

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Maine
REVISED STATUTES
1964

*Prepared Under the Supervision
of the
Committee on Revision of Statutes*

Being the Tenth Revision of the
Revised Statutes of the State
of Maine, 1964

Volume 4
Titles 21 to 25



Boston, Mass.
Boston Law Book Co.

Orford, N. H.
Equity Publishing Corporation

St. Paul, Minn.
West Publishing Co.

Text of Revised Statutes
Copyright © 1964
by
State of Maine

This is a historical version of the Maine Revised Statutes that may not reflect the current state of the law. For the most current version, go to:

<http://legislature.maine.gov/legis/statutes/>

CHAPTER 307
 PROTECTION OF HIGHWAYS

Subch.	Sec.
I. Guideposts	3301
II. Excavations	3351
III. Abolishment of Grade Crossings	3411
IV. Removal of Bars, Fences or Obstructions	3451

SUBCHAPTER I

GUIDEPOSTS

- Sec.
 3301. Guideposts at crossings.
 3302. Failure to maintain; damages.

§ 3301. Guideposts at crossings

Towns shall erect and maintain at all crossings of highways, and where one public highway enters another, guideposts and guideboards indicating the name of the next town on the route and of such other place as the municipal officers direct, with the number of miles thereto. Such guideposts and guideboards shall be of such reasonable form, height and design as the State Highway Commission may direct; and for any neglect hereof towns are subject to a fine of not less than \$10 nor more than \$50, to be recovered by complaint or indictment.

The District Court shall have jurisdiction concurrent with the Superior Court. Of all fines provided for by this section, and recovered on complaint, 1/2 shall go to the prosecutor and 1/2 to the county where the town committing the offense is situated.

R.S.1954, c. 96, § 104; 1959, c. 184; 1963, c. 402, § 121.

§ 3302. Failure to maintain; damages

If the municipal officers of any town unreasonably neglect to cause a guidepost to be erected in their town as provided by law, they forfeit \$5 for each month's neglect, to be recovered in a civil action by any person suing therefor. Plantations assessed in state or county taxes and their officers are under the same obligations and subject to the same penalties in these respects as towns.

R.S.1954, c. 96, § 105; 1961, c. 317, § 270.

SUBCHAPTER II

EXCAVATIONS

ARTICLE 1. CITIES

Sec.

- 3351. Notice to owners to connect.
- 3352. Emergency permits.
- 3353. Penalties.
- 3354. Record of permits kept; fees.
- 3355. Size of opening; filling; protection.
- 3356. Skill required.
- 3357. Relaying of pavement.
- 3358. Filing map of location.
- 3359. Duty of commissioner of public works.

ARTICLE 2. TOWNS

- 3381. Applications; repair.

ARTICLE 1. CITIES

§ 3351. Notice to owners to connect

Whenever the paving or repairing of any street or public highway shall have been ordered by the city government, the commissioner of public works or such officer as the city government may appoint shall duly serve upon owners of property abutting on such street or highway and upon all corporations, persons, firms and bridge or water districts occupying such street or highway, a notice directing such owners, corporations, persons, firms and bridge or water districts to make such sewer, water and conduit connections or other work as may be designated, within 60 days from date of such notice. At the expiration of the time fixed and after such street has been paved or repaired, no permit shall be granted to open such street for a period of 5 years except as otherwise provided.

R.S.1954, c. 96, § 112.

§ 3352. Emergency permits

If the owners, corporations, persons, firms or bridge or water districts comply with the notice given under section 3351, the commissioner of public works or such officer as the city government may appoint may, in the case of an emergency, grant and renew permits for digging or making excavations in the driveways

of any of the public highways of the city for the laying of gas, water, steam, oil, gasoline, petroleum or any other liquid, or ammonia pipes or conduits or for any other lawful purpose. Every permit shall specify the time prescribed by resolution or ordinance or, when no time is prescribed, the commissioner of public works or such officer as the city government may appoint shall specify a time during which said excavation may remain open, the place where such excavation may be made and the number of square yards of surface which may be disturbed.

R.S.1954, c. 96, § 113.

§ 3353. Penalties

Any person or persons, firm, corporation or bridge or water district, who shall dig or make an excavation in the driveway of any public highway without first obtaining such permit as provided for in section 3352 or who having obtained such permit shall disturb a greater area of surface than specified in such permit, may be punished by a fine of \$25 for each offense.

R.S.1954, c. 96, § 114.

§ 3354. Record of permits kept; fees

The commissioner of public works or such officer as the city government may appoint shall keep a record of all permits granted by him, work done by the city employees excepted. The applicant shall pay to the city treasurer for every permit for making an excavation within the driveways of any public highway paved with broken stone, concrete, bitulithic, granite block, brick, wood block, sheet asphalt or other pavements such fees as shall be established by the municipal officers, such fees not to exceed the reasonable cost of replacement of the excavated pavement. All such fees paid to the city treasurer shall be regularly accounted for by him in his report to the city government and shall constitute a special fund for the repaving of said cuts. When such cuts are repaired by the street department, the cost thereof shall be charged to said fund.

R.S.1954, c. 96, § 115.

§ 3355. Size of opening; filling; protection

It shall be unlawful for any person or persons, firm, corporation or bridge or water district, having the right of opening or making excavations within the driveways of public highways in the city, to leave open at any time any trench or excavation of a

greater length than 200 feet, except by permission of the officer granting such permit. Such person or persons, firm, corporation or bridge or water district shall fully and completely fill up such trench to the surface of the roadway before making any further trench or excavation. Such filling shall be puddled or rammed as the nature of the soil may require and shall be done and completed within the time designated in the permit for completing such trench or excavation. Any person or persons, firm, corporation or bridge or water district, failing to comply with the requirements or infringing on the prohibitions of this section, may be punished by a fine of \$50 for each offense. These requirements, prohibitions and penalties shall not apply to excavations in grading, building or repairing any of the public highways under the supervision of the city authorities. Such person or persons, firm, corporation or bridge or water district shall protect the paving on either side of the opening by the use of sheet piling or such other means as will prevent the escape of sand from underneath it. In determining the number of square yards of paving disturbed, there shall be included such area of paving adjoining the trench actually opened as will, in the opinion of the commissioner of public works or such officer as the city government may appoint, be required to be taken up and relaid by reason of such failure to properly protect the same.

R.S.1954, c. 96, § 116.

§ 3356. Skill required

If the work or any part thereof mentioned in sections 3351 to 3355 of repairing or filling the trenches or excavations shall be unskillfully or improperly done, the commissioner of public works or such officer as the city government may appoint may forthwith cause the same to be skillfully and properly done and shall keep an account of the expense thereof. In such case, such person or persons, firm, corporation or bridge or water district in default shall forfeit and pay a penalty equal to the whole of said expense incurred by said commissioner of public works or such officer as the city government may appoint, with an addition of 50%. Thereafter, upon the completion of the work and the determination of the costs thereof, the said commissioner of public works or such officer as the city government may appoint shall issue no further or new permit to any person or persons, firm, corporation or bridge or water district so in default until he shall receive, in addition to the fees provided, the amount of the penalty as by this section provided and determined.

R.S.1954, c. 96, § 117.

§ 3357. Relaying of pavement

When any excavation shall be made in any paved public highway and the trench shall have been filled as required by sections 3355 and 3356, the commissioner of public works or such officer as the city government may appoint shall relay the pavement. The cost thereof, including materials, labor and inspection, shall be paid out of any moneys in the city treasury standing to the credit of the regular fund for this purpose.

R.S.1954, c. 96, § 118.

§ 3358. Filing map of location

The party applying for a permit for said excavation under sections 3351 to 3358 must file a map or sketch with the commissioner of public works or such officer as the city government may appoint, showing the location and size of cuts to be made.

R.S.1954, c. 96, § 119.

§ 3359. Duty of commissioner of public works

When any excavation shall be made in any paved public highway and said pavement is repaired by a contractor or the commissioner of public works or such officer as the city government may appoint, the commissioner of public works or such officer as the city government may appoint, where said pavements are laid on a concrete base, shall have the concrete cut back on each side of the ditch a distance of 8 inches, and in issuing the permits for cutting the pavements this extra width shall be charged to the person applying for the same.

R.S.1954, c. 96, § 120.

ARTICLE 2. TOWNS

§ 3381. Applications; repair

Persons desiring to make an excavation near a street or public way may make written application to the municipal officers, setting forth its nature and extent and requesting their direction thereon. Such officers shall in writing direct whether it may or may not be made and, if permitted, the manner of making it. When so made, no liability is incurred thereby. If not so made, the person making it is liable to the town, in an action for all damages occasioned by the repair of the way or paid to persons injured by defects therein caused by such excavation.

R.S.1954, c. 96, § 106; 1961, c. 317, § 271.

SUBCHAPTER III

ABOLISHMENT OF GRADE CROSSINGS

Sec.

- 3411. Petition; damages; expenses; temporary ways.
- 3412. Tracks of more than one railroad.
- 3413. Order of Public Utilities Commission; appeals.
- 3414. Amount paid by State or railroad corporation limited.

§ 3411. Petition; damages; expenses; temporary ways

The State Highway Commission or the municipal officers of a city or town whenever a public way over which they have jurisdiction crosses or is crossed by a railroad, whether such crossing be at grade or otherwise, or any railroad company may file a petition in writing with the Public Utilities Commission alleging that safety or public convenience either to the traveling public or in the operation of the railroad requires the abolishment of or the reconstruction of or an alteration of such crossing or its approaches; or a change in the method of crossing a public way; or the closing of a crossing and the substitution of another therefor; or the removal of obstructions to the sight at such crossing, and praying that the same may be ordered. Whereupon said commission shall appoint a time and place for a hearing thereon after notice of not less than 10 days to the petitioners, the State Highway Commission, the railroad corporation, the municipality in which such crossing is situated, the owners or occupants of the land adjoining such crossing or adjoining that part of way to be changed in grade, and to the Attorney General whose duty it shall be, by himself or through the county attorney of the county wherein the crossing is located to represent the interests of the State at such hearing. After such notice and hearing the commission shall determine what abolishment, reconstruction, alteration, change or removal, if any, shall be made to insure safety or public convenience and by whom such abolishment, reconstruction, alteration, change or removal shall be made. The jurisdiction and authority of said commission as conferred by this section shall exist whether the change or alteration in such crossing is within or without the located limits of a public way. To facilitate such abolishment, reconstruction, alterations, changes or removals, highways and other ways may be raised or lowered or the courses of the same may be altered to permit a railroad to

pass at the side thereof. For the purposes aforesaid land may be taken and damages awarded as provided for laying out highways. The commission shall determine how much land may be taken and shall fix the damages sustained by any person whose land is taken and the special damages which the owner of land adjoining the public way may sustain by reason of any change in the grade of such way. Appeal from any decision, order or award of the commission may be had as provided in section 3413. The commission shall apportion the expenses pertaining thereto and damages as follows: If the way involved is a state highway, 50% to the State Highway Commission and 50% to the corporation operating the railroad; if the way involved is a state aid highway, 50% to the State Highway Commission and the municipality or municipalities in which the way is located, the pro rata share being determined by the percentage of state aid granted on the way involved and 50% to the corporation operating the railroad; if the way involved is a town way, 35% to the State, to be paid out of the General Fund, 15% to the town, or in cases under the last paragraph of this section, 15% to the county commissioners of the county, in which the way is located and over which the county commissioners have jurisdiction, and 50% to the corporation operating the railroad, provided that the Public Utilities Commission may vary the aforesaid percentages of expenses and damages as it may deem proper after due consideration of the relative benefits to be derived from such abolishment, alteration or reconstruction, and provided that the amount ordered to be paid by the corporation operating the railroad shall not in any event exceed 50% of said expenses and damages. The commission may approve agreements made by the corporation or other parties interested, including the State, acting by and through the State Highway Commission, in respect to the work, or varying the above percentages provided the amount to be paid by the town by agreement shall not exceed the 15% herein specified unless the town shall otherwise vote. As to any elimination or alteration made under this section, the commission may determine what work fairly and properly should be regarded as highway construction.

The commission may make such order relative to the maintenance of crossings at grade or otherwise as it may deem necessary, and may determine whether such expense shall be borne by such railroad corporation, by the municipality in which any such crossing is located or by the State acting by or through the State Highway Commission; or said commission may apportion such expense equitably between such railroad corporation, such mu-

municipality and the State acting by or through the State Highway Commission.

While the use of any way is obstructed in carrying out the foregoing provisions of this section, such temporary way shall be provided as the commission may order. The commission shall not make any order upon any petition filed under this section until they are satisfied, by investigation or otherwise, that the financial condition of the corporation operating the railroad in question will enable said corporation to comply with such order, and that the probable benefit to the public will warrant said order and the probable expense resulting therefrom, and that said order can be complied with without exceeding the state appropriation available therefor.

The county commissioners shall have the same right of petition under this section, with respect to roads in unorganized places laid out by them under section 4001, as have municipal officers of a municipality under the foregoing provisions of this section. In case a petition is filed by them, all parties interested in the subject matter of the petition shall be notified by the Public Utilities Commission of the filing of such petition and given opportunity to appear and be heard thereon.

R.S.1954, c. 96, § 51; 1957, c. 356, § 2.

§ 3412. Tracks of more than one railroad

Whenever the Public Utilities Commission, upon an application or petition brought under section 3411, finds that a public way crosses or is crossed by tracks of more than one railroad and the tracks of such railroads are so near together that public safety or convenience requires the work of abolishment, reconstruction, alteration, change or removal to be done under and in compliance with one order, they shall give notice to all the corporations operating such railroads to appear before them and be heard upon the application. After such notice and hearing said commission shall determine what abolishment, reconstruction, alteration, change or removal, if any, of said crossing shall be made and shall determine by whom such work shall be done and shall apportion the percentage of expense to be borne by the railroad corporations between such corporations in such manner as said commission shall deem just and proper.

R.S.1954, c. 96, § 52; 1957, c. 356, § 3.

§ 3413. Order of Public Utilities Commission; appeals

The order of the Public Utilities Commission relating to any matter upon which they may act under the authority of sections 3411 and 3412 shall be communicated in writing to the petitioners and to all persons to whom notice of the hearing on such petition was given. Any person aggrieved by such order, who was a party to such proceedings, may appeal from such order to the Superior Court within and for the county in which such way or crossing is located in the manner now provided by law for appeals from the findings of the Public Utilities Commission. Any person aggrieved by the decision or judgment of the Public Utilities Commission in relation to damages for land taken for the purposes of sections 3411 and 3412 may appeal from said decision in the manner provided in Title 35, section 686.

R.S.1954, c. 96, § 53.

§ 3414. Amount paid by State or railroad corporation limited

The amount to be paid in any year by the Public Utilities Commission acting for the State under sections 3411 to 3413, except as herein provided, shall not exceed \$25,000 for work in connection with town ways, and said amount shall be appropriated from the General Fund for each fiscal year. The said appropriation shall be cumulative and any part of said sum of \$25,000 not expended during the year for which it is appropriated shall be added, at the close of said year, to the sums subsequently appropriated and may be expended in any subsequent year or years. No railroad corporation shall be required to expend, under sections 3411 to 3413, more than \$110,000 during any period of 3 consecutive calendar years.

R.S.1954, c. 96, § 54; 1957, c. 356, § 4.

SUBCHAPTER IV

REMOVAL OF BARS, FENCES OR OBSTRUCTIONS

Sec.

- 3451. Gates, bars and fences; removal permitted.
- 3452. Removal of obstructions.
- 3453. Nuisances; payment of prosecution expense.
- 3454. Trees near railroad crossings.

§ 3451. Gates, bars and fences; removal permitted

Any person may take down and remove gates, bars or fences upon or across any highway or town way, unless they are there to prevent the spread of infectious disease or were placed there by license of the county commissioners or municipal officers of the town. To those granting such license, a person aggrieved by such removal may apply and, on proof that such erections were made by their license, they may order them to be replaced by the person who removed them.

R.S.1954, c. 96, § 100.

§ 3452. Removal of obstructions

When logs, lumber or other obstructions without necessity are left on such ways described in section 3451, any road commissioner or municipal officer may remove them, and he shall not be liable for loss or damage thereof unless occasioned by design or gross negligence. When no one appears to pay the expense and trouble of removal, he may sell at public auction so much thereof as is sufficient for the purpose, with charges of sale, posting notice of the time and place of sale in 2 public places in the town 7 days prior thereto. The person through whose neglect or willful default they were left may be prosecuted as for a nuisance.

R.S.1954, c. 96, § 101.

§ 3453. Nuisances; payment of prosecution expense

When anything has been adjudged to be a nuisance and to be abated under section 3452, and the materials of which it is composed do not on sale produce sufficient to pay the charges of prosecution, removal and sale, the court may order the deficiency to be raised by levy on the personal property of the person convicted of causing such nuisance.

R.S.1954, c. 96, § 102.

§ 3454. Trees near railroad crossings

Whenever the State Highway Commission deems that trees, bushes or other encroachments within the limits of a public way obstruct the view at railroad crossings or where one public way enters another and thereby renders such way dangerous to travelers, it shall cause the removal of such obstructions.

R.S.1954, c. 96, § 108.