

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 1644

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H. P. 1269

House of Representatives, March 27, 1973

On motion of Mr. Kelleher of Bangor, referred to the Committee on Public Utilities. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Kelleher of Bangor

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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AN ACT Relating to Location of Certain Facilities in Public Ways.

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

Sec. 1. R. S., T. 35, § 2483, sub-§ 3, repealed and replaced. Subsection 3 of section 2483 of Title 35 of the Revised Statutes, as last repealed and replaced by section 6 of chapter 262 of the public laws of 1967, and as amended by section 22 of chapter 593 of the public laws of 1971, is repealed and the following enacted in place thereof:

3. Notice and hearing.

A. A copy of any application filed with the Department of Transportation, Bureau of Highways, shall within 7 days of the time of filing be sent to the town or city clerk of each municipality in which the facilities are located, or to the clerk of the county commissioners in the case of facilities within a plantation or unorganized township.

B. The applicant may, upon filing its application or within 7 days of such filing, or the licensing authority may, require applicant to give public notice of the application by publishing the text of the same once in a newspaper circulated in the municipality or municipalities encompassing the limits of the proposed location if:

(1) The licensing authority has received written notice of objection to the proposed location from any person, firm or corporation claiming to be adversely affected by the proposed location described in the application by reason of owning property adjacent to the way in which the facilities are to be located or otherwise deems publication desirable and so notifies applicant within 7 days of the filing of an application with such licensing authority;

(2) With respect to any application filed with the Department of Transportation, Bureau of Highways, said department shall, within 14 days of filing a copy of such application pursuant to paragraph A, receive written notice of objection to the proposed location from the municipal officers of the municipality in which the facilities are located or from the county commissioners in the case of facilities within a plantation or unorganized township.

C. If, either prior to publication or within 14 days thereafter, the licensing authority shall receive written notice of objection from any person, firm or corporation described in paragraph B, subparagraph (1) or from either the municipal officers or county commissioners described in paragraph B, subparagraph (2), the licensing authority shall fix a time and place for hearing not more than 30 days after publication and 7 days' notice of hearing shall be given by registered or certified mail to the applicant and any person, firm or corporation filing lawful objections. At the hearing, the applicants shall first prove public notice of the application. Adjudication by the licensing authority on validity of the applicant's notice shall be final and conclusive. If the licensing authority finds either its notice of hearing or the applicant's notice of publication defective, it may fix a new time and place for hearing and shall order appropriate notice to be published and shall adjourn the hearing to meet at the time and place fixed in its order, otherwise it shall proceed with the hearing.

D. The licensing authority may, without publication or hearing, issue a permit under this section with respect to any application for a proposed location for which no publication is required under paragraph B and any such permit shall have the same force and effect as any other permit issued under this section.

Sec. 2. R. S., T. 35, § 2483, sub-§ 4-A, additional. Section 2483 of Title 35 of the Revised Statutes, as last repealed and replaced by section 6 of chapter 262 of the public laws of 1967, and as amended by section 22 of chapter 593 of the public laws of 1971, is further amended by adding a new subsection 4-A, to read as follows:

4-A. Failure of licensing authority to act. The failure of the licensing authority to grant or deny any permit for which application is made shall be deemed to constitute the issuance of such location permit, provided that such failure to grant or deny shall continue for a period of 60 days after the filing of application for such permit.

Any permit deemed issued under this subsection shall be of the same force and effect as any written location permit issued under this section.

Sec. 3. R. S., T. 35, § 2483, sub-§§ 4 and 5, repealed. Subsections 4 and 5 of section 2483 of Title 35 of the Revised Statutes, as last repealed and replaced by section 6 of chapter 262 of the public laws of 1967, are repealed.

Sec. 4. R. S., T. 35, § 2483, sub-§ 20, repealed and replaced. Subsection 20 of section 2483 of Title 35 of the Revised Statutes, as last repealed and replaced by section 6 of chapter 262 of the public laws of 1967, is repealed and the following enacted in place thereof:

20. **Legal effect.** Facilities and appurtenances heretofore installed, maintained and now in use within any public way together with any facilities and appurtenances hereafter installed and maintained in accordance with this section shall be deemed legal structures and the party maintaining the same shall be liable on account thereof only for acts of carelessness or negligence in the erection or maintenance of the same.

#### STATEMENT OF FACT

The purpose of this bill is to facilitate administrative licensing procedures before municipalities and other licensing authorities on routine permit applications.