

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the title and before the summary and inserting the following:

**Emergency preamble. Whereas,** acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** theft of utility services and property is a significant and growing problem in the State; and

**Whereas,** theft of utility services and property imposes costs on all users of utility services and endangers the health and safety of utility workers and the general public; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 35-A MRSA §2705,** as amended by PL 1993, c. 106, §3, is repealed.

**Sec. 2. 35-A MRSA §2706** is enacted to read:

**§ 2706. Civil liability for utility services wrongfully obtained**

A person may not obtain utility services by deception, threat or force or any other means designed to avoid due payment for the services that the person knows are available only for compensation and a person may not, having control over the disposition of utility services of another to which the person knows the person is not entitled, divert such utility services to the person's own benefit or to the benefit of some other person who the person knows is not entitled to the utility services. A person who violates this section is liable in a civil action to the utility providing the service for:

**1. Cost of service.** The cost of the utility services wrongfully obtained or diverted plus interest on the value of those services based on an annual interest rate of 5%;

**2. Other costs.** All other reasonable costs to the utility, including attorney's fees and costs of undertaking and completing the investigation resulting in a determination of liability under this section; and

**3. Civil penalty.** A civil penalty not to exceed \$2,500 due and payable to the utility for each violation of this section.

A person who is liable under this section may not pass on the cost of that liability, including any civil penalty assessed, to any tenants of that person who received diverted or wrongfully obtained utility services due to the actions of the liable person.

**Sec. 3. 35-A MRS §2707** is enacted to read:

**§ 2707. Civil liability for damages to utility property**

A person may not intentionally, knowingly or recklessly damage, destroy or tamper with property of a utility having no reasonable grounds to believe that the person has a right to do so if such conduct creates a risk of interruption or impairment of services rendered to the public or causes a substantial interruption or impairment of services rendered to the public. A person who violates this section is liable in a civil action to the utility owning the property affected for:

**1. Cost of repair or replacement.** The cost of repair or replacement of the utility property, as necessary;

**2. Other costs.** All other reasonable costs to the utility, including attorney's fees and costs of undertaking and completing the investigation resulting in a determination of liability under this section; and

**3. Civil penalty.** A civil penalty not to exceed \$2,500 due and payable to the utility for each violation of this section.

**Sec. 4. 35-A MRS §2708** is enacted to read:

**§ 2708. Civil liability for utility property wrongfully obtained**

A person may not obtain or exercise unauthorized control over the property of a utility with intent to deprive the utility of the property. A person who violates this section is liable in a civil action to the utility owning the property affected for:

**1. Cost of replacement.** The cost of replacement of the utility property, as necessary;

**2. Other costs.** All other reasonable costs to the utility, including attorney's fees and costs of undertaking and completing the investigation resulting in a determination of liability; and

**3. Civil penalty.** A civil penalty not to exceed \$2,500 due and payable to the utility for each violation of this section.

**Sec. 5. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 35-A, chapter 27, in the chapter headnote, the words "inspection of meters" are amended to read "inspection of meters and civil liability" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.'

**SUMMARY**

This amendment is the majority report of the committee. The amendment makes the following changes to the bill:

1. It redrafts the statutes governing civil liability for theft of utility services and damages to utility property to remove references to the Maine Revised Statutes, Title 17-A, the Maine Criminal Code, and replaces those references with language describing the actions that give rise to the civil liability. This clarifies that liability for damages and the civil penalty in a civil action are not dependent on criminal prosecution;

2. It adds civil liability for wrongfully obtaining utility property in addition to wrongfully obtaining utility services and damaging utility property;

3. It adds liability for interest on the cost of utility services wrongfully obtained at an annual interest rate of 5%; and

4. It changes the civil penalty amount from a fixed \$2,500 per offense to an amount not to exceed \$2,500, to allow the judge to set the penalty based on the circumstances.

**FISCAL NOTE REQUIRED**  
**(See attached)**