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STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT " " to COMMITTEE AMENDMENT "A" to S.P. 414, L.D. 1177, Bill, "An Act To Implement the Recommendations from the Discontinued and Abandoned Roads Stakeholder Group"

Amend the amendment by inserting after the enacting clause the following:

'Sec. 1. 17 MRSA §3853-E is enacted to read:

§3853-E. Damage to public easement; discontinued or abandoned road

1. Definitions. For the purposes of this section, the following terms have the following meanings.

A. "Damage to a road" means damage to a road in a way that impedes reasonable access by motor vehicle to a property owner's property abutting the road.

B. "Motor vehicle" has the same meaning as in Title 29-A, section 101, subsection 42.

2. Damage to roads. A person who causes damage to a road that has been discontinued or abandoned pursuant to Title 23, chapter 304 but in which a public easement exists commits a Class E crime.

3. Application. This section does not apply to:

A. A landowner operating a motor vehicle on land owned by that landowner;

B. A person given permission by a landowner to operate a motor vehicle on land owned by that landowner; or

C. A law enforcement officer who, in an emergency and in the scope of that law enforcement officer's employment, operates a motor vehicle on land owned by another.'

Amend the amendment in section 5 in §3026-A in subsection 2 in paragraph D in the 2nd line (page 2, line 30 in amendment) by inserting after the following: "their property" the following: 'in the same manner as prior to discontinuance'

Amend the amendment by inserting after section 5 the following:

'Sec. 6. 23 MRSA §3026-C is enacted to read:

1 **§3026-C. Public easements over discontinued or abandoned town ways**

2 Notwithstanding section 3028, subsection 2, if a public easement is in a discontinued
3 or abandoned town way and the public easement has not been discontinued as of January
4 1, 2016 as evidenced by approval of an order of discontinuance, the public easement is
5 deemed to have been retained by the municipality. This section does not apply to a
6 public easement that is discontinued pursuant to section 3026-A.'

7 Amend the amendment by relettering or renumbering any nonconsecutive Part letter
8 or section number to read consecutively.

9 **SUMMARY**

10 This amendment amends Committee Amendment "A". The amendment:

11 1. Provides that a public easement in a discontinued or abandoned road has been
12 retained if, as of January 1, 2016, there is no evidence of approval of an order of
13 discontinuance by the municipal legislative body;

14 2. Provides that a person who causes damage to a discontinued or abandoned road in
15 which a public easement exists commits a Class E crime; and

16 3. Clarifies the provision in the committee amendment that requires a public
17 easement to be retained if the existing legal rights of abutting property owners to access
18 their property will be eliminated. It provides that the access to the property must be in the
19 same manner as prior to the discontinuance.

20 **FISCAL NOTE REQUIRED**

21 **(See attached)**

22 SPONSORED BY: _____

23 (Representative COTTA)

24 TOWN: China