

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 616

H. P. 497

House of Representatives, February 23, 1977

On motion of Mr. Kelleher of Bangor, referred to Committee on Public Utilities. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Kelleher of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

**AN ACT Providing for Transfer of Railway Safety Regulation to the
Department of Transportation.**

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

Sec. 1. 23 MRSA c. 410, as last amended by PL 1975, c. 771, § 258, is amended by inserting before section 4202 the following:

SUBCHAPTER I

MAINE TRANSPORTATION ACT

Sec. 2. 23 MRSA § 4206, sub-§ 1, ¶ I, as enacted by PL 1971, c. 593, § 16, is amended to read:

I. To accept and receive and be the sole administrator of all federal or other moneys for and in behalf of this State or any political subdivision thereof now or hereafter available for purposes of transportation or which would further the intent and specific purposes of this chapter; and

Sec. 3. 23 MRSA § 4206, sub-§ 1, ¶ J is enacted to read:

J. To oversee matters relating to railroad safety, provided that jurisdiction of the commissioner shall in no way diminish, infringe upon or replace the jurisdiction of the United States Railroad Administration with regard to employee safety.

Sec. 4. 23 MRSA c. 410, sub-c. II is enacted to read:

SUBCHAPTER II

**INSPECTION AND INVESTIGATION
OF RAILROADS**

§ 4211. Railroads examined; annual report

The commissioner, or some competent person duly appointed by the commissioner on application or whenever they think necessary, shall carefully examine the tracks, rolling stock, bridges, viaducts and culverts of any railroad; and shall annually make a report to the Governor with such facts as the public interest may require. All persons managing railroads shall give the commissioner such information as he at any time requires. The commissioner shall maintain no permanent full-time employees for making such inspections.

§ 4212. Certificate of safety for passenger trains

No passenger train shall be run over any new railroad, or over any railroad in process of construction, until the commissioner has made an inspection of such railroad and granted a certificate of its safety for public travel. A copy of this certificate, attested by the commissioner, shall be furnished the corporation operating the railroad. Any person or corporation violating this section forfeits to the State \$100 for each offense, to be recovered in a civil action or by complaint and indictment, and the Attorney General shall institute proceedings to recover the same.

§ 4213. Experienced engineer to examine bridges

Every railroad corporation shall, when requested by the commissioner, have an examination made of any iron bridge or other structure by a competent and experienced mechanical engineer, who shall report to the commissioner forthwith the results of his examinations, his conclusions and recommendations, and transmit a copy of the same to the corporation. The report shall furnish such information in detail and with such drawings and prints as may be in writing requested by the commissioner.

§ 4214. Managers notified when road unsafe

If the commissioner at any examination finds the track, culverts, bridges or rolling stock in use so out of repair as to be unsafe for travelers, he shall immediately notify the managers of the railroad of its condition and the time in which the repairs shall be made; and may require them to reduce the speed of all trains until the repairs are made.

§ 4215. Court proceedings for noncompliance

If the managers do not comply with such requirements, the commissioner shall file a complaint with the Superior Court in any county where the railroad extends, setting forth their examination, the condition of the road, the notice and requirement and refusal to comply; and shall notify the Attorney General or the district attorney of the district in which the county is located of the filing of the complaint, one of whom shall appear and take charge of the proceedings in court. The court shall order a notice thereon and appoint a hearing; and after a hearing, may order such things to be done by the managers of the road as they deem necessary to secure the safety of travelers. Unless such managers execute a bond to the State, with sufficient sureties, for such sum as the court deems necessary to make the repairs, conditioned that they will, within the time fixed by the court, make the repairs or other-

wise satisfy the court that they will be so made, the court shall issue an injunction against the corporation and its managers, prohibiting the running of any passenger trains over the portion of the road found to be unsafe until the order has been complied with or revoked.

§ 4216. Passenger trains prohibited from running on unsafe roads

When, in the opinion of the commissioner, the passage of passenger trains over any portion of a railroad would be attended with imminent danger, he may notify the president or superintendent of such road and order the immediate stopping of all passenger trains about to run over such portion thereof. If his order is not obeyed, the commissioner shall at once apply to the Superior Court which may, upon satisfactory proof of the necessity for such order and without notice to said company, issue an injunction prohibiting the running of passenger trains over the road until further order of the court.

§ 4217. Investigation and reports of accidents

1. Investigation. The Commissioner of Transportation shall investigate all accidents occurring upon the property of any railroad company and which result in the loss of human life or personal injury requiring hospitalization. Any accident which arises from or is connected with the maintenance or operation of property owned or leased by a railroad company shall also be subject to the provisions of this section. The commissioner may hold hearings to obtain the information necessary to implement this subchapter.

2. Disposition of reports. The orders, recommendations, accident reports and all other materials of the Department of Transportation pertaining to railroad company accidents shall be made available, upon request, to the railroad company, the injured person or their representatives.

3. Reports inadmissible as evidence. Department of Transportation recommendations, accident reports or any other materials pertaining to railroad company accidents shall not be admitted as evidence in any suit or action for damages arising from any investigation pursuant to this section.

Sec. 5. 35 MRSA § 141, 1st sentence is amended to read:

In the event of an accident resulting in the loss of human life occurring upon the premises of any public utility, **except upon the property of railroad companies**, or directly or indirectly arising from or connected with its maintenance or operation, the commission shall cause an investigation thereof to be made forthwith.

Sec. 6. 35 MRSA § 141, 5th sentence is amended to read:

Every public utility, **except railroad companies**, is required to file with the commission, under such rules and regulations as the commission may prescribe, reports of accidents so occurring, in the manner and form designated by the commission.

Sec. 7. 35 MRSA § 142, as enacted by PL 1973, c. 497, is repealed.

Sec. 8. 35 MRSA § 771 is repealed.

Sec. 9. 35 **MRSA § 772**, as amended by PL 1965, c. 91, § 7, is repealed.

Sec. 10. 35 **MRSA §§ 773, 774, 775 and 776** are repealed.

STATEMENT OF FACT

This bill transfers the responsibility for railway safety investigation from the Public Utilities Commission to the Department of Transportation.