

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 343

H.P. 252

House of Representatives, February 5, 1991

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

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

EDWIN H. PERT, Clerk

Presented by Representative LORD of Waterboro.  
Cosponsored by Representative BAILEY of Farmington.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

---

**An Act to Facilitate Municipal Road Reconstruction.**

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

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3       **Sec. 1. 38 MRSA §438-A, sub-§5**, as affected by PL 1989, c.  
4       890, Pt. A, §40 and amended by Pt. B, §46, is further amended to  
5       read:

6  
7       **5. Exemptions.** Any areas within a municipality that are  
8       subject to nonmunicipal zoning and land use controls may be  
9       exempted from ~~the operation of~~ this section upon a finding by the  
10       commissioner that the purposes of this chapter have been  
11       accomplished by nonmunicipal measures. The maintenance of any  
12       road by a municipality, as long as the municipality stays within  
13       the bounds of the right-of-way, is exempt from this section.

14  
15       **Sec. 2. 38 MRSA §480-Q, sub-§2**, as amended by PL 1989, c. 430,  
16       §6, is further amended to read:

17       **2. Maintenance and repair.** Maintenance and minor repair of  
18       structures in fragile mountain areas, or to structures above the  
19       high water line causing no additional intrusion of an existing  
20       structure into the great pond, river, stream or brook, wetland or  
21       sand dune; and maintenance and repair of private crossings of a  
22       river, stream or brook; and maintenance of any road by a  
23       municipality, as long as the municipality stays within the bounds  
24       of the right-of-way, provided that:

25       A. Erosion control measures are taken to prevent  
26       sedimentation of the water;

27       B. The crossing does not block fish passage in the water  
28       course; and

29       C. There is no additional intrusion into the river, stream  
30       or brook.

31  
32       **Sec. 3. 38 MRSA §488, first ¶**, as amended by PL 1977, c. 374,  
33       §4, is further amended to read:

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35       This Article shall does not apply to any development in  
36       existence ~~or, any development~~ in possession of applicable state  
37       or local licenses to operate ~~or, any development~~ under  
38       construction on January 1, 1970, ~~or--to~~ any development the  
39       construction and operation of which has been specifically  
40       authorized by the Legislature prior to May 9, 1970, or to public  
41       service corporation transmission lines, except transmission lines  
42       carrying 100 kilovolts or more, nor shall does it apply to the  
43       renewal or revision of leases of parcels of land upon which a  
44       structure or structures have been located as of March 15, 1972,  
45       nor to the rebuilding or reconstruction of natural gas pipelines  
46       or transmission lines within the same right-of-way, or the  
47       maintenance of any road by a municipality, as long as the  
48       municipality stays within the bounds of the right-of-way.  
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**STATEMENT OF FACT**

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This bill exempts the maintenance of roads by a municipality from permits required under the natural resource protection laws, the site location of development laws and the mandatory shoreland zoning laws. A municipality is exempt and may do the repairs as long as the municipality stays within the bounds of the right-of-way.

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