

# MAINE STATE LEGISLATURE

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SEVENTY-SIXTH LEGISLATURE

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SENATE

NO. 15

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*In Senate, Jan. 10, 1913.*

*Laid on the table for printing, on motion by Senator Smith of Penobscot, pending reference to the Committee on Railroads and Expresses. In concurrence.*

*W. E. LAWRY, Secretary.*

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND THIRTEEN.

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AN ACT for the Abolishment of Grade Crossings of Railroads.

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

Section 1. The selectmen of the town within which a public  
2 highway crosses or is crossed by a railroad, or the directors  
3 of a railroad corporation, whose road crosses or is crossed  
4 by a public highway, may bring their petition in writing  
5 to the board of railroad commissioners alleging that public  
6 safety requires an alteration in such crossing, its ap-  
7 proaches, the method of crossing the location of the public  
8 highway, the closing of a public highway crossing and the  
9 substitution of another therefor, not at grade, or the re-  
10 moval of obstructions to the sight at such crossing, and  
11 praying that the same may be ordered; whereupon said

12 commissioners shall appoint a time and place for hearing  
13 the petition on notice of not less than ten days to the peti-  
14 tioners, the corporation, the municipality in which such  
15 crossing is situated, the owners of the land adjoining such  
16 crossing and adjoining that part of the highway to be  
17 changed in grade, and to the attorney general of the State,  
18 whose duty it shall be by himself or through the State's at-  
19 torney of the county wherein the crossing is located to rep-  
20 resent the interests of the State at such hearing; and after  
21 such notice and hearing said commissioners shall determine  
22 what alterations, changes or removals, if any, shall be made  
23 and by whom made. Said commissioners shall apportion  
24 the expense of such alterations, changes or removals, in-  
25 cluding the damages to any person whose land is taken, and  
26 the special damages which the owner of land adjoining the  
27 public highway shall sustain by reason of any such change  
28 in the grade of such highway between the State, the town  
29 in which the public highway or crossing is located and the  
30 corporation owning or operating the railroad which crosses  
31 such public highway and shall order an amount not exceed-  
32 ing twenty-five per cent. of the whole expense of such al-  
33 teration, change or removal, including the land damages as  
34 aforesaid, to be paid by the State and an amount not ex-  
35 ceeding ten per cent. of the whole expense of such altera-  
36 tion, change or removal, including the land damages, as  
37 aforesaid, to be paid by the town in which public highway  
38 or crossing is located and the remainder of the expense

39 shall be paid by the corporation owning or operating the  
40 road which crosses such public highways; if, however, the  
41 public highway affected by such last mentioned order has  
42 been constructed since the railroad which it crosses at grade,  
43 said commissioners may order an amount not exceeding  
44 twenty-five per cent. of the whole expense of such altera-  
45 tion, change or removal, including the damages as aforesaid,  
46 to be paid by the state and an amount not exceeding fifteen  
47 per cent. of the whole expense of such alteration, change or  
48 removal, including the damages, as aforesaid, to be paid by  
49 the town in which such public highway or crossing is located  
50 and the remainder of the expense shall be paid by the cor-  
51 poration owning or operating the railroad which crosses such  
52 public highway. Every corporation operating more than  
53 eighty miles of single track road in this state shall remove  
54 at least one grade crossing every year for each eighty miles  
55 or fraction thereof exceeding forty miles of road operated  
56 by it in this state, one of which crossings so to be removed,  
57 if there be more than one, shall be that which in the opinion  
58 of said railroad commissioners is among the most dangerous  
59 upon the lines operated by the railroad corporation removing  
60 such crossings and the remaining crossings so to be removed  
61 shall be those which in the opinion of the directors of such  
62 corporation are among the most dangerous upon the lines  
63 operated by such railroad corporation; provided, however,  
64 that not more than one grade crossing in any town in any  
65 one year shall be abolished when such change necessitates

66 the construction of an underpassover and overpass at said  
67 crossing unless such town consents and agrees thereto; and  
68 if a railroad corporation fails to remove at least one grade  
69 crossing every year for every eighty miles, or fraction there-  
70 of exceeding forty miles, of road operated by it in this state,  
71 the railroad commissioners shall, if in their opinion the  
72 financial condition of the corporation will warrant, order  
73 such crossing or crossings removed as in their opinion said  
74 directors should have removed under the above provisions,  
75 and said commissioners in so doing shall proceed in all re-  
76 spects as if said directors had voluntarily applied therefor.

Sect. 2. The railroad commissioners may, in the absence  
2 of any application therefor, when in their opinion the public  
3 safety requires and alteration in any highway crossed at  
4 grade by a railroad, or by railroads belonging to or operated  
5 by more than one corporation, after a hearing had on notice  
6 of not less than ten days to the corporation or corporations  
7 owning or operating such railroad or railroads, to the se-  
8 lectmen of the town within which such highway is situated,  
9 to the owners of the land adjoining such crossing and to the  
10 attorney general, whose duty it shall be by himself or through  
11 the state's attorney of the county in which the crossing is  
12 located to represent the interests of the state, order such  
13 alterations in such highway as they deem best and shall de-  
14 termine and direct by whom such alterations shall be made,  
15 at whose expense and within what time; provided, that in  
16 all cases arising under this section twenty per cent. of the

17 expense, including damages and special damages as set forth  
18 in the preceding section, shall be paid by the state and the  
19 remainder shall be assessed upon the railroad corporation or  
20 corporations benefited by such orders; and provided, that  
21 such alterations as are thus made at the primary instance  
22 of the railroad commissioners shall not be ordered so as to  
23 direct the construction of more than one bridge in any one  
24 year on any one railroad.

Sect 3. Whenever the railroad commissioners, upon an  
2 application or petition brought under the provisions of Sec-  
3 tion 1 of this act find that a public highway crosses or is  
4 crossed by the tracks of more than one railroad and the  
5 tracks of such railroads are so near together that public con-  
6 venience requires the work of separating the grades to be  
7 done under and in compliance with one order, they shall give  
8 notice to all the corporations operating such railroads to ap-  
9 pear before them and be heard upon the application; and  
10 after such notice and hearing said commissioners shall de-  
11 termine what alterations shall be made, if any, so as to sep-  
12 arate the grades of all such crossings at the same time and  
13 shall determine by whom such work shall be done and shall  
14 apportion the expense to be borne by the railroad corpora-  
15 tions between such corporations in such manner as said com-  
16 missioners shall deem just and proper.

Sect 4. A railroad corporation will take land necessary for  
2 making changes in accordance with this act by observing the  
3 provisions of sections 27-28 and 29 of Chapter 51 of the Re-

4 vised Statutes of Maine.

Sect 5. Whenever a railroad corporation operating a rail-  
2 road within the state operates less than eighty miles of sin-  
3 gle track, such railroad corporation shall remove at least one  
4 grade crossing upon such railroad every year in accordance  
5 with the provisions of this act unless such railroad corpora-  
6 tion shall, upon application to the board of railroad commis-  
7 sioners and after notice and hearing, be exempted by said  
8 commissioners from the requirements of this act for the then  
9 current year; notice of such application and of the time and  
10 place of hearing shall be given by said commissioners to the  
11 attorney general of the state, who shall by himself or through  
12 the state's attorney of the county where the crossing is lo-  
13 cated attend such hearing and represent the interests of the  
14 state; if upon hearing said commissioners refuse to exempt  
15 such railroad corporation from the requirements of this act  
16 for the then current year, said commissioners shall desig-  
17 nate and determine the crossing upon such railroad, and the  
18 one among the most dangerous upon such railroad, to be re-  
19 moved; and such railroad corporation shall have the same  
20 right of appeal from the decision of said commissioners as  
21 is hereinafter provided in this act.

Sect. 6. The order of the railroad commissioners relating  
2 to any matter upon which they may act under the authority  
3 of the preceding sections of this act shall be communicated  
4 in writing to the petitioners and to all persons to whom no-  
5 tice of the hearing on such petition was given; and any per-

6 son aggrieved by such order, who was a party to such pro-  
7 ceedings, may appeal from such order to the Supreme Ju-  
8 dicial Court within and for the county in which such high-  
9 way or crossing is located within thirty days after the re-  
10 ceipt of such order by a petition in writing, with a proper  
11 citation, signed by competent authority, to all parties in such  
12 proceedings having an interest adverse to the appealing party  
13 to be served upon them at least twelve days before the return  
14 day; such return day may be any time during a term of said  
15 court; said court may hear such appeal at the same term or  
16 a subsequent term and re-examine the question of the pro-  
17 priety and expediency of the order appealed from, either  
18 by itself or by reference to a commission appointed by said  
19 court of chancery; and in case such order is not affirmed,  
20 may make any other order in the premises that it may deem  
21 proper and which might have been made by the railroad com-  
22 missioners, and may award costs at its discretion. Such ap-  
23 peal shall be a supersedeas of the order appealed from until  
24 the final action of the court thereon and such final order  
25 may be enforced by said court by attachment, mandamus or  
26 otherwise, as it shall deem proper. Any person aggrieved  
27 by the decision or judgment of the railroad commissioners  
28 in relation to damages for land taken for the purposes of  
29 this act may appeal from said decision in the manner pro-  
30 vided for in Section 36 of said Chapter 51 of the Revised  
31 Statutes of Maine.

Sect. 7. The amount to be paid under the provisions of



2 the preceding six sections by the state in any one year, the  
3 year beginning with the first day of January, shall not ex-  
4 ceed twenty-five thousand dollars, but if in any year the  
5 expenditure by the state shall not amount to twenty-five  
6 thousand dollars; the unexpended balance thereof shall be  
7 added to the twenty-five thousand dollars allowed to be paid  
8 by it in any subsequent year.

Sect. 8. When a railroad corporation fails to remove in  
2 any year the crossings required to be removed by the pro-  
3 visions of this act, such crossings not so removed shall be  
4 added to the number required to be removed for the follow-  
5 ing year.

Sect. 9. This act shall not apply to street railway corpo-  
2 rations.

Sect. 10. All acts and part of acts inconsistent with this  
2 act are hereby repealed.

Sect. 11. This act shall take effect January 1st, 1914.