

§402. Criminal trespass

1. A person is guilty of criminal trespass if, knowing that that person is not licensed or privileged to do so, that person:

A. Enters any dwelling place. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

B. Enters any structure that is locked or barred. Violation of this paragraph is a Class E crime; [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

C. Enters any place from which that person may lawfully be excluded and that is posted in accordance with subsection 4 or in a manner reasonably likely to come to the attention of intruders or that is fenced or otherwise enclosed in a manner designed to exclude intruders. Violation of this paragraph is a Class E crime; [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

D. Remains in any place in defiance of a lawful order to leave that was personally communicated to that person by the owner or another authorized person. Violation of this paragraph is a Class E crime; [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

E. Enters any place in defiance of a lawful order not to enter that was personally communicated to that person by the owner or another authorized person. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

F. Enters or remains in a cemetery or burial ground at any time between 1/2 hour after sunset and 1/2 hour before sunrise the following day, unless that person enters or remains during hours in which visitors are permitted to enter or remain by municipal ordinance or, in the case of a privately owned and operated cemetery, by posting. Violation of this paragraph is a Class E crime. [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]
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2.

[PL 2001, c. 383, §57 (RP); PL 2001, c. 383, §156 (AFF).]

3.

[PL 1979, c. 701, §23 (RP).]

4. For the purposes of subsection 1, paragraph C, property is posted if it is marked with signs or paint in compliance with this subsection. Proof that any posted sign or paint marking is actually seen by an intruder gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that such posted sign or paint marking is posted in a manner reasonably likely to come to the attention of intruders.

A. Signs must indicate that access is prohibited, that access is prohibited without permission of the landowner or the landowner's agent, or that access for a particular purpose is prohibited. [PL 1995, c. 529, §2 (NEW).]

B. [PL 2011, c. 432, §4 (AMD); MRSA T. 17-A §402, sub-4, ¶B (RP).]

B-1. Paint markings made pursuant to this paragraph mean that access is prohibited without permission of the landowner or the landowner's agent. Paint markings made pursuant to this paragraph must consist of a conspicuous vertical line at least one inch in width and at least 8 inches in length and must be placed so that the bottoms of the marks are not less than 3 feet from the ground or more than 5 feet from the ground at locations that are readily visible to any person approaching the property and no more than 100 feet apart. Paint markings may be placed on trees, posts or stones as described in this paragraph. The Department of Agriculture, Conservation and Forestry, Bureau of Forestry shall adopt rules to determine the color and type of paint that may be

used to post property pursuant to this paragraph. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 432, §5 (NEW); PL 2011, c. 657, Pt. W, §§5, 7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

C. Signs or paint must mark the property at intervals no greater than 100 feet and at all vehicular access entries from a public road. [PL 1995, c. 529, §2 (NEW).]

D. Signs or paint markings are required only on the portion of the property where access is prohibited or limited. Signs or paint posted in accordance with this section have no effect on boundaries of property and do not constitute claims of possession or adverse use in accordance with state law. [PL 1995, c. 529, §2 (NEW).]

D-1. Notwithstanding any other provision of this section, a landowner who posts that landowner's land by paint markings and who intends to prohibit access without permission of the landowner or the landowner's agent or intends to prohibit access for a particular purpose may do this by posting in a prominent place one or more qualifying signs that by words or symbols set forth the nature of the prohibition. The landowner need not post the qualifying signs at 100-foot intervals. [PL 1999, c. 115, §1 (NEW).]

E. A person commits criminal mischief and is subject to prosecution under section 806 if that person, without permission of the owner or owner's agent:

- (1) Knowingly posts the property of another with a sign or paint mark indicating that access is prohibited, that access is prohibited without permission or that access for a particular purpose is prohibited; or
- (2) Removes, mutilates, defaces or destroys a sign or paint mark placed for purposes of this section. [PL 1995, c. 529, §2 (NEW).]

Nothing in this subsection limits any manner of posting reasonably likely to come to the attention of intruders.

[PL 2011, c. 432, §§4, 5 (AMD); PL 2011, c. 657, Pt. W, §§5, 7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 128 (AMD). PL 1977, c. 510, §53 (AMD). PL 1979, c. 701, §23 (RPR). PL 1981, c. 317, §11 (AMD). PL 1989, c. 793 (AMD). PL 1995, c. 529, §§1, 2 (AMD). PL 1999, c. 115, §1 (AMD). PL 2001, c. 383, §§56-58 (AMD). PL 2001, c. 383, §156 (AFF). PL 2011, c. 432, §§4, 5 (AMD). PL 2011, c. 657, Pt. W, §§5, 7 (REV). PL 2013, c. 405, Pt. A, §23 (REV).

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