



129th MAINE LEGISLATURE

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Legislative Document

No. 1101

H.P. 805

House of Representatives, March 5, 2019

An Act To Amend the Shoreland Zoning Laws To Allow Pedestrian Walkways and Trails That Exclude Motorized Vehicles within the Shoreland Zone

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative DOUDERA of Camden.
Cosponsored by Senator LAWRENCE of York and
Representatives: AUSTIN of Skowhegan, DENNO of Cumberland, DILLINGHAM of Oxford,
DODGE of Belfast, GATTINE of Westbrook, MADIGAN of Waterville, Senator:
WOODSOME of York.

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

2 **Sec. 1. 38 MRSA §439-A, sub-§4-D** is enacted to read:

3 **4-D. Exemption from setback requirements for pedestrian walkways and trails.**

4 In accordance with the provisions of this subsection, a municipality may adopt an
5 ordinance that exempts pedestrian walkways and trails from the water and wetland
6 setback requirements otherwise applicable under this section.

7 A. Notwithstanding subsection 4, a municipality may adopt an ordinance pursuant to
8 this subsection that exempts a pedestrian walkway or trail from the otherwise
9 applicable water or wetland setbacks if the following requirements are met:

10 (1) Use of motorized vehicles is prohibited on all positions of the pedestrian
11 walkway or trail that are located within the shoreland zone as established by
12 section 435, except that use of a motorized wheelchair, motorized scooter or
13 similar motorized assistive device by a person with a disability that prevents the
14 person from using a walkway or trail without a motorized assistive device may be
15 allowed. Use of nonmotorized vehicles, including, but not limited to, bicycles,
16 may be allowed;

17 (2) If cantilevered over a water body or wetland within the shoreland zone as
18 established by section 435, the pedestrian walkway or trail does not extend over
19 the water body or wetland more than 10 feet from the normal high-water line;

20 (3) If cantilevered over a water body or wetland within the shoreland zone as
21 established by section 435, the pedestrian walkway or trail is attached to a
22 structure that was constructed prior to 1971 and that is located within the
23 shoreland zone;

24 (4) If the walkway or trail is cantilevered over a water body or wetland within
25 the shoreland zone as established by section 435, the municipal planning board
26 has determined there is no other practical means to construct the pedestrian
27 walkway or trail without cantilevering over that segment of the water body or
28 wetland. If there are no other practical means to construct the pedestrian
29 walkway or trail, approaches to the cantilevered walkway or trail may also
30 cantilever off adjacent retaining walls but no more than is necessary to access the
31 cantilevered walkway or trail;

32 (5) The pedestrian walkway or trail is not located within a shoreland area zoned
33 for resource protection;

34 (6) The pedestrian walkway or trail is located within a shoreland area that has
35 previously been developed or, if located within a shoreland area that has not
36 previously been developed, the walkway or trail is set back at least 25 feet from
37 the normal high-water line of the water body or wetland;

38 (7) The pedestrian walkway or trail is constructed by a contractor certified in
39 erosion control pursuant to section 439-B; and

40 (8) The pedestrian walkway or trail is owned and maintained either publicly or
41 as a public-private partnership.

