

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 143  
6

7 H.P. 118

House of Representatives, January 22, 1985

8 Reference to the Committee on Local and County Government suggested  
9 and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Strout of Corinth.

Cosponsored by Representative Theriault of Fort Kent.

11  
12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT to Clarify the Relationship between a  
18 Road Commissioner and the Municipal  
19 Officers.  
20

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

23 23 MRSA §2701 is amended to read:

24 §2701. Powers and duties

25 The road commissioner, under the direction of the  
26 selectmen, shall have charge of the repairs of all  
27 highways and bridges within the towns and shall have  
28 authority to employ the necessary ~~men and teams~~ per-  
29 sonnel and equipment and purchase ~~timber, plank and~~  
30 ~~ether~~ material for the repair of highways and  
31 bridges. ~~He~~ The road commissioner shall give bond to  
32 the satisfaction of the selectmen and be responsible  
33 to them for the expenditure of money and discharge of  
34 his duties generally. In the absence of a statute,  
35 charter provision or ordinance to the contrary, any

1 decision involving the duties and responsibilities of  
2 the road commissioner shall be made by the selectmen  
3 whose decision shall be final. His The road  
4 commissioner's compensation shall be such sum as the  
5 towns shall annually vote therefor, which sum shall  
6 in no case be less than \$1-50 a day for every day of  
7 actual service legislative body votes annually. He  
8 The road commissioner shall render to the selectmen  
9 monthly statements of his expenditures and receive no  
10 money from the treasury, except on the order of the  
11 selectmen.

12 If the selectmen determine that a condition ex-  
13 ists in any town way which creates a hazard and ren-  
14 ders the way unsafe for travelers with motor vehi-  
15 cles, the selectmen shall give written notice to the  
16 road commissioner of this condition and order him to  
17 eliminate it or take interim measures to protect the  
18 public within 24 hours. If the road commissioner  
19 fails to act as directed by the selectmen, the se-  
20 lectmen may enter contracts or take any other steps  
21 necessary to eliminate the safety hazard.

22 STATEMENT OF FACT

23 The legal authority of selectmen over road com-  
24 missioners, particularly elected road commissioners,  
25 in the performance of their duties has been an uncer-  
26 tain area of law for decades. This bill clearly  
27 states that it is the selectmen who have final au-  
28 thority to decide the duties and responsibilities of  
29 the road commissioner where there is a conflict. It  
30 also makes clear that the selectmen can order a road  
31 commissioner to rectify a hazardous road condition  
32 and that their determination is final. This authority  
33 is extremely important since it is the municipality  
34 which can be held liable for accidents which occur as  
35 the result of negligence in the maintenance of town  
36 ways.

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