

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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**Legislative Document**

**No. 1046**

H. P. 780

House of Representatives, February 23, 1971

Referred to Committee on Legal Affairs. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Bustin of Augusta.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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**AN ACT to Permit Municipalities to Promote Highway Safety by Adopting  
the Model Traffic Ordinance.**

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

**Sec. 1. R. S., T. 12, § 1972, amended.** The 2nd sentence of the 4th paragraph of section 1972 of Title 12 of the Revised Statutes, as enacted by section 1 of chapter 414 of the public laws of 1969, is amended to read as follows:

No municipality or political subdivision of this State may adopt any ordinance, law or regulation dealing with the ~~operation or~~ registration of snowmobiles or any ~~other subject matter of this chapter~~ ordinance, law or regulation which is less stringent than any provision contained in this chapter.

**Sec. 2. R. S., T. 17, § 2952, amended.** The first paragraph of section 2952 of Title 17 of the Revised Statutes, is amended by adding a new sentence at the end to read as follows:

Any willful failure or refusal to comply with any lawful order or direction of any officer shall be deemed to be a willful interference, obstruction or hindrance of such officer.

**Sec. 3. R. S., T. 23, § 1351, amended.** Section 1351 of Title 23 of the Revised Statutes is amended by inserting, before the last paragraph, a new paragraph to read as follows:

Whenever official traffic signals, devices and signs are placed substantially in conformity with this Title or a municipal ordinance, such signals, devices and signs shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

Sec. 4. R. S., T. 23, § 1351, amended. Section 1351 of Title 23 of the Revised Statutes is amended by adding a new paragraph at the end to read as follows:

All traffic control devices erected by municipal officers or their agents shall conform to the manual and specifications adopted by the State Highway Commission for traffic control devices erected on highways under the jurisdiction of the commission.

Sec. 5. R. S., T. 29, § 891, amended. Section 891 of Title 29 of the Revised Statutes, as amended by chapter 311 of the public laws of 1965, is further amended by adding a new paragraph at the end to read as follows:

Nothing in this section shall preclude municipal officers from enacting ordinances requiring accident reports to be submitted to the municipality by the driver of a vehicle involved in an accident or the owner of said vehicle. No person except public officials in their official capacities shall have access to said reports.

Sec. 6. R. S., T. 29, § 905, amended. Section 905 of Title 29 of the Revised Statutes, as enacted by chapter 56 of the public laws of 1967, is amended to read as follows:

#### § 905. Emergency rule by police officer

Whenever a police officer or fire department official shall deem it advisable, during a fire or at the time of any accident or special emergency and only for such a period of time as is necessitated thereby for the public safety or convenience, temporarily to close any way or part thereof to vehicular traffic, or to vehicles of a certain description, or to divert the traffic thereof, or to divert or break a course of pedestrian traffic, or to direct any traffic as necessitated by the conditions, such official shall have the power and authority to do so.

Sec. 7. R. S., T. 29, § 1111, amended. The last paragraph of section 1111 of Title 29 of the Revised Statutes, as repealed and replaced by chapter 174 of the public laws of 1967, is repealed.

Sec. 8. R. S., T. 29, § 1111-A, additional. Title 29 of the Revised Statutes is amended by adding a new section 1111-A, to read as follows:

#### § 1111-A. Impounding vehicles

Any officer may impound any vehicle parked or disabled on any public way or publicly owned property so as to interfere with or hinder the removal of snow or the normal movement of traffic and cause it to be removed and placed in a suitable parking place, at the expense of the person in whose name the vehicle is registered. Where any officer has reason to believe that any vehicle has been abandoned on any way or publicly owned property, said officer may cause the vehicle to be removed and placed in a suitable parking place at the expense of the person in whose name the vehicle is registered. The person who incurred the expense of such removal shall by registered mail notify said registered owner, or holder of a security interest thereon if his identity can reasonably be ascertained, of the place where the vehicle may be reclaimed.

If the owner, or holder of a security interest thereon, has not reclaimed the vehicle within 60 days from the date of removal, the vehicle shall be deemed to have been abandoned and shall become the property of the person who incurred the expense of removal. If he has not ascertained the identity of the owner, or holder of a security interest thereon, he shall cause notice of his claim to the vehicle to be published once a week for 2 successive weeks in a newspaper of general circulation in the county where the vehicle was found and a newspaper of general circulation in the county where the vehicle is located. Neither the State nor the political subdivisions thereof nor the officer shall be liable for any damage that may be caused by removal under this section. This section shall not prohibit municipalities from enacting ordinances providing for the impounding of vehicles and the disposition thereof.

Sec. 9. R. S., T. 29, § 1961, amended. Section 1961 of Title 29 of the Revised Statutes, as amended by sections 24 and 25 of chapter 245 of the public laws of 1967, is further amended by adding at the end a new paragraph to read as follows:

This subchapter shall not preclude such reasonable regulations of bicycles, coasters, roller skates, sleds, toy vehicles, motorized toys and similar conveyances as the municipal officers may enact by ordinance.

Sec. 10. R. S., T. 30, § 2151, repealed and replaced. Section 2151 of Title 30 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 2151. Police power ordinances

1. General. Any municipality may enact any ordinance to promote the general welfare and happiness, to prevent disease and promote health, to provide for the public safety and convenience except an ordinance requiring the exercise of a power which is denied by general law or by the Constitution.

2. Public ways.

A. Enacting authority. The municipal officers shall have exclusive power to enact all ordinances regulating the use and protection of public ways and the protection of users of ways.

B. Procedure. Seven days' notice of the meeting at which said ordinances are to be proposed shall be given in the same manner that notice is given of proposed ordinances to be adopted by the town meeting or general legislative body.

C. Parking meters.

(1) The revenue collected from parking meters shall be used to purchase, maintain and police the meters; to construct and maintain public ways; to acquire, construct, maintain and operate public parking areas; and for no other purpose.

(2) Any motor vehicle registered and operated by a handicapped person shall be exempt from any parking meter fare when said vehicle prop-

erly displays a tag or placard issued in accordance with Title 29, section 252 and shall be permitted to park a length of time which is not to exceed twice the time limit otherwise applicable.

D. Public telephones. The municipal officers may contract for the placing of public pedestal telephones or public telephone booths along the public ways within the compact or built-up section of the municipality as defined in Title 23 for a period not to exceed 3 years. Such telephones and booths are not defects in public ways.

E. CATV systems. The municipal officers may contract on such terms and conditions as are in the best interests of the municipality, including the grant of an exclusive franchise for a period not to exceed 10 years, for the placing and maintenance of community antennae television systems and appurtenances or posts thereof, along public ways and including contracts with operators of such systems which receive the services of television signal transmission offered by any public utilities using public ways for such transmission. No public utility shall be required to contract with the municipal officers pursuant to this paragraph. Systems located in accordance with any ordinance or contract are not defects in public ways. The municipal officers may establish fees to recover administrative costs related to such ordinances and contracts, provided that no application fee shall exceed \$25.

The exclusions contained in the repealed section 2151, subsection 2, paragraph H, shall continue until July 1, 1977.

3. Technical codes. Where a municipality adopts a housing, building, sanitation, fire, mobile home park or other technical code, said municipality shall provide by ordinance for appeals from acts or refusals to act of the enforcement official to a local appellate body. The local appellate body may permit a variance only where strict application of the ordinance or a provision thereof, to a person and his property would amount to an unconstitutional taking. Appeals from the local appellate body shall be in accordance with the Maine Rules of Civil Procedure, rule 80B. The court may, after consideration, affirm, modify or reverse any decision based upon an erroneous ruling or finding of law provided that decisions of the local appellate body upon all questions of fact shall, in the absence of fraud, be final.

Any structure, equipment or use existing in violation of a technical code is a nuisance.

Municipalities which have adopted ordinances which do not contain enforcement provisions shall be governed by the appropriate provisions of the repealed section 2151, subsection 4, until such ordinances are amended to include enforcement provisions.

4. Enforcement generally. Municipalities may enact any reasonable provision for the purpose of enforcing any ordinance provided that fines imposed shall not exceed \$100 plus costs. All fines shall be recovered on complaint to the use of the municipality.

**The municipal officers are the licensing authority of a municipality, unless otherwise provided.**

#### STATEMENT OF FACT

Nonuniform traffic laws and ordinances are a source of inconvenience and a hazard to the users of the public ways.

Recognition of the necessity for sound, uniform traffic laws is a vital part of any highway safety program.

The Model Traffic Ordinance of the National Committee on Uniform Traffic Laws and Ordinances if enacted by Maine municipalities would provide such uniformity.

Specific enabling legislation is unnecessary because of the constitutional grant of Home Rule powers to all municipalities.

Specific statutes currently in effect actually limit the powers of municipalities to enact the provisions of the Model Traffic Ordinance.

Specific statutes currently in effect require the town meeting to enact some provisions of the Model Traffic Ordinance and the municipal officers to enact others.

There is a need for a simple and efficient means by which Maine municipalities may enact the provisions of said Model Traffic Ordinance.

It is the intent of this bill to enable Maine municipalities to adopt those provisions of said Model Traffic Ordinance as may be suited to their needs.