

# MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 1962

6  
7 S.P. 716

In Senate, January 19, 1984

8 Approved for introduction by the Legislative Council pursuant to Joint  
9 Rule 26.

10 Reference to the Committee on Public Utilities is suggested and ordered  
printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Violette of Aroostook.

11 Cosponsors: Representative Soule of Westport and Representative  
Robinson of Auburn.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FOUR  
16

17 AN ACT Relating to the Placement of Poles  
18 by Utilities.  
19

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

22 Sec. 1. 35 MRSA §2355 is amended to read:

23 §2355. Travel and trees not to be interfered with

24 Every such corporation shall so construct and  
25 maintain its poles, lines, fixtures and appliances  
26 in, along, over, under and across the roads and  
27 streets in which it may obtain locations, and across  
28 or under any of the waters upon and along its route  
29 or routes, as not to incommode the use of such roads  
30 and streets for public travel or interrupt the navi-  
31 gation of such waters. No such corporation shall in-  
32 jure, cut down or destroy any fruit tree or any tree  
33 or shrub standing and growing for the purposes of  
34 shade or ornament. Chapters 171 to 179 shall not be

1 so construed as to authorize the construction of any  
2 bridge across any of the waters of the State. This  
3 law does not create a private cause of action.

4 Sec. 2. 35 MRSA §2483, sub-§6, as repealed and  
5 replaced by PL 1967, c. 262, §6, is amended to read:

6 7. Liability. ~~Installation~~ Location,  
7 installation and maintenance of the facility and its  
8 appurtenances in accordance with the terms of the  
9 permit and the provisions of chapters 171 to 179  
10 shall relieve the applicant of liability to others by  
11 reason of location, failure to relocate or the  
12 condition of its facility and appurtenances and no  
13 person ~~shall~~ may have any right of recovery under the  
14 authority of Title 23, section 3655, or otherwise, by  
15 reason of such location, ~~installation and maintenance~~  
16 failure to relocate or condition, and the applicant  
17 will be liable only for acts of carelessness or neg-  
18 ligence in the installation or maintenance which may  
19 occur during the actual performance of installation  
20 or maintenance of the same.

21 Sec. 3. 35 MRSA §2483, sub-§20, ¶A, as repealed  
22 and replaced by PL 1973, c. 447, §4, is amended to  
23 read:

24 A. Facilities and appurtenances heretofore in-  
25 stalled, maintained and now in use within any  
26 public way, together with any facilities and ap-  
27 purtenances hereafter installed and maintained in  
28 accordance with this section, shall be deemed le-  
29 gal structures and the party maintaining the same  
30 shall be liable on account thereof only for acts  
31 of carelessness or negligence in the erection or  
32 maintenance of which may occur during the actual  
33 performance of installing or maintaining the same  
34 and not for the location, failure to relocate or  
35 condition of the facilities and appurtenances.

36 Sec. 4. 35 MRSA §2494 is enacted to read:

37 §2494. Private causes of action limited

38 Location, condition, installation and maintenance  
39 of electrical supply and communication lines, poles,  
40 stations and equipment by a utility shall be in com-

1 pliance with the most recent edition or editions of  
2 the United States Electrical Safety Code, published  
3 by the American National Standards Institute, in ef-  
4 fect at the time of the location, installation and  
5 maintenance. Notwithstanding the United States Elec-  
6 trical Safety Code, Section 211, compliance with the  
7 other sections of the Code shall fully satisfy and  
8 shall be an absolute bar to any private cause of ac-  
9 tion arising out of the utility's requirement to  
10 safely install and maintain wires, poles and equip-  
11 ment, except in cases of willful and malicious fail-  
12 ure to safely install and maintain wires, poles and  
13 equipment.

14 STATEMENT OF FACT

15 The purpose of this bill is to address the prob-  
16 lem of the rising cost to ratepayers of defending  
17 frivolous law suits against utilities. Specifically,  
18 the bill protects utilities and their ratepayers so  
19 long as the placement of utility poles is done pursu-  
20 ant to approval of appropriate authorities. The bill  
21 also protects utilities and their ratepayers so long  
22 as utilities follow the United States Electrical  
23 Safety Code.

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