

MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

1954

1957 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 3

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THE MICHE COMPANY
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Sec. 92. Slippery sidewalk no cause of action.

This section is not unconstitutional as denying equal protection of the laws, in violation of § 1 of the fourteenth amendment to the constitution of the United States, and the guaranties under § 1 of art. 1 of the constitution of Maine. *Verreault v. Lewiston*, 150 Me. 67, 104 A. (2d) 538.

Exemption is unrestricted and absolute.—Whatever may be the character of a ridge of ice or snow in a roadway, as distinguished from a sidewalk, as a defect therein, if the same be created by act of those having charge of the streets and allowed to remain therein, this section re-

lieves a municipality from liability to an action for damages to any person on foot, on account of snow or ice, on any sidewalk or cross-walk. This exemption is unrestricted, is absolute and there is no exception contained therein or thereto. *Verreault v. Lewiston*, 150 Me. 67, 104 A. (2d) 538.

And cannot be avoided even if snow or ice constitutes public nuisance.—The effect of this section cannot be avoided even if the snow or ice on a sidewalk constitutes a public nuisance. *Verreault v. Lewiston*, 150 Me. 67, 104 A. (2d) 538.

Closing of Ways in Winter.**Sec. 125. Roads closed by county commissioners for part of winter months; notices; effect of order.**

The county commissioners may, without petition, give notice and hold public hearing to close roads for winter in unorganized territory. (R. S. c. 84, § 125. 1957, c. 211.)

Effect of amendment.—The 1957 amendment added the sentence set out above as the last paragraph of this section.

As the rest of the section was not changed by the amendment, it is not set out.

Sewers and Drains.

Sec. 130-A. Service charges for sewage disposal.—A municipality may establish a schedule of service charges from time to time upon improved real estate with buildings on it connected with a municipal sewer or disposal system for the actual use of the system. The charges shall be collected according to section 134 of chapter 96. (1957, c. 405, § 18.)

Sec. 134. Collection of assessments.—All assessments and charges made under the provisions of sections 128 to 133, inclusive, shall be certified by the municipal officers and filed with the tax collector for collection. If the person assessed, within 30 days after written notice of the amount of such assessments and charges, fails, neglects or refuses to pay said municipality the expense thereby incurred, a special tax in the amount of such assessment and charges may be assessed by the municipal assessors upon each and every lot or parcel of land so assessed and buildings upon the same, and such assessment shall be included in the next annual warrant to the tax collector for collection, and shall be collected in the same manner as state, county and municipal taxes are collected. (R. S. c. 84, § 139. 1951, c. 343. 1957, c. 279, § 2.)

Effect of amendment.—The 1957 amendment repealed former section 134 and enacted the above section in lieu thereof.

Chapter 97.**Fire Departments and Fire Prevention.****Investigation of Fire Hazards and Causes of Fire.**

Sec. 22. Insurance commissioner upon complaint may inspect buildings; combustible or other dangerous matter removed; exitways.

Every hospital, sanatorium, convalescent home, nursing home, rest home or

other institution for the hospitalization or nursing care of human beings shall between sundown and sunrise maintain lighted exitways and all main exit doors shall be hung to swing outward. (R. S. c. 85, § 22, 1957, c. 37.)

Effect of amendment. — The 1957 amendment added the paragraph set out above as the second and last paragraph. As the first paragraph was not changed by the amendment, it is not set out.

Sec. 23. Buildings repaired or demolished; petition to enforce order.—If any person fails to comply with the order of any officer under the provisions of section 22 or with the decision of the insurance commissioner on review and within the time fixed, then such officer or the insurance commissioner may petition the supreme judicial court or the superior court in equity, in term time or vacation, in the county where the building or premises is located to enforce the order of said officer or the insurance commissioner. After notice and hearing the court shall make such order, judgment or decree as law and justice may require, or the court may authorize the town to cause such building or premises to be forthwith repaired, torn down or demolished and such materials removed and all dangerous conditions remedied, as the case may be, at the expense of the town in which such property is situated; and if the owner thereof, within 30 days after notice in writing of the amount of such expense, fails, neglects or refuses to repay said town the expense thereby incurred, a special tax may be assessed by the assessors against the land on which said building was located for the amount of such expenses, and such amount shall be included in the next annual warrant to the tax collector of said town for collection, and shall be collected in the same manner as other state, county and municipal taxes are collected. (R. S. c. 85, § 23, 1957, c. 7.)

Effect of amendment. — Prior to the 1957 amendment the officer or insurance commissioner, on review, caused the repair, demolition, etc. The petition relative to the enforcement of the order is new with the amendment, as is also the court order, judgment, etc.

Sec. 29. Insurance commissioner may incur expense for administration of fire preventive laws; director of state fire prevention; state fire inspectors.—The insurance commissioner may incur such expense and appoint a director of state fire prevention, an assistant director of state fire prevention and such supervising state fire inspectors, subject to the provisions of the personnel law, as may be necessary to carry out the provisions of all fire preventive and investigative laws, rules and regulations which he is by law empowered to administer. He may also incur reasonable expenses in educating the public in fire prevention and protection. The director of state fire prevention, the assistant director of state fire prevention and supervising state fire inspectors appointed under the provisions of this section shall carry out those functions which the commissioner may direct. State supervising fire inspectors shall have the same powers and duties throughout the several counties of the state as sheriffs have in their respective counties relating to fire prevention, arson and other burnings. Their power and duties shall include the duty to inquire into and arrest for violations of any of the provisions of this chapter, and to arrest for impersonation of or interference with fire inspectors. Every fire insurance company or association which does business or collects premiums or assessments in the state shall pay to the state tax assessor on the 1st day of May, annually, in addition to the taxes now imposed by law to be paid by such companies or associations, $\frac{1}{2}$ of 1% of the gross direct premiums for fire risks written in the state during the preceding calendar year, less the amount of all direct return premiums thereon and all dividends paid to policyholders on direct fire premiums during said calendar year. The state tax assessor shall pay over all receipts from such tax to the treasurer of state daily. Said funds shall be used solely to defray the expenses incurred by the insurance commissioner in administering all fire preventive and

investigative laws, rules and regulations and in educating the public in fire safety and are appropriated for such purposes.

(1955, c. 166. 1957, c. 16, § 1.)

Effect of amendments.—The 1955 amendment inserted the fourth and fifth sentences in the first paragraph. supervising” preceding the words “state fire inspectors.”

The 1957 amendment made this section applicable to an assistant director of state fire prevention and added the word “su-

As the second paragraph was not changed by the amendments, it is not set out.

Fire Prevention.

Sec. 36. Repealed by Public Laws 1955, c. 406, § 3.

Cross reference.—See c. 36, § 94-A, for present provisions re kindling fires on land of another.

Sec. 43-A. Repealed by Public Laws 1957, c. 397, § 47.

Cross reference.—See now § 45-A of transportation of explosives, which provisions are verbatim with former § 43-A.

Sec. 43-B. Installation of certain gas burning appliances to conform to standards.—No artificial, liquefied petroleum, manufactured or natural gas burning appliances of whatever type shall hereafter be installed unless such installation complies with regulations issued by the insurance commissioner. Such regulations shall be the applicable standards of National Fire Protection Association as amended from time to time and shall be issued in accordance with the procedure set forth in section 43. Such regulations may be amended or rescinded in accordance with said procedure and any person aggrieved thereby shall have all the rights granted to such a person by section 43.

This section shall not apply to those types of heating units such as Bunsen burners, torches, flares, urn burners, etc., which are not an integral part of the appliance.

Any violation of the regulations issued by the insurance commissioner hereunder shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both. (1957, c. 107.)

Editor's note.—The act inserting this section designated it as section 43-A of this chapter. However, since such number was preempted by P. L. 1955, c. 201, this section has been codified as section 43-B.

Sec. 45-A. Transportation of explosives.—As a condition to the granting of a permit or license to transport explosives, the insurance commissioner may require that the vehicle used in transportation of explosives may be accompanied by a representative of the commissioner, who shall be paid mileage by the person to whom the license is issued at the rate allowed to fire inspectors by the state for the use of his car. This condition is not applicable to loads of 4,000 pounds or less. Explosives referred to herein shall not include petroleum products. (1957, c. 397, § 48.)

Sec. 47-A. Construction permit, when required.—No person, firm or corporation shall construct a public building, schoolhouse, hospital, convalescent home, nursing home, theater or other place of public assembly to which admission is to be charged or any building to be state owned or operated, without first obtaining from the insurance commissioner a permit therefor. If any such building be damaged by fire or otherwise to the extent of 50% or more, no person, firm or corporation shall repair or reconstruct such building without first obtaining from the insurance commissioner a permit therefor. A request for a permit shall be accompanied by a true copy of the plans and specifications for

such construction or reconstruction. The commissioner shall issue a permit only if the plans comply with statutes and lawful regulations promulgated to reduce fire hazards. (1957, c. 397, § 50.)

Sec. 47-B. Penalty.—Whoever shall construct or reconstruct a public building, schoolhouse, hospital, convalescent home, nursing home, theater or other place of public assembly to which admission is to be charged or any building to be owned or operated by the state, without first obtaining the permit required by section 47-A, shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not more than \$100. (1957, c. 397, § 50.)

Secs. 48-A, 48-B. Repealed by Public Laws 1957, c. 397, § 49.

Cross reference.—See now §§ 47-A and 47-B of this chapter for provisions relative to permits for construction of public buildings, which sections are similar to former §§ 48-A and 48-B.

Sec. 51. Notice as to sufficiency of safeguards.—The insurance commissioner, municipal officers or chief of the fire department shall give written notice to the occupant of such building, also to the owner thereof if known, of their determination as to the sufficiency of said precautions and safeguards, specifying in said notice any alteration, addition or repair which they require. Sixty days are allowed for compliance with such notice and order. (R. S. c. 85, § 48. 1957, c. 16, § 2.)

Effect of amendment. — The 1957 amendment made this section applicable to the insurance commissioner.

Chapter 98.

Harbor Masters. Wharves and Fish Weirs.

Wharves and Fish Weirs.

Sec. 7. Application for license to build or extend wharves and fish weirs.—Any person intending to build or extend any wharf, fish weir or trap in tidewaters, within the limits of any city or town, may apply in writing to the municipal officers thereof, stating the location, limits and boundaries, as nearly as may be, of such intended erection or extension, and asking license therefor. Upon receiving such application, said officers shall give at least 3 days' public notice thereof in a newspaper, published in the town, or, if there be no newspaper published in the town, in a newspaper published within the county, and shall therein designate a day and time on which they will meet on or near the premises described, to examine the same and hear all parties interested. If, upon such examination and hearing of all parties interested, said officers decide that such erection or extension would not be an obstruction to navigation or injury to the rights of others, and determine to allow the same, they shall issue a license under their hands to the applicant, authorizing him to make such an erection or extension, and to maintain the same within the limits mentioned in such license; the applicant for license to build or extend a fish weir or trap as aforesaid shall first give bond to the town, with sureties, in the sum of \$500, conditioned that upon the termination of such license he shall remove all stakes and brush from the location therein described. Said municipal officers shall, within 10 days after the date of hearing, give written notice by registered mail of their decision to all parties interested. Any person aggrieved by the decision of the municipal officers, in either granting or refusing to grant a license as hereinbefore provided, may appeal to any justice of the superior court within 10 days after the mailing of such written notice. On receiving such an appeal, said justice in term time or in vacation shall set a time and place for hearing and give notice thereof in the same