this subsection commits a civil violation for which a fine
14 of not less than \$100 and not more than \$500 may be adjudged.

15 B. A person who violates this subsection after having been adjudicated as having
16 committed 3 or more civil violations under this Part within the previous 5-year period
17 commits a Class E crime.

18 **Sec. 2. 12 MRSA §10902, sub-§9, ¶F**, as amended by PL 2005, c. 626, §1, is
19 further amended to read:

20 F. Operating an ATV on the land of another without permission, as prohibited under
21 section 10658 and section 13157-A, subsection 1-A.

22 **Sec. 3. 12 MRSA §12253, sub-§1**, as affected by PL 2003, c. 614, §9 and
23 amended by c. 655, Pt. B, §215 and affected by §422, is further amended to read:

24 **1. Trapping without written consent.** A person may not, without first obtaining
25 the written consent of the landowner or occupant, trap any wild animal on land in any
26 organized or incorporated place ~~or on the cultivated or pasture area of land that is used for~~
27 agricultural purposes in any unorganized place and on which land there is an occupied
28 dwelling or as provided in section 10658. The provisions of this subsection do not apply
29 to:

30 A. Beaver trapping;

31 B. Trapping with drowning sets in navigable rivers and streams; or

32 C. Trapping with drowning sets on state-owned land and public rights-of-way.

33 A person who violates this subsection commits a Class E crime.

34 **Sec. 4. 12 MRSA §12256, first ¶**, as enacted by PL 2003, c. 414, Pt. A, §2 and
35 affected by c. 614, §9, is amended to read:

36 A person may not disturb or take a trap or a wild animal from a trap, other than that
37 person's own trap, without the consent of the owner of the trap, except that a landowner

1 or occupant of land that the landowner or occupant is legally entitled to possess may
2 remove any trap found on the land if permission has not been granted under section
3 10658 or section 12253, subsection 1 or 2 or the person has not obtained a written permit
4 from the landowner to trap on that landowner's land with cage-type live traps within 1/2
5 mile of a built-up portion of a city or village.

6 **Sec. 5. 12 MRSA §13157-A, sub-§1-A**, as amended by PL 2007, c. 509, §1, is
7 further amended to read:

8 **1-A. Permission required.** A person may not operate an ATV on the land of
9 another without the permission of the landowner or lessee. Permission is presumed on
10 designated state-approved ATV trails or in areas open to ATVs by landowner policy. A
11 landowner may limit the use of a designated state-approved ATV trail on that landowner's
12 property through agreements with the State or an ATV club to address environmental,
13 public safety or management concerns. Written permission of the landowner or lessee is
14 required on cropland or pastureland or in an orchard as provided in section 10658. ~~As~~
15 ~~used in this subsection, "cropland" means acreage in tillage rotation, land being cropped~~
16 ~~and land in bush fruits and "pastureland" means acreage devoted to the production of~~
17 ~~forage plants used for animal production.~~ Nothing in this subsection may be construed to
18 limit or expand a landowner's property rights.

19 A. A person who violates this subsection commits a civil violation for which a fine
20 of not less than \$100 or more than \$500 may be adjudged.

21 B. A person who violates this subsection after having been adjudicated of having
22 committed 3 or more civil violations under this Part within the previous 5-year period
23 commits a Class E crime.

24 SUMMARY

25 This bill provides that a person engaging in a recreational activity regulated under the
26 inland fisheries and wildlife laws may not conduct that activity on privately owned
27 cropland or pastureland or in a privately owned orchard without the written permission of
28 the landowner or lessee.