

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 1495

H.P. 1073

House of Representatives, May 4, 1989

Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative CARTER of Winslow.

Cosponsored by Representative DUFFY of Bangor, Representative JOSEPH of Waterville and Senator MATTHEWS of Kennebec.

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STATE OF MAINE

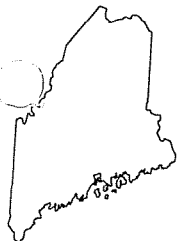
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

---

An Act to Continue Recodification of the Railroad Laws.

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

3 Sec. 1. 23 MRSA c. 301, sub-c. V, as amended, is repealed.

5 Sec. 2. 23 MRSA c. 307, sub-c. III, as amended, is repealed.

7 Sec. 3. 23 MRSA §3454, as amended by PL 1971, c. 593, §22, is  
9 repealed.

11 Sec. 4. 23 MRSA §4207, as amended by PL 1987, c. 534, Pt. B,  
§§13 and 23, is repealed.

13 Sec. 5. 23 MRSA §4207-A, as enacted by PL 1979, c. 650, is  
15 repealed.

17 Sec. 6. 23 MRSA c. 410, sub-cc. II and III, as amended, are  
repealed.

19 Sec. 7. 23 MRSA c. 615, as enacted by PL 1987, c. 748; c. 792,  
21 §2; and c. 794, §1, is repealed and the following enacted in its  
place:

23 CHAPTER 615

25 STATE RAILROAD PRESERVATION AND ASSISTANCE ACT

27 §7101. Short title

29 This chapter shall be known and may be cited as the "State  
31 Railroad Preservation and Assistance Act."

33 §7102. Findings of fact

35 The Legislature makes a finding of fact that a viable and  
37 efficient rail transportation system is necessary to the economic  
well-being of the State.

39 The Legislature makes a further finding of fact that the  
41 State must take active steps to protect and promote rail  
transportation in order to further the general welfare.

43 §7103. Railroad Preservation and Assistance Fund

45 1. Fund created. There is created the Railroad  
47 Preservation and Assistance Fund which shall receive revenue  
derived from the tax levied pursuant to Title 36, chapter 361,  
49 except that no more than \$150,000 from this revenue shall be  
deposited in the fund in any fiscal year. The fund shall also be  
eligible to receive grants from other sources. The Treasurer of  
State shall receive and deposit all revenue to the fund in a

1 separate account to be known as the Railroad Preservation and  
2 Assistance Fund.

3  
4 2. Legislative approval of budget. Expenditures from the  
5 Railroad Preservation and Assistance Fund are subject to  
6 legislative approval in the same manner as appropriations from  
7 the General Fund.

8  
9 3. Use of funds. Subject to the Civil Service Law, money  
10 in the fund may be expended to hire employees and to defray other  
11 costs authorized by law for the Department of Transportation,  
12 Bureau of Transportation Services as follows:

13  
14 A. To conduct studies relating to the economic impact of  
15 rail transportation on the State including cost-benefit  
16 analyses associated with the possible retention or loss of  
17 individual rail lines;

18  
19 B. To conduct periodic condition surveys of rail track and  
20 other related facilities; and

21  
22 C. To acquire, lease and maintain rail lines when these  
23 actions are determined to be in the best interest of the  
24 State.

25  
26 4. Balance carried forward. Any balance in the fund in  
27 excess of that required for the purposes of this section shall  
28 not lapse, but shall be carried forward. Any allocation of this  
29 balance shall be identified as to source.

30  
31 5. Other fund sources. The fund may accept funds from the  
32 Federal Rail Administration in carrying out the provisions of  
33 this chapter.

34 §7104. Major modifications in rail service

35  
36  
37 1. Notice required. Any railroad which files a petition or  
38 proposal with the United States Interstate Commerce Commission  
39 concerning the sale, merger, abandonment or embargo of any  
40 railroad line in this State shall concurrently file a copy of the  
41 petition or proposal with the department. Any person,  
42 corporation or other entity which proposes to acquire or  
43 construct an additional railroad line in this State or provide  
44 rail transportation over or by means of an extended or additional  
45 railroad line and which files a petition or proposal with the  
46 United States Interstate Commerce Commission to do so shall  
47 concurrently file a copy of the petition or proposal with the  
48 department, and shall include information on the fitness and  
49 ability, including management, financial condition and employee  
50 complement, of the entity proposing to provide the rail service  
51 to provide safe, efficient and reliable rail service.

1  
2. Review; report. The department shall review any  
3 petition or proposal for major modification to the rail service  
4 in the State filed under subsection 1. On the conclusion of its  
5 review, the department shall report to the Governor and the  
6 Legislature if the proposal has a major effect on rail service in  
7 the State.

9  
3. Failure to notify. Any entity which fails to file  
10 notice with the department required by this section, shall not be  
11 approved to receive financial assistance from the State, as  
12 defined in section 7320, subsection 1, for one year next  
13 following the date the notice is required to be filed.

15 §7105. Railroads; lease or purchase of certain railroad lines by  
16 the Department of Transportation

17  
1. Definition of term "railroad line." Unless otherwise  
18 defined in this section, the term railroad line or lines shall be  
19 construed to mean the right-of-way, track, track appurtenances,  
20 ties, bridges, station houses and other appurtenant structures.

23  
2. Temporary lease and contracts for continuation of  
24 service on certain railroad lines. The Department of  
25 Transportation may enter into a contract with a railroad and its  
26 duly constituted officers, trustees or owners for the temporary  
27 lease of railroad lines or any part of a railroad line, located  
28 in the State, owned or otherwise lawfully controlled by the  
29 railroad for which abandonment has been authorized by a duly  
30 constituted authority, state or federal, when in the judgment of  
31 the Department of Transportation the preservation of the railroad  
32 line or lines is necessary to protect the public interest. When  
33 in the judgment of the Department of Transportation the economic  
34 well-being of this State, or a significant portion of the State,  
35 will be impaired by the discontinuance of rail service over the  
36 railroad line or lines that have been authorized for abandonment,  
37 the Department of Transportation may contract for the continued  
38 operation of rail service over any line or lines on a temporary  
39 basis under rules to be prescribed by the department after notice  
40 and hearing at which interested parties have an opportunity to  
41 express their views, and on terms and conditions as the  
42 Department of Transportation and the owner of the railroad may  
43 agree. The leases authorized may be made to cover the  
44 right-of-way only or may cover the line intact, including the  
45 track, track appurtenances, ties, bridges, station houses and  
46 other necessary structures. Contracts for continuation of rail  
47 service may be made to include the lease of the line and may  
48 provide for service on less than a daily basis. The department  
49 shall report to the next session of the Legislature with a  
50 recommendation for disposition of the leased or subsidized lines.  
51

1           3. Purchase or lease of certain railroad lines. The  
2           Department of Transportation may purchase or lease, under such  
3           terms and conditions as the department and the owners of the  
4           railroad may agree and hold for the State, railroad lines or any  
5           part of a railroad line located in the State, owned or otherwise  
6           lawfully controlled by the railroad when, in the judgment of the  
7           department, the purchase or lease of those railroad lines is  
8           necessary to protect the public interest. The department may  
9           purchase or lease the right-of-way only of any line or lines  
10           which it shall hold and manage for future transportation use or  
11           it may purchase or lease the railroad line intact, including  
12           track, track appurtenances, ties, bridges, station houses and  
13           other necessary structures.

14           A. On the abandonment of service along all or a portion of  
15           a railroad line, the department shall be given the first  
16           option to lease or purchase, on just and reasonable terms,  
17           the railroad's rights-of-way along the abandoned portion of  
18           the line. In the event that a lease is negotiated for the  
19           rights-of-way, the department shall consult with municipal  
20           officials and officers in the municipalities affected by the  
21           abandonment of service along the line to determine the need  
22           for preserving the rights-of-way along the abandoned portion  
23           of the line for rail transportation. If the department finds  
24           that the welfare of the State would be significantly and  
25           adversely affected by the loss of the line for railroad  
26           transportation purposes, the department shall seek to  
27           negotiate the purchase of the abandoned portion of the line.  
28           In making this determination, the department shall consider,  
29           among other criteria deemed significant by the department,  
30           future economic development activities and opportunities in  
31           the area served by the abandoned railroad service. In  
32           addition, the department shall consult with the Department  
33           of Economic and Community Development and the State Planning  
34           Office in making the determination required in this section.

35           The department shall, in good faith, seek to lease the  
36           railroad rights-of-way until it finds that the preservation  
37           of the rights-of-way is not necessary for the welfare of the  
38           State or until the voters of the State approve or  
39           disapprove, at a statewide election, the issue of bonds to  
40           purchase the rights-of-way along the abandoned portion of  
41           the line.

42           Nothing in this paragraph may require the department to  
43           lease or purchase the railroad rights-of-way to an entire  
44           railroad line or any portion of the line for which railroad  
45           service has been abandoned if the railroad corporation owner  
46           does not intend to sell, lease or in any other way dispose  
47           of the rights-of-way by which railroad service could be  
48           of the rights-of-way by which railroad service could be  
49           of the rights-of-way by which railroad service could be

1 easily restored along the abandoned service portion of the  
2 line.

3  
4 B. The abandonment of service shall not mean or infer that  
5 the rights-of-way on a railroad line have been abandoned. In  
6 the event that the railroad, any person, firm or  
7 corporation, or any agency shows interest in the eventual  
8 restoration of service, the rights-of-way shall not be  
9 deemed abandoned.

11 Since it is in the best interest of the State to retain the  
12 rights-of-way intact, this paragraph shall apply to all  
13 existing and future rights-of-way created prior to or  
14 following the effective date of this section, as amended.

15  
16 C. Whenever the department acquires railroad lines, to hold  
17 and to manage for future railroad uses, those lines shall  
18 not be considered abandoned for railroad purposes. The  
19 commissioner shall periodically review the need to hold  
20 those lines for future railroad uses.

21  
22 4. Cooperation, acceptance and use of federal, state, local  
23 or private funds. The Department of Transportation may accept,  
24 for the State, federal funds that may be apportioned under the  
25 United States Regional Rail Reorganization Act of 1973, Public  
26 Law 93-236 as amended and supplemented, other federal funds,  
27 state funds and such municipal funds and private funds as may be  
28 available; to act for the State, in conjunction with the  
29 representatives of the Federal Government, municipal governments  
30 and private groups having a direct interest, in all matters  
31 relating to the acquisition, rehabilitation, construction or  
32 lease of railroad line or lines in the State and contracts for  
33 rail service continuation over railroad lines as provided in this  
34 section.

35  
36 §7106. Railroads; acquisition of railroad operating equipment by  
37 the Department of Transportation

38  
39 1. Definition of term "railroad operating equipment."  
40 Unless otherwise defined in this section, the term "railroad  
41 operating equipment" shall be construed to mean freight cars.

42  
43 2. Acquisition of railroad operating equipment. The  
44 Department of Transportation is authorized to lease, purchase and  
45 dispose of railroad operating equipment when in the judgment of  
46 the department the purchase or disposal of the equipment is  
47 necessary to protect the public interest.

48  
49 3. Cooperation, acceptance and use of federal, local or  
50 private funds. The Department of Transportation is authorized  
51 and empowered to accept, for the State any federal, municipal or

1 private funds as may be available and to act for the State, in  
2 conjunction with the Federal Government, municipal governments  
3 and private groups having a direct interest in the acquisition of  
4 railroad operating equipment.

5  
6  
7 4. Use of state funds prohibited. No state funds may be  
8 used for any purpose defined in this section, including the  
9 administration of this section.

10  
11 5. State liability. The State shall not be held liable in  
12 any contract pursuant to this section for the leasing or  
13 purchasing of equipment, facilities or services; for the delivery  
14 of products; for the storage of products; or for any other  
15 service or financial commitment that may result from the  
16 implementation of this section.

17 **Sec. 8. 23 MRSA c. 617** is enacted to read:

18 CHAPTER 617

19 RAILROAD CROSSINGS

20 §7201. Land taken from railroad; notice and hearing

21  
22  
23  
24  
25 No town way, city street, public easement or highway taking  
26 land of any railroad corporation shall be located, unless a  
27 notice of the time and place of the hearing on the location has  
28 been served on the president, any vice-president, any director,  
29 the treasurer or any assistant treasurer, the general manager or  
30 the clerk of the corporation at least 7 days before the time for  
31 the hearing. In case a corporation has no officer within the  
32 State, service shall be made on its duly authorized agent or  
33 attorney within the State. Service in like manner shall be made  
34 on any corporation which operates a railroad of another  
35 corporation under lease or other agreement.

36 §7202. Location of railroad crossings; expense; appeals

37  
38  
39 Town ways and highways may be laid out across, over or under  
40 any railroad track or through or across any land or right-of-way  
41 of any railroad corporation, if the Department of Transportation,  
42 after notice and hearing, so determines. The Department of  
43 Transportation may refuse its permission or grant permission on  
44 terms and conditions as it may prescribe, and the need, if any,  
45 for installation, maintenance and operation of signals, gates or  
46 other protective measures and may determine whether the expense  
47 of building and maintaining so much of the way as is within the  
48 limits of the railroad corporation shall be borne by the  
49 corporation or by the municipality in which the way is located or  
50 by the State, or the Department of Transportation may apportion  
51 the expense between the railroad corporation and the municipality



1 or State. The expense of operating and maintaining any protective  
2 device shall be borne by the corporation operating the railroad.  
3 The expense of installing protective devices at crossings on  
4 state and state aid highways shall be apportioned between the  
5 railroad corporation and the State as the Department of  
6 Transportation shall determine. The expense of installing  
7 protective devices at crossings on town ways shall be apportioned  
8 between the railroad corporation and the municipality as the  
9 Department of Transportation shall determine. The Department of  
10 Transportation shall report its determinations and decisions,  
11 file the same in its principal office at Augusta and send copies  
12 by mail or otherwise to each of the parties subject to the  
13 determination, order or decision. Determinations, orders or  
14 decisions shall be final and binding on all parties unless an  
15 appeal from any determination, order or decision shall be taken  
16 to the Superior Court in the county where the crossing is  
17 located. The Department of Transportation shall be made a party  
18 in the appeal. The appellant shall, within 14 days from the date  
19 of the filing of the determination, order or decision, file in  
20 the office of the Department of Transportation its reasons for  
21 appeal and shall cause to be served on any other interested  
22 parties a copy of the reasons for appeal certified by the  
23 Department of Transportation. The presiding Justice shall make an  
24 order or decree on the appeal as law and justice may require. An  
25 appeal may be taken to the law court as in other actions. The  
26 final adjudication shall be recorded as provided in section 7204  
27 and a copy of the final decision sent to the Department of  
28 Transportation. Costs may be taxed and allowed to either party at  
29 the discretion of the court.

31 **§7203. Maintenance of railroad crossings already laid out**

33 Notwithstanding any section of Part 7, in case of ways  
34 already laid out which cross over or under any railroad track or  
35 tracks and not at grade, the allocation of the expense of  
36 maintaining so much of the way as is within the limits of the  
37 railroad shall be determined, de novo, as provided by section  
38 7202, by the Department of Transportation on application to it by  
39 any corporation whose track is or tracks are so crossed, or on  
40 application by the municipal officers of any town in which the  
41 crossing is located, or on application by the Department of  
42 Transportation.

43 **§7204. Recording adjudications of Department of Transportation**

45 Adjudications of the Department of Transportation relating  
46 to ways shall be recorded in the office in which the location of  
47 the way must be recorded.

49 **§7205. Crossing of public ways**

1           Railroads may cross any public highways in the line of the  
3           railroad, but may not pass along public highways without the  
5           written consent of the officials charged by statute with the duty  
7           of maintenance of these ways; but when a railroad is hereafter  
9           laid out across a public way, it shall be constructed so as to  
          pass either over or under the way unless the Department of  
          Transportation, after notice and hearing, authorizes a crossing  
          at grade. Before entering on the construction of any railroad  
          along or across public ways, the manner and conditions of  
          crossings shall be determined as provided by section 7202.

11           §7206. Ways raised or lowered; course altered

13           Highways and other ways may be raised or lowered, or the  
15           course of the highways may be altered, to facilitate a crossing  
17           or to permit a railroad to pass over or under the highway or at  
19           the side of it, on application to the Department of  
21           Transportation, and proceedings as provided by section 7202, and  
23           for these purposes land may be taken and damages awarded as  
          provided for laying out highways and other ways. The Department  
          of Transportation may prescribe the manner in which the work  
          shall be done by the corporation. While the use of any way is  
          thereby obstructed, a temporary way shall be provided by the  
          corporation.

25           §7207. Discontinuance of railroad crossings

27           Any railroad corporation or the municipal officers of a city  
29           or town in which a public way crosses or is crossed by a  
31           railroad, whether at grade or otherwise, may file a petition in  
33           writing with the Department of Transportation alleging that the  
35           crossing is no longer required by the public and praying that it  
37           may be closed or discontinued. The department shall, on receipt  
39           of a petition, appoint a time for hearing on the petition, after  
41           notice of not less than 10 days to the petitioners, the railroad  
43           corporation owning or operating the railroad and the city or town  
          in which the crossing is located. After the notice and hearing,  
          if the department finds that the crossing is no longer required  
          by the public, it may order that the crossing be closed or  
          discontinued. The department may close or discontinue railroad  
          crossings, after notice of not less than 10 days to the railroad  
          and municipality, or after hearing if requested within the 10  
          days either by the railroad or the municipality.

45           §7208. Damages for neglect

47           When the corporation unnecessarily neglects to perform the  
49           acts so required, those injured may recover damages in a civil  
          action, commenced within one year after performance is required.

1 §7209. Bridges over canals or railroads; repairs; proceedings  
3 where unsafe conditions

5 A railroad may be carried over or under a canal or railroad  
7 in a manner as not unnecessarily to impede the travel or  
9 transportation on them. The corporation making the crossing is  
11 liable for damages, occasioned by making the crossing, in a civil  
13 action. Bridges and their abutments, constructed for a crossing  
15 of any way, shall be kept in repair by the corporation, or by  
17 persons or parties running trains on any railroad crossing a  
19 highway or town way. The municipal officers of any city or town  
21 may give notice in writing to persons, parties or corporations  
23 that a bridge required at the crossing has not been erected, or  
25 is out of repair and not safe and convenient, within the  
27 requirements of section 3651, or that the crossing of any highway  
29 or town way passing the railroad at grade, within their  
31 respective cities or towns, is not made or maintained safe and  
33 convenient as required by this section. Those persons, parties or  
35 corporations shall erect or repair the bridge or make the  
37 crossing safe and convenient within 10 days from the service of  
39 the notice. If they neglect to do so, any one of the municipal  
41 officers may apply to the Superior Court to compel the  
43 delinquents to erect or repair the bridge or make the crossing.  
45 After hearing, the court may make any order on the hearing, which  
47 the public convenience and safety require, and may by injunctions  
49 compel the respondents to comply with the order. The officers  
51 may, after 10 days from the service of the notice, cause  
necessary repairs to be made and the expense of the repairs shall  
be paid by the persons, parties or corporations whose duty it is  
to keep the crossing safe and convenient.

31 §7210. Temporary crossings

33 A railroad company may, for the purpose of accommodating  
35 lumbering operations and for the transportation in ordinary  
37 vehicles of wood, coal, ice, hay or other commodities, establish  
39 and maintain temporary crossings of any railroad operated by it,  
41 by agreement with any person who may request the crossing for its  
43 purposes. On petition, the Department of Transportation, after  
45 notice and hearing, may direct any railroad company to establish  
47 and maintain the temporary crossings at places on its line of  
49 road as the department deems expedient, and after that the  
51 railroad company shall establish the crossings and maintain them  
in accordance with this section and sections 7211 to 7213.

51 Whenever, in the opinion of the department, any temporary  
railroad crossing established under this section is no longer  
necessary, the department may, on its own motion or on petition  
of any interested party, after notice and hearing, order the  
crossing discontinued.

1     §7211. Crossing signs on each side of track; whistle and bell

3             At every temporary crossing, established in accordance with  
5     section 7210, boards with the words "Temporary railroad crossing,  
7     stop, look, listen" distinctly painted on each side, in letters  
9     plainly legible, shall be placed on each side line of the  
11    railroad right-of-way at the crossing, on a post or other  
      structure, in a position as to be easily seen by persons about to  
      cross the railroad at those places. For any crossing so  
      established, engine bells shall be rung and engine whistles  
      sounded, as provided in section 7214.

13    §7212. Precautions at crossings

15             No team or vehicle may be driven over any temporary crossing  
17    unless the team or vehicle is first stopped within a reasonable  
19    distance from the nearest rail of the crossing, and the operator,  
21    by looking and listening, determines that nothing is approaching  
23    on the tracks of the railroad. Nothing in this section may  
      prevent the Department of Transportation from making further  
      regulations for safety at any crossing established under its  
      direction as it deems expedient or necessary.

25    §7213. Crossings kept open part of year; expense apportioned

27             Each temporary crossing shall be kept open only during the  
29    time each year as the parties interested in the crossing may  
31    agree on, or as the Department of Transportation may specify in  
33    cases where the department directs the crossings to be  
35    established. When the department directs any temporary crossing  
37    to be established, it shall determine who shall bear the expense  
      of establishing and maintaining the crossing and it may, if it  
      sees fit, apportion the expense between the railroad company and  
      the person or persons who have petitioned for the crossing. The  
      expense of the crossing signs and the planking between the rails  
      shall in any event be borne by the railroad company.

39    §7214. Signboards at grade crossings; ringing of engine bells

41             Every railroad corporation shall cause signboards with the  
43    words "Railroad Crossing" distinctly painted on each side of the  
45    signboards, or as a minimum on one side if signboards are placed  
47    facing on-coming traffic in each direction, in letters plainly  
49    legible, to be placed and constantly maintained at the side of  
51    highways and town ways where they are crossed at grade by those  
      railroads, on posts or other structures, in a position as to be  
      easily seen by persons passing on those ways. Every corporation  
      shall cause a whistle and a bell of at least 35 pounds in weight  
      to be placed on each locomotive used on its railroad, and the  
      whistles shall be sounded as a warning beginning at a distance of  
      990 feet, on standard or narrow gauge railroads, from all

1 crossings of those ways on the same level, unless the Department  
3 of Transportation, on petition of the corporation or of the  
5 municipal officers or of 10 or more residents of any city or town  
7 in which the crossing is located, after notice and hearing, shall  
9 order the sounding of the whistle to be discontinued in any city  
11 or village until further order of the department. The bell shall  
13 be rung at a distance of 990 feet, on standard or narrow gauge  
15 railroads, from grade crossings and be kept ringing until the  
17 engine has passed the crossings. On petition of 10 or more  
residents of the State, after notice to the railroad corporation  
and a public hearing, the department may in writing order the  
corporation to give additional warning to travelers on those ways  
by requiring the sounding of the whistles or the ringing of the  
bells at other places where the railroads cross the public ways  
other than at grade or run contiguous to the ways, and the orders  
shall have the same force and place the same obligations on  
railroad corporations as when required under this section.

19 The Commissioner of Transportation may temporarily erect  
21 experimental signs at certain grade crossings instead of the  
23 signboards with the words "Railroad Crossing," as required in  
25 this section, for the purpose of conducting research for the  
27 development of improved signs. The erection of experimental signs  
29 by the department at a particular crossing shall relieve the  
31 railroad company using that crossing from any liability in  
33 damages, which might otherwise arise against that company by the  
temporary removal or temporary obliteration of the railroad  
company signboard required by this section. The erection and  
removal of the temporary signs shall be at the expense of the  
department and the removal and reinstallation of signboards with  
the words "Railroad Crossing" shall also be at the expense of the  
department.

35 Nothing in this section prevents the department from making  
37 further rules for safety at any crossing, including a private,  
temporary, farm or industrial crossing, as it deems expedient or  
necessary.

39 **§7215. Failure to comply; damages**

41 For unnecessarily neglecting to comply with any provision of  
43 section 7214, the corporation forfeits not more than \$500. The  
45 corporation is liable for damages for its neglect to comply with  
47 these provisions, or for the neglect of any agent or for the  
mismanagement of an engine, to be recovered in a civil action by  
the person damaged by the neglect.

49 **§7216. Right of entry**

51 The officers, agents and employees of the Department of  
Transportation may enter in and on property of any railroad

1 corporation for the purpose of inspecting railroad-highway  
2 crossings and attendant facilities, including grade separation  
3 facilities.

5 **§7217. Plant railroad defined**

7 Sections 1251, 1254, 7202, 7205, 7206, 7214 and section  
8 7307, subsections 2 and 3, so far as applicable, apply to plant  
9 railroads. The term "plant railroad" shall be construed to mean a  
10 railroad of the owners of any mills, mines, quarries, gravel  
11 pits, log landings or yards, warehouses, storehouses, stock  
12 yards, bulk storage yards, airports, piers, docks, shipyards,  
13 educational institutions, power plants, gas works, petroleum tank  
14 farms or bulk stations, or other manufacturing, processing or  
15 mercantile establishments, and including state and federal  
16 institutions and developments, erected or in process of erection,  
17 which the railroad is located on land provided or acquired for  
18 the purpose by the owners, and whether operated by the owners, or  
19 by state or federal government or an agency thereof, or through  
20 connection with a public railroad under operating contract with  
21 it and by operation of its equipment over the plant railroad.

23 **§7218. Bridges erected by municipalities maintained**

25 Bridges erected by any municipality, over which any railroad  
26 passes, shall be constructed and maintained in a manner and  
27 condition as to safety as the Department of Transportation may  
28 determine. The department may require the officers of the  
29 railroad company and of the municipality to attend a hearing in  
30 the matter, after notice of the hearing to all parties in  
31 interest as the department deems proper. The department shall  
32 determine at the hearing the repairs, renewals or strengthening  
33 of parts, or if necessary the manner of rebuilding the bridge  
34 required to make the bridge safe for the uses to which it is put.  
35 The department shall determine who shall bear the expenses of the  
36 repairs, renewals, strengthening or rebuilding, or it may  
37 apportion the expense between the railroad company and the city  
38 or town, as the case may be, in a manner as deemed by the  
39 department to be just and fair and shall make its report.

41 **§7219. Report of decisions and copies to parties interested**

43 The department shall make a report in writing of its  
44 decision in all matters named in section 7218, file the report in  
45 the department's office, and cause a copy of the decision to be  
46 sent by mail to each of the railroad corporations and to the  
47 municipal officers of the cities or towns, as the case may be,  
48 interested in the report.

49 **§7220. Speed limit at highway grade crossings**

51

1           The department is authorized to fix a maximum speed limit at  
3 which trains may be run over any grade crossing of a highway or  
5 other way and, when the limit has been fixed by the department,  
7 no engine or train may be run over the crossings at a greater  
9 speed than that fixed by the department and no way may be  
11 unreasonably and negligently obstructed by engines, tenders or  
13 cars. Any railroad corporation forfeits not more than \$100 for  
15 every violation of this section.

11           §7221. Automatic signals; expense; definition

13           The department may require each steam railroad company  
15 operating within this State to install, operate and maintain an  
17 automatic signal, gates or other protective device or to require  
19 a flagman to be stationed at any highway crossing within this  
21 State where, after reasonable notice and hearing, the department  
23 decides that public safety requires signal, gates or other  
25 protective device or flagman as a proper measure of protection.  
27 The expense of installing, operating and maintaining any signal,  
29 gates or other protective device or of providing the flagman  
31 shall be borne by the corporation operating the railroad passing  
33 over the crossing to be protected, except that at crossings  
35 located on state and state aid highways the expense of installing  
37 the signal, gates or other protective device shall be apportioned  
39 between the corporation and the State in proportions as the  
41 department determines. Wherever the term "signal" or "automatic  
43 signal" is used in this chapter, it shall be construed to be an  
45 appliance which gives warning of the approach of a train and  
47 which is either audible and visible by day and by night, or  
49 audible or visible as may be determined by the department. This  
section shall not apply to railroads of less than standard gauge,  
nor to the Knox Railroad Company, formerly called Georges Valley  
Railroad Company.

35           §7222. Crossings designated

37           The Department of Transportation shall designate by general  
39 orders, which may be issued without formal notice or hearing, the  
41 grade crossings in this State at which, from all points on the  
43 highway or other way within 300 feet of these crossings, and on  
45 either side of the crossings, measured along the highway or way,  
47 a traveler on the way carrying the crossing can have a fair view  
49 of an approaching train, engine or car continuously from the time  
the train, engine or car is 300 feet from the crossing, until it  
has passed over the crossing, either under existing conditions or  
by bushes, trees, fences, signboards or encroachments being  
trimmed, cut down or removed.

49           §7223. Obstructions ordered removed; notice

1           At every crossing of a highway or other way, except state  
2           and state aid highways and a railroad at grade, the municipal  
3           officers of the town or unorganized place in which the crossing  
4           is located are authorized and required on order of the Department  
5           of Transportation to remove embankments and other obstructions  
6           within highway limits and to enter on private property and  
7           properly trim, cut down, remove or apply chemical treatment to  
8           bushes, and from time to time as may be necessary to cut down and  
9           remove trees, fences, signboards and encroachments which obstruct  
10           the view of an engine, train or car by a traveler at or near any  
11           crossing. The department shall cause the same to be done on state  
12           and state aid highways. The authority of the department in any  
13           order to the municipal officers shall not extend beyond the land  
14           bounded on a line from a point 300 feet on either side of any  
15           crossing, measured along the highway or other way, and a point  
16           300 feet on either side of any crossing measured along the  
17           railroad right-of-way, for the purpose of enabling a traveler on  
18           any way, when the traveler is 300 feet or less distant from any  
19           crossing, to have a fair view of an approaching train, engine or  
20           car from one or more angles continuously from the time the train,  
21           engine or car is 300 feet from the crossing until it has passed  
22           over the crossing. Entry on private property for the purposes  
23           stated shall be only after a 10 days' notice, mailed to the last  
24           known address of the property owner, and posting of the notice in  
25           a conspicuous place in the municipality.

27           §7224. Expense of removal paid by municipality; partial state  
28           reimbursement

29           Within a time as the Department of Transportation by order  
30           directs, the municipal officers or county commissioners shall  
31           cause the bushes to be cut down and removed, or chemically  
32           treated, and shall cause the trees, fences, signboards or other  
33           encroachments to be trimmed, cut down or removed and from time to  
34           time, as may be ordered by the department, to keep them trimmed,  
35           cut down or removed, and the expense shall in the first instance  
36           be paid by the municipality where the labor is performed, but, on  
37           the filing with the department of proper proof of the payment,  
38           1/2 of any amount shall be repaid by the State to the  
39           municipality. The payment shall be paid from the appropriation  
40           for the operation of the department. Any expense incurred by the  
41           department in applying chemical treatment, or to properly trim,  
42           cut down or remove and from time to time, as may be necessary, to  
43           keep trimmed, cut down and removed, bushes, trees and signboards,  
44           shall be borne by the department.

47           §7225. Damages; municipality and State to share

49           If any person claims damages on account of any such act done  
50           under sections 7223 and 7224, the person may, within 2 years  
51           after the doing of any act, petition the Department of



1 Transportation to assess damages and the department, after  
3 reasonable notice to the petitioner and to the interested  
5 municipality and, after hearing, shall award a sum as seems  
7 proper as damages to be paid by the municipality where the  
9 property is located. On proper proof of any payment, the Governor  
11 shall cause 1/2 of the payment to be paid by the State to the  
13 municipality.

9 §7226. Buildings not removed without owner's consent

11 Nothing contained in sections 7222 to 7225 authorizes the  
13 removal of any building without the consent of the owner.

15 §7227. Applicability to all railroads

17 Except where otherwise expressly specified, sections 7221 to  
19 7226 and section 7228 apply to all railroads operated by steam,  
21 electric, diesel-electric, diesel-motor, gasoline-electric or  
23 gasoline-motor power and engaged in the transportation of freight  
25 or passengers in standard railroad freight or passenger cars.

27 §7228. Railroad company may enter private property

29 For the purpose of creating and maintaining the fair view  
31 mentioned in sections 7221 to 7227 or for the purpose of  
33 improving the view at one or more angles, any steam railroad  
35 company subject to this chapter may enter on private property and  
37 remove any embankment or other obstruction except a dwelling  
39 house. The owner of the property is entitled to damages, and may  
41 have the damages estimated and paid in a manner provided in  
43 chapter 607, and there is the same right of appeal as given in  
45 that chapter.

47 §7229. Maintenance charges for private crossings

49 In a municipality in which a private way is crossed by a  
51 railroad crossing, the municipal officers may act as agents for a  
railroad corporation in collecting maintenance and insurance  
charges from those persons using that crossing. Nothing in this  
section may authorize a municipality to assess or levy these  
charges nor to use its taxing power to collect these charges.

53 §7230. Partial reimbursement of cost

55 The State, by or through the Department of Transportation,  
57 may reimburse railroad corporations for up to 50% of their annual  
59 cost of maintaining public at-grade railroad crossings and  
61 crossing protection devices. These crossing protection devices  
shall include signals, gates, crossbucks and grade separation  
bridges carrying highways over railroad lines. The actual  
reimbursement shall be calculated for each railroad based on the

1 following formula. "Cost" shall include all reimbursable costs  
2 incurred by the railroad, as determined by the commissioner, less  
3 any payments made to the railroad by any other entities.

5 For the purpose of this section, public at-grade crossings  
6 shall be those crossings determined by the Commissioner of  
7 Transportation to be public crossings. Public crossings shall  
8 not include crossings on rail lines abandoned, embargoed or  
9 listed by the railroad corporation in Category I, Category II or  
10 Category III, as defined by the United States Interstate Commerce  
11 Commission, on the railroad corporation's most recent system  
12 diagram map filed with the United States Interstate Commerce  
13 Commission.

15 The State may provide annually each railroad corporation  
16 with a reimbursement payment. For at-grade crossings, the  
17 payment shall be determined based on each railroad corporation's  
18 verified average cost for crossing maintenance multiplied by the  
19 number of eligible crossings, with a maximum payment of \$1,500  
20 per crossing. For grade separation bridges, the payment shall be  
21 determined based on each railroad corporation's verified average  
22 maintenance cost for grade separation bridges multiplied by the  
23 number of eligible structures, with a maximum payment of \$2,500  
24 per structure.

25 Payment to any railroad corporation may be made contingent  
26 on the railroad corporation performing specified maintenance on  
27 specific crossings or grade separation bridges when, in the  
28 judgment of the commissioner, the public welfare or safety  
29 requires that the maintenance be performed. If the railroad  
30 corporation fails to perform the required maintenance, the  
31 department may contract with others for the work or perform the  
32 work itself. In either case, reimbursement of the actual costs  
33 shall be made to the entity performing the maintenance or causing  
34 the maintenance to be performed. The reimbursement payment to  
35 each railroad corporation shall be adjusted to reflect the costs  
36 of any maintenance performed by others on lines for which the  
37 railroad corporation is responsible under this provision. The  
38 adjustment shall also reflect an amount to cover the department's  
39 administrative costs for arranging the maintenance to be  
40 performed.

43 Each railroad corporation which seeks reimbursement under  
44 this section must report annually its actual maintenance costs  
45 for the previous calendar year which shall be used to calculate  
46 the reimbursement. The department shall establish guidelines to  
47 determine allowable maintenance costs.

49 This annual report shall describe its maintenance program  
50 for public grade crossings and highway over railroad grade  
51 separation bridges. The report shall include the total actual

1 costs incurred, total quantities of materials used and work hours  
3 expended for the previous year. The department may audit records  
and supporting documentation relating to costs incurred by  
5 railroad corporations.

7 The commissioner shall develop guidelines to require that  
any railroad corporation, prior to receiving a reimbursement for  
9 the maintenance of the line on which an eligible crossing is  
located shall file an annual plan by December 1st of each  
11 calendar year. The plan shall describe the condition of the  
line, the maintenance to be performed in the year for which  
13 reimbursement is sought, the speed at which trains will be  
allowed to operate over that line, the posted vehicle load limit  
15 on grade separation bridges and any other information required by  
the commissioner. The commissioner may also require as a  
17 condition of reimbursement that certain noncrossing maintenance  
or repairs be performed on the line or that the line be  
19 maintained to allow trains to operate at a certain speed, that  
vehicle load limits on grade separation bridges be maintained or  
21 that other measures affecting the safety and maintenance of the  
track be taken by the railroad corporation.

23 **§7231. Petition; damages; expenses; temporary ways**

25 The municipal officers in instances of town ways crossing or  
crossed by a railroad, whether the crossing be at grade or  
27 otherwise, or any railroad corporation may petition the  
Department of Transportation alleging that public safety or  
29 public convenience either to the traveling public or in the  
operation of the railroad services requires abolishment of or  
31 reconstruction of or alteration of crossings or its approaches;  
or change in the method of crossing a public way; or the closing  
33 of a crossing and the substitution of another; or the removal of  
obstructions to the sight at the crossing and requesting the  
35 situation be remedied. The Department of Transportation shall  
appoint a time and place for a hearing after notice of not less  
37 than 10 days to the petitioners, the railroad corporation, the  
municipality in which the crossing is situated, the owners or  
39 occupants of the land adjoining the crossing or adjoining that  
part of the way to be changed in grade. After notice and hearing,  
41 the Department of Transportation shall make its determination to  
insure safety or public convenience and by whom the abolishment,  
43 reconstruction, alteration, change or removal shall be made. The  
jurisdiction of the Department of Transportation shall exist  
45 whether the change or alterations in the crossing is within or  
without the limits of a public way. To facilitate the  
47 abolishment, reconstruction, alterations, changes or removals,  
highways and other ways may be raised or lowered or the courses  
49 of the same way may be altered to permit a railroad to pass at  
the side thereof. For the purposes aforesaid land may be taken  
51 and damages awarded as provided for laying out highways.

1 The Department of Transportation shall determine how much land  
2 may be taken and shall fix the damages sustained by any person  
3 whose land is taken and the special damages which the owner of  
4 land adjoining the public way may sustain by reason of any change  
5 in the grade of the way.

7 Appeal from any decision, order or award of the commission  
8 may be had as provided in section 7233. The Department of  
9 Transportation shall apportion the expenses pertaining thereto  
10 and damages as follows: If the way involved is a state highway,  
11 50% to the Department of Transportation and 50% to the railroad  
12 corporation; if the way involved is a state aid highway, 50% to  
13 the Department of Transportation and the municipality or  
14 municipalities in which the way is located, the pro rata share  
15 being determined by the percentage of state aid granted on the  
16 way involved and 50% to the railroad corporation; if the way  
17 involved is a town way, 35% to the State, to be paid out of the  
18 General Fund, 15% to the town, or in cases under the last  
19 paragraph of this section 15% to the county commissioners of the  
20 county in which the way is located and over which the county  
21 commissioners have jurisdiction, and 50% to the railroad  
22 corporation, provided that the Department of Transportation may  
23 vary the aforesaid percentages of expense and damages as it may  
24 deem proper after due consideration of the relative benefits to  
25 be derived from the abolishment, alteration or reconstruction,  
26 and provided that the amount ordered to be paid by the railroad  
27 corporation shall not in any event exceed 50% of the expenses and  
28 damages. The Department of Transportation may approve agreements  
29 made by the railroad corporation and other parties in interest in  
30 respect to the work or varying the percentages, provided the  
31 amount to be paid by the town shall not exceed the 15% specified  
32 unless the town shall vote otherwise, as to any elimination or  
33 alteration made under this section, the Department of  
34 Transportation may determine what work fairly and properly should  
35 be regarded as highway construction.

37 Notwithstanding the preceding paragraph, the cost of  
38 reconstruction of railroad grade separation structures carrying  
39 the highway over the railroad, including the alterations to the  
40 approaches to said structure, on nonfederal aid state aid  
41 highways shall be apportioned as follows: 70% to the Department  
42 of Transportation, 10% to the railroad corporation and 20% to the  
43 municipality or the county having jurisdiction of the roads in  
44 any unorganized township in which said structure is located,  
45 provided that the Department of Transportation may vary the  
46 aforesaid percentages of cost as it may deem proper after due  
47 consideration of the relative benefits to be derived from the  
48 reconstruction.

49 The Department of Transportation may make an order relative  
50 to the maintenance of crossings at grade or otherwise as it may  
51 deem proper.

1 deem necessary, and may determine whether expense shall be borne  
3 by the railroad corporation, by the municipality in which any  
5 crossing is located or by the State by or through the Department  
7 of Transportation; or the Department of Transportation may  
9 apportion the expense equitably between the railroad corporation,  
11 the municipality and the State by or through the Department of  
13 Transportation.

15 While the use of any way is obstructed in carrying out the  
17 foregoing provisions of this section, such temporary way shall be  
19 provided as the department may order. The Department of  
21 Transportation shall not make any order on any petition filed  
23 under this section until they are satisfied, by investigation or  
25 otherwise, that the financial condition of the corporation  
27 operating the railroad in question will enable the corporation to  
29 comply with the order, and that the probable benefit to the  
31 public will warrant the order and the probable expense resulting  
33 from the order, and that the order can be complied with without  
35 exceeding the state appropriation available.

37 The county commissioners shall have the same right of  
39 petition under this section, with respect to roads in unorganized  
41 places laid out by them under section 4001, as have municipal  
43 officers of a municipality under the provisions of this section.  
45 In case a petition is filed by them, all parties interested in  
47 the subject matter of the petition shall be notified by the  
49 Department of Transportation of the filing of the petition and  
51 given opportunity to appear and be heard.

#### §7232. Tracks of more than one railroad

1 Whenever the Department of Transportation, on an application  
3 or petition brought under section 7231, finds that a public way  
5 crosses or is crossed by tracks of more than one railroad and the  
7 tracks of the railroads are so near together that public safety  
9 or convenience requires the work of abolishment, reconstruction,  
11 alteration, change or removal to be done under and in compliance  
13 with one order, the department shall give notice to all the  
15 corporations operating the railroads to appear before it and be  
17 heard on the application. After notice and hearing the department  
19 shall determine what abolishment, reconstruction, alteration,  
21 change or removal, if any, of the crossing shall be made and  
23 shall determine by whom the work shall be done and shall  
25 apportion the percentage of expense to be borne by the railroad  
27 corporations between the corporations in such manner as the  
29 department shall deem just and proper.

#### §7233. Order of Department of Transportation; appeals

1 The order of the Department of Transportation relating to  
3 any matter on which the department may act under the authority of

1 sections 7231 and 7232 shall be communicated in writing to the  
3 petitioners and to all persons to whom notice of the hearing on  
5 the petition was given. Any person aggrieved by the order, who  
7 was a party to the proceedings, may appeal from the order to the  
9 Superior Court within and for the county in which the way or  
11 crossing is located in the manner now provided in section 7202.  
13 Any person aggrieved by the decision or judgment of the  
15 Department of Transportation in relation to damages for land  
17 taken for the purposes of section 7231 may appeal from the  
19 decision to the Superior Court to be held in the county where the  
21 land is situated, within 30 days after the report of the  
23 Department of Transportation is made, which court shall determine  
25 the same by a committee of reference if the parties so agree or  
27 by a verdict of its jury, and shall render judgment for the  
29 damages recovered with costs to the party prevailing in the  
31 appeal, but the committee or jury shall not alter the  
33 requirements in the report of the Department of Transportation.  
35 The appellants shall, when an appeal is taken, include in the  
37 complaint a statement setting forth substantially the facts of  
39 the case and shall give written notice of the appeal with a copy  
41 of the complaint to the opposite party. An appeal may be taken to  
43 the law court as in other actions.

23 **§7234. Trees near railroad crossings**

25  
27 Whenever the Department of Transportation deems that trees,  
29 bushes or other encroachments within the limits of a public way  
31 obstruct the view at railroad crossings or where one public way  
33 enters another and thereby renders the way dangerous to  
35 travelers, it shall cause the removal of the obstructions.

31 **Sec. 9. 23 MRSA c. 619 is enacted to read:**

33 **CHAPTER 619**

35 **INSPECTION AND INVESTIGATION OF RAILROADS**

37 **SUBCHAPTER I**

39 **REVIEW AND MAINTENANCE**

41 **§7301. Railroads examined; annual report**

43  
45 The commissioner, or some competent person duly appointed by  
47 the commissioner, on application or whenever the commissioner  
49 thinks necessary, shall carefully examine the tracks, rolling  
51 stock, bridges, viaducts and culverts of any railroad; and shall  
annually make a report to the Governor with facts as the public  
interest may require. All persons managing railroads shall give  
the commissioner the information that the commissioner at any  
time requires.

1                   **§7302. Certificate of safety for passenger trains**

3  
5                   No passenger train may be run over any new railroad, or over  
7                   any railroad in process of construction, until the commissioner  
9                   has made an inspection of such railroad and granted a certificate  
11                   of its safety for public travel. A copy of this certificate,  
13                   attested by the commissioner, shall be furnished to the  
15                   corporation operating the railroad. Any person or corporation  
17                   violating this section forfeits to the State \$100 for each  
19                   offense, to be recovered in a civil action or by complaint and  
21                   indictment, and the Attorney General shall institute proceedings  
23                   to recover the same.

25                   **§7303. Experienced engineer to examine bridges**

27                   Every railroad corporation shall, when requested by the  
29                   commissioner, have an examination made of any iron bridge or  
31                   other structure by a competent and experienced mechanical  
33                   engineer, who shall report to the commissioner the results of the  
35                   engineer's examinations, conclusions and recommendations, and  
37                   transmit a copy of the same to the corporation. The report shall  
39                   furnish information in detail and with such drawings and prints  
41                   as may be in writing requested by the commissioner.

43                   **§7304. Managers notified when road unsafe**

45                   If the commissioner at any examination finds the track,  
47                   culverts, bridges or rolling stock in use so out of repair as to  
49                   be unsafe for travelers, the commissioner shall immediately  
51                   notify the managers of the road of its condition and the time in  
                    which the repairs shall be made; and may require them to reduce  
                    the speed of all trains until the repairs are made.

**§7305. Court proceedings for noncompliance**

If the managers do not comply with these requirements, the  
                    commissioner shall file a complaint to the Superior Court in any  
                    county where the railroad extends, setting forth their  
                    examination, the condition of the road, the notice and  
                    requirement and refusal to comply; and shall notify the Attorney  
                    General or the district attorney of the county of the filing of  
                    the complaint, one of whom shall appear and take charge of the  
                    proceedings in court. The court shall order a notice and appoint  
                    a hearing; and after a hearing, may order such things to be done  
                    by the managers of the road as they deem necessary to secure the  
                    safety of travelers. Unless the managers execute a bond to the  
                    State, with sufficient sureties, for a sum as the court deems  
                    necessary to make the repairs, conditioned that they will, within  
                    the time fixed by the court, make the repairs or otherwise  
                    satisfy the court that they will be so made, the court shall

1 issue an injunction against the corporation and its managers,  
3 prohibiting the running of any passenger trains over the portion  
of the road found to be unsafe until the order has been complied  
5 with or revoked.

7 §7306. Passenger trains prohibited from running over unsafe roads

9 When, in the opinion of the commissioner, the passage of  
11 passenger trains over any portion of a railroad would be attended  
13 with imminent danger, the commissioner may notify the president  
15 or superintendent of the road and order the immediate stopping of  
17 all passenger trains about to run over that portion of the road.  
If the commissioner's order is not obeyed, the commissioner shall  
at once apply to the Superior Court which may, upon satisfactory  
proof of the necessity for the order and without notice to the  
company, issue an injunction prohibiting the running of passenger  
trains over the road until further order of the court.

19 §7307. Crossings and bridges

21 1. Company to erect and maintain bridge guards. Every  
23 railroad corporation shall erect and maintain suitable bridge  
25 guards at every bridge or other structure, any portion of which  
27 crosses the railroad less than 20 feet above the tracks. The  
29 guards shall be approved by the commissioner and be erected and  
31 adjusted to the commissioner's satisfaction. Any corporation  
refusing or neglecting to comply with this section, for each  
month of continuance in neglect or refusal, forfeits \$50. Whoever  
willfully destroys or breaks any bridge guard forfeits not more  
than \$100 and may be imprisoned for not more than 30 days.

33 2. Railroads crossing each other; application, notice and  
35 hearing. The commissioner shall determine the manner and  
37 conditions of one railroad of any kind crossing another. Any  
39 corporation or party operating a railroad may apply to the  
41 commissioner for a change in the then existing condition,  
43 construction or manner of any crossing. The application shall be  
45 in writing, giving the location of the crossing, and the  
commissioner shall give a hearing on the application after the  
commissioner has ordered notice to be given by the applicants as  
to the time, place and purposes of the hearing as the  
commissioner shall deem proper. The commissioner shall determine  
at the hearing what changes, if any, are necessary, and how the  
crossings shall be constructed and maintained, the expense to be  
borne as the commissioner may order.

47 3. Crossing over railroad already built; application,  
49 notice and hearing. In the case of a railroad company of any  
51 kind whose tracks are to be constructed across the tracks of any  
railroad already built, the crossings shall be made, constructed  
and maintained in a manner and under conditions as shall be



1 ordered by the commissioner, the expense to be borne as the  
2 commissioner may order. The parties contemplating making a  
3 crossing shall apply to the commissioner in writing, giving the  
4 location of the crossing desired, and the commissioner shall give  
5 a hearing after the commissioner shall have ordered notice to be  
6 given by the applicants of the time, place and purposes of the  
7 hearing as the commissioner shall deem proper. At the hearing,  
8 the commissioner shall determine the manner and conditions of  
9 construction and maintenance of the crossing and make a report as  
10 provided.

11  
12 4. Report of decisions and copies to parties interested.  
13 The commissioner shall make a report in writing of the  
14 commissioner's decision in all matters named in subsections 2 and  
15 3 and the commissioner shall send a copy of the decision to each  
16 of the railroad corporations and to the municipal officers of the  
17 cities or towns interested in the decision.

18  
19 5. Clearances set by Commissioner of Transportation. The  
20 Commissioner of Transportation shall have the right to prescribe  
21 a minimum distance for clearance of any structure, pole or other  
22 object over or beside any railroad track. This section shall not  
23 apply to any structure, pole or other object in existence over or  
24 beside any railroad track on or before September 1, 1955.

25 §7308. Safety provisions

26  
27  
28 1. Size and construction of caboose cars; penalty. Except  
29 as otherwise provided in subsection 2, no common carrier by  
30 railroad shall use on its lines any caboose car, or other car  
31 used for like purposes, unless the caboose or other car shall be  
32 at least 29 feet in length, exclusive of platforms, and equipped  
33 with 2 4-wheel trucks and shall be of constructive strength  
34 equal, at least, to that of the 20-ton capacity freight cars  
35 constructed according to master car-builder standards and shall  
36 be provided with a door in each end and an outside platform  
37 across each end of the car. Each platform shall be not less than  
38 24 inches in width and shall be equipped with proper guardrails,  
39 and with grab irons and steps for the safety of persons getting  
40 on and off the car. The steps shall be equipped with a suitable  
41 rod, board or other guard at each end and at the back, properly  
42 designed to prevent slipping from the step. Caboose cars shall be  
43 of standard height with a cupola or with an observation  
44 compartment extending from each side of the car, and with  
45 necessary closets and windows. Any common carrier who violates  
46 any of the provisions of this subsection shall be deemed guilty  
47 of a misdemeanor and upon conviction shall be punished by a fine  
48 of not less than \$100 nor more than \$500 for each offense, to be  
49 enforced on complaint or by indictment.

1           2. Application of provisions. Subsection 1 shall apply to  
3           any corporation, or to any person or persons, while engaged as  
4           common carriers in the transportation by standard gauge railroad  
5           of passengers or property within this State to which the  
6           regulative power of this State extends. Subsection 1 shall not  
7           apply to any railroad company operating less than 20 miles of  
8           single track, nor to caboose cars used between the following  
9           points, namely: Between Waterville and Skowhegan; between  
10           Pittsfield and Hartland; between Burnham and Belfast; between  
11           Leeds Junction and Farmington; between Calais and Princeton;  
12           between Bangor and Bucksport; between Livermore Falls and Canton;  
13           and between Lewiston lower station and Bath, via Brunswick.

14           3. Walks and handrails on railroad bridges. The  
15           Commissioner of Transportation shall have the right, upon  
16           complaint and after hearing, to require any common carrier by  
17           railroad to equip their bridges and trestles with suitable walks  
18           and handrails, if after hearing the commissioner finds that the  
19           walks and handrails are necessary for the safety of the public or  
20           railroad employees.

21           4. Frogs and guardrails. Every railroad corporation  
22           operating a railroad or part of a railroad in the State shall  
23           adjust, fill or block the frogs and guardrails on its track, with  
24           the exception of guardrails on bridges, in a manner satisfactory  
25           to the Commissioner of Transportation, so as to prevent the feet  
26           of employees from being caught in the tracks. Any railroad  
27           corporation failing to do so shall be punished by a fine of not  
28           less than \$100 nor more than \$500.

29           5. Method of heating cars approved. No passenger, mail or  
30           baggage car on any railroad in the State may be heated by any  
31           method of heating or by any furnace or heater, unless the method  
32           or the use of a furnace or heater shall first have been approved  
33           in writing by the Commissioner of Transportation. In no event  
34           shall a common stove be allowed in any car. Any railroad  
35           corporation may, with the permission of the commissioner, make  
36           any experiment in heating its passenger cars as the commissioner  
37           may deem proper. Any railroad corporation violating any provision  
38           of this subsection forfeits not more than \$500.

39           6. Head and rear lights on cars. Every person, firm or  
40           corporation operating or controlling any railroad running through  
41           or within the State shall equip each of its track motor cars used  
42           during the period from 30 minutes before sunset to 30 minutes  
43           after sunrise with a headlight of construction and with  
44           sufficient candle power to render plainly visible at a distance  
45           of not less than 300 feet in advance of the track motor car, any  
46           track obstruction, landmark, warning sign or grade crossing, and  
47           shall equip the track motor car with a red rear light of  
48           construction and with sufficient candle power as to be plainly  
49           visible.

1 visible at a distance of at least 300 feet. It shall be unlawful  
3 for any person, firm or corporation operating or controlling any  
5 railroad running through or within this State to operate or use  
7 any track motor car from 30 minutes before sunset to 30 minutes  
9 after sunrise, which is not equipped with lights of the candle  
11 power, construction and utility described in this subsection.

13 Any person, firm or corporation operating or controlling any  
15 railroad running through or within this State using or permitting  
17 to be used on its line in this State a track motor car in  
19 violation of this subsection shall be liable to a penalty of \$100  
21 for each violation, to be recovered in a suit or suits to be  
23 brought by the district attorney in the Superior Court of the  
25 county having jurisdiction in the locality where the violation  
27 occurred. On duly verified information being given of the  
29 violation, the district attorney shall bring the suits.

31 7. Safety switches and switch lights at every siding.

33 Every railroad company running trains in this State shall place  
35 safety switches of an approved sort at every siding connecting  
37 with the main track. Switch lights shall be maintained in  
39 addition to switch targets with a reflective type surface or with  
41 an adequate reflector throughout that portion of every railroad  
43 where trains are run after dark. The commissioner shall have  
45 authority to relieve any railroad from the requirements of this  
47 subsection as to maintaining switch lights and reflectorized  
49 targets, on proper petition, after notice and hearing, and for  
good cause shown, to the extent that the commissioner deems  
consistent with public safety.

This subsection shall not apply to areas of the railroad  
controlled by block signals.

8. Speed at crossings; signals to warn approaching trains.

When one railroad crosses another on the same grade, every  
engineman on both, when approaching the point of intersection  
with an engine with or without a train, shall stop the engine  
within 500 feet of the point and before reaching it and shall  
pass it at a rate not exceeding 8 miles an hour, except when,  
from the condition of the track or train, it shall be necessary  
to run at greater speed. In that case, the conductor or person in  
charge of the train shall station some person at the crossing,  
with a flag by day and a lantern by night, to warn trains  
approaching on the other road. When 2 or more crossings on the  
same road are within 400 feet of each other, one stop is  
sufficient. Any engineman, conductor or person in charge of the  
train violating this provision forfeits, for each offense, \$100,  
and the corporation on whose road the offense is committed  
forfeits \$200.

1           9. Signals at crossings; signals for approaching trains; preference to passenger trains. When railroads cross each other  
3 at grade, the parties operating the railroad last located there  
5 shall build and maintain a suitable signal station at the  
7 crossing, at which a competent signal officer shall be kept at  
9 the joint expense of the parties operating the railroads. The  
11 signal shall not be set for a train to cross until the engine of  
13 the train shall have arrived within 500 feet of the intersection  
15 and stopped. No train or engine may cross the track of the other  
17 road until the proper signal for it to cross shall have been set  
19 in position by the signal officer. Only one train or engine shall  
be allowed to cross under one setting of the signal unless coming  
from opposite directions on the same railroad. When the signal  
has been set for the trains on one of the railroads, it shall not  
be changed until those trains shall have passed entirely over the  
crossing. When trains on both railroads approach the crossing at  
about the same time, preference shall be given to passenger  
trains and the signal shall be set for the trains on each road in  
alternate order.

21           10. Automatic signals; exemptions. The Commissioner of  
23 Transportation may, on the application of any railroad whose road  
25 crosses another railroad at the same level, after due notice and  
27 hearing of the parties, authorize the applicant to establish and  
29 maintain a system of interlocking or automatic signals at any  
31 crossing of the roads, at its own expense, and erect and maintain  
the necessary wires, rods, signal posts and signals in a manner  
as the commissioner shall prescribe. When the system is  
established and has been approved in writing by the commissioner,  
the corporation establishing the system and its railroad shall be  
excepted, as to that crossing, from subsections 8 and 9.

33           11. Sharing of signal cost by nonparticipating railroad;  
35 exemption. Whenever, after establishment and approval of the  
37 system of signals, the nonparticipating railroad under subsection  
39 10 shall have paid the applicant railroad a part of the cost of  
41 establishing the system of signals as shall be awarded by the  
43 Commissioner of Transportation after hearing on petition of the  
45 nonparticipating railroad, both railroads shall be excepted as to  
47 that crossing from subsections 8 and 9, as provided in subsection  
49 10. Until payment is made, the nonparticipating railroad shall  
51 contribute toward the expense of operating the signals, in  
semiannual payments, a sum equal to the cost to it of operating  
the signals used by it at the crossing before the establishment  
of the signals provided for in subsection 10. After payment of  
the award, the expense of maintaining and operating the system of  
signals shall be borne by the 2 railroad corporations according  
to the proportions fixed by the award for paying the original  
cost of the signals, and the award, so far as it relates to the  
cost of maintaining and operating the signals, may, at the  
request of either party, be revised after an interval of 5 years

1 from the original award or from the award next preceding the  
2 request.

3  
4 12. Diesels or diesel-electric may not operate in reverse  
5 or backup position. No railroad corporation operating diesel or  
6 diesel-electric locomotives in the State may be permitted to  
7 operate such locomotives in reverse or backup position on any  
8 passenger or freight train on any main line or branch line,  
9 except any locomotives may be operated in reverse in emergencies,  
10 while doing switching operations, while operating turn-around  
11 service, and except where no facilities are available for turning  
12 the locomotives at the point of departure. Any railroad  
13 corporation violating this subsection shall be punished by a fine  
14 of \$100 for each violation.

15  
16 13. Illuminated switching leads. In order to provide  
17 maximum safety to train and yard service employees, who are  
18 required to work on or about moving railroad freight equipment,  
19 all railroad companies operating in the State shall have all  
20 switching leads in yards, where frequent switching service is  
21 normally performed, reasonably and adequately illuminated during  
22 the hours of darkness. This subsection shall be subject to rules  
23 promulgated by the Commissioner of Transportation.

24 §7309. Orders of the commissioner

25  
26 The Superior Court is given full jurisdiction to enforce  
27 compliance with any order issued by the Commissioner of  
28 Transportation under this chapter. It shall be the duty of the  
29 commissioner to see that the rights of the public under this  
30 subchapter are fully protected.

31  
32 §7310. Prior orders and rules effective

33  
34 All rules, orders and decrees in effect prior to October 24,  
35 1977, which were issued by the Public Utilities Commission  
36 pursuant to the provisions in former Title 35, which provisions  
37 are embraced in this subchapter, shall remain in full force and  
38 effect until the Commissioner of Transportation has acted  
39 pursuant to applicable provisions of this subchapter.

40  
41 §7311. Participation in the Federal Railroad Administration  
42 Track and Equipment Safety and Inspection Program

43  
44 The commissioner shall have the authority to participate in  
45 carrying out investigative and surveillance activities in  
46 connection with any rule, regulation, order or standard  
47 prescribed by the Secretary of Transportation of the United  
48 States under the authority of the Federal Railroad Safety Act of  
49 1970, Public Law 91-458, provided that the commissioner shall  
50 comply with all the requirements imposed by the United States  
51

1 Code, Title 45, section 435. The commissioner may employ such  
3 expert, professional or other assistance as is necessary to carry  
out the activities authorized by this section.

5 SUBCHAPTER II

7 FINANCIAL ASSISTANCE

9 §7320. Application for financial assistance

11 1. Annual application and approval required. Any person,  
13 corporation, partnership or other business entity which provides  
15 railroad transportation for compensation in the State, or seeks  
17 to acquire or construct additional rail lines in the State,  
19 shall apply to the Department of Transportation for the privilege  
21 of receiving financial assistance from the State, for the year in  
question. Financial assistance from the State is defined as  
grants, loans, subsidies, tax exemptions, cost reimbursement for  
maintenance of railroad crossings or payments from other sources.  
The applicant may not receive the financial assistance unless the  
application is approved.

23 2. Criteria. In determining approval for an application  
25 under this section, the department shall consider, among other  
matters:

27 A. The need for this rail service;

29 B. The effect of the rail service on the health, safety and  
31 general welfare of the people of the State; and

33 C. For any entity which already provides railroad  
35 transportation for compensation within the State, the  
37 department shall also consider the record of that railroad  
39 in investing within the State, maintaining track and  
rights-of-way within the State, use of funds from previous  
financial assistance from the State and the safety,  
reliability and efficiency of the service actually provided  
by that railroad within the State.

41 3. Procedure for entities seeking to acquire or construct  
43 additional rail lines. An entity seeking to acquire or construct  
an additional rail line or lines shall proceed in accordance with  
this subsection.

45 A. The applicant shall provide notice by:

47 (1) Publishing an accurate and understandable summary  
49 of the application in a newspaper of general  
51 circulation in each area affected by the rail service;

1                   (2) Mailing a copy of its application to all shippers  
3                   which used the rail line during any of the 12 months  
5                   prior to the date the application was filed, as well as  
                    those shippers who may reasonably be expected to use  
                    that line within one year from the date of application;

7                   (3) Mailing a copy of its application to the employee  
9                   representatives of the employees of the railroad or who  
                    may be affected by a proposed rail service; and

11                   (4) Mailing a copy of its application to any  
13                   municipality served by the rail line or in which that  
                    service may be affected.

15                   B. After receipt of a substantially complete application  
17                   and compliance by the applicant with the notice requirements  
19                   of this subsection, the department shall hold a public  
                    hearing on any application covered by this subsection, in  
                    accordance with its rules.

21                   C. Any party affected by the application has the right to  
23                   intervene in a proceeding under this section. Intervention  
25                   of other parties shall be granted liberally in order that a  
                    complete record may be developed.

27                   4. Procedure for existing operations. An entity which  
29                   intends only to continue existing operations shall proceed in  
                    accordance with this subsection.

31                   A. After receipt of a substantially complete application,  
33                   the department shall provide notice of the application and  
35                   opportunity for hearing on any application covered by this  
37                   subsection by sending an accurate and understandable summary  
                    of the application to a newspaper of general circulation in  
                    each area affected by the rail service for publication at  
                    the applicant's expense.

39                   B. The department may hold a public hearing on the  
41                   application and shall hold a hearing when a request for a  
43                   hearing shows a substantial likelihood that the application  
                    may be denied or granted with qualifications under the  
                    criteria of subsection 2 and the hearing is requested by:

45                   (1) A shipper or shippers whose traffic on the  
47                   railroad line totaled 500 tons in the year preceding  
                    the application;

49                   (2) Any municipality having a siding, terminal,  
51                   station or agency station of the railroad line within  
                    its bounds; or

1                   (3) A petition of 25 individuals who state that they  
3                   are affected by the operation of the railroad.

5                   The hearing shall be subject to the rules of the department.

7                   5. Approval. At the conclusion of the proceedings and  
9                   within 30 days of the conclusion of the public hearing, if any,  
11                   the department shall:

13                   A. Approve the application as filed;

15                   B. Approve the application with conditions as the  
17                   department determines necessary to assure that the  
19                   investment of state funds in providing assistance for the  
21                   rail service will be consistent with the public interest; or

23                   C. Deny the application.

25                   Approval shall be valid for a year. In the case of denial,  
27                   reapplication shall be in accordance with the rules of the  
29                   department. Approval may be revoked in case of noncompliance with  
31                   any conditions.

33                   6. Temporary approval. When the commissioner determines  
35                   that the public interest requires immediate financial assistance  
37                   from the State to a railroad, the department may issue temporary  
39                   approval for a period not to exceed 90 days without notice or  
41                   hearing.

43                   7. Appeal. Any applicant or intervenor aggrieved by the  
45                   decision of the department under subsection 5 has a right to  
47                   judicial review in accordance with the Maine Administrative  
49                   Procedure Act, Title 5, chapter 375, subchapter VII.

51                   8. Rules. The department shall promulgate rules concerning  
                    the implementation and enforcement of this section.

9. Existing operations; temporary approval. Any operation  
                    ongoing as of the effective date of this section, as long as the  
                    ownership or management of that operation is not transferred to  
                    another entity, shall be deemed approved until March 1, 1990.

10. Consolidation of hearings. The Department may  
                    consolidate any hearing under this section with another hearing  
                    concerning railroad service by the same entity in the same area.

## STATEMENT OF FACT

                    This bill recodifies the railroad laws in the Maine Revised  
Statutes, Title 23.