

§159-E. Limited liability for repairs and maintenance of public easement

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Public easement" has the same meaning as in Title 23, section 3021, subsection 2 and as described in Title 23, section 3022. [PL 2025, c. 518, §1 (NEW).]

B. "Repairs and maintenance" includes, but is not limited to, snowplowing, snow removal, sanding and ice control; grading and adding gravel and surface material; installing reclaimed asphalt or grinding existing pavement for reuse; installing, cleaning and replacing culverts; creating and maintaining ditches, drains and other storm water management infrastructure; creating and maintaining sight distances on curves and at intersections; and cutting brush, trees and vegetation in the right-of-way. [PL 2025, c. 518, §1 (NEW).]

[PL 2025, c. 518, §1 (NEW).]

2. Limitation of liability; repairs and maintenance of public easement. Except as otherwise provided in this section, an owner, lessee or occupant of property abutting a public easement or a portion of a public easement, including, but not limited to, a road association formed under Title 23, Part 3, chapter 305, subchapter 2 and a member of that road association, or an agent of such persons, is not liable for personal injury, property damage or death caused by:

A. Repairs and maintenance conducted on that public easement by the owner, lessee or occupant, or the agent of such persons, if the repairs and maintenance were conducted in order for the owner, lessee or occupant to access the owner's, lessee's or occupant's property over the public easement from a public way; or [PL 2025, c. 518, §1 (NEW).]

B. Public access or public use of the public easement. [PL 2025, c. 518, §1 (NEW).]
[PL 2025, c. 518, §1 (NEW).]

3. Exception; dangerous conditions. The limitations in subsection 2 do not limit any liability that may otherwise exist for a willful or malicious creation of, or failure to guard or warn against, a dangerous condition on a public easement that is reasonably known to an owner, lessee or occupant of property abutting the public easement.

[PL 2025, c. 518, §1 (NEW).]

4. Duty not created. This section does not create a duty of care for an owner, lessee or occupant of property abutting a public easement to keep, or grounds for liability for injury to a person or property for failure to keep, a public easement safe for public access or public use for persons entering the public easement for such purposes.

[PL 2025, c. 518, §1 (NEW).]

5. Landowner liability for environmental damage by others. In accordance with this section, an owner, lessee or occupant of property abutting a public easement, including, but not limited to, a road association formed under Title 23, Part 3, chapter 305, subchapter 2 and a member of that road association, or an agent of such persons, that conducts repairs and maintenance on the public easement or suffers the public access or use of the public easement:

A. In accordance with Title 12, section 685-C, subsection 11 and Title 38, section 347-A, subsection 7, is not subject to criminal sanctions or civil penalties or forfeitures for a violation of laws or rules enforced by the Maine Land Use Planning Commission or the Department of Environmental Protection, as applicable, if the owner, lessee or occupant provides substantial credible evidence to the Maine Land Use Planning Commission or the Department of Environmental Protection, as applicable, that the violation was committed by a person other than the owner, lessee or occupant or a contractor, employee or agent of the owner, lessee or occupant; and [PL 2025, c. 518, §1 (NEW).]

B. Notwithstanding Title 12, section 685-C, subsection 11 and Title 38, section 347-A, subsection 7, if the owner, lessee or occupant provides the substantial credible evidence described in paragraph A, the owner, lessee or occupant may not be held responsible for remediating or abating the environmental damage caused by the violation or for the costs of such remediation or abatement.

[PL 2025, c. 518, §1 (NEW).]

[PL 2025, c. 518, §1 (NEW).]

6. Legal costs; attorney's fees. If an owner, lessee or occupant of property abutting a public easement or a portion of a public easement, including, but not limited to, a road association formed under Title 23, Part 3, chapter 305, subchapter 2 and a member of that road association, or an agent of such persons, that conducts repairs and maintenance on the public easement or suffers the public access or use of the public easement is found not liable for personal injury, property damage or death pursuant to this section, the court shall award the owner, lessee or occupant any direct legal costs, including reasonable attorney's fees.

[PL 2025, c. 518, §1 (NEW).]

SECTION HISTORY

PL 2025, c. 518, §1 (NEW).

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