

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
132ND LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1020, L.D. 1562, "An Act Regarding Municipal Road Standards"

Amend the bill by striking out all of section 1 and inserting the following:

'Sec. 1. 23 MRSA §3651, as amended by PL 2019, c. 128, §1, is further amended to read:

**§3651. Failure to provide safety and convenience**

Highways, town ways and streets legally established ~~shall~~ must be opened and kept in repair so as to be safe and convenient for travelers with motor vehicles based on existing roadway surface and the season of the year. A municipal officer or county commissioner responsible for maintenance and repair of a town way must be notified by a resident in writing of which way is not safe and convenient. Once notified, the municipal officer or county commissioner may evaluate the risk to travelers based on existing roadway surface and the season of the year and recommend a reasonably achievable repair. In default thereof, those liable may be indicted, convicted and a reasonable fine imposed therefor. If a municipal officer or county commissioner unreasonably neglects to repair the defective town way in a reasonable amount of time after receiving notice, a person who receives bodily injury or suffers damage to the person's property through any defect or want of repair on any town way may recover for the same in a civil action pursuant to section 3655.

**1. Legal objects not defects.** Trees, structures, utility poles and facilities and other things that exist in accordance with municipal ordinances are not defects in a public way. For the purposes of this subsection, "facilities" has the same meaning as in Title 35-A, section 2502, subsection 3.'

Amend the bill by striking out all of section 2 and inserting the following:

'Sec. 2. 23 MRSA §3652 is repealed and the following enacted in its place:

**§3652. Notice of defect; optional local hearing on petition**

**2. Persons petitioning defective road.** When a town liable to maintain a town way unreasonably neglects to keep it in repair as provided in section 3651 after one of the municipal officers has had 5 days' actual notice or knowledge of the defective condition, any 3 or more responsible persons, setting forth those facts, may petition the municipal board of appeals that has been granted authority by the legislative body pursuant to subsection 1. The municipal board of appeals shall fix a time and place near the defective town way for a hearing on the petition and cause such notice of the hearing to be given to the town and petitioners as the board of appeals may prescribe. At the time appointed, the board of appeals shall inspect the town way that is alleged to be out of repair and hear the parties interested, and if the board of appeals adjudges the town way to be unsafe and inconvenient for travelers, motor vehicles, horses, teams and carriages, the board of appeals shall prescribe what repairs must be made, fix the time in which the town must undertake the repairs and give notice of the repairs to the municipal officers. If the board of appeals adjudges the town way to be safe and convenient based on existing roadway surface and the season of the year, the board of appeals shall dismiss the petition.'

## SUMMARY

5. It requires the municipal board of appeals to set a time and place near the defective town way for a hearing on the petition. If the board of appeals adjudges the town way to be safe and convenient based on existing roadway surface and the season of the year, the board of appeals must dismiss the petition.