

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1903

S.P. 714

In Senate, May 23, 1991

Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator CAHILL of Sagadahoc

Cosponsored by Representative SMALL of Bath and Representative MACOMBER of South Portland.

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STATE OF MAINE

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

---

An Act Concerning the Acquisition of Railroad Lines by the State.

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(EMERGENCY)



Emergency preamble. Whereas, Acts of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted  
as emergencies; and

4  
Whereas, the Department of Transportation, pursuant to  
6 Private and Special Law 1989, chapter 135, is acquiring certain  
portions of the Lewiston Lower Road and the Augusta-Brunswick  
8 Lower Road rail lines, which have not been subject to any  
abandonment petition before the Interstate Commerce Commission  
10 and therefore remain under the jurisdiction of the commission; and

12  
Whereas, the acquisition by the State of ownership of those  
rail lines may make the State a "rail carrier" under federal law  
14 despite the fact that the State will not operate any rail service  
on the lines; and

16  
Whereas, the Maine Revised Statutes, Title 23, section 7151  
18 prohibits the State from being a "rail carrier under federal law"  
and therefore a conflict exists between state and federal laws  
20 that would prohibit the proposed transaction; and

22  
Whereas, the department must purchase the rail lines on or  
before June 1, 1991, and it is in the best interest of the State  
24 that these railroad lines be acquired and preserved for railroad  
use; and

26  
Whereas, in the judgment of the Legislature, these facts  
28 create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
30 necessary for the preservation of the public peace, health and  
safety; now, therefore,

32  
**Be it enacted by the People of the State of Maine as follows:**

34  
23 MRSA §7151, sub-§2, as repealed and replaced by PL 1989,  
36 c. 398, §7, is amended to read:

38  
2. Declaration of policy. It is declared to be the policy  
of the State that the State and its agencies shall cooperate with  
40 the Congress of the United States and the appropriate federal  
agencies to assure the development and maintenance of safe,  
42 efficient and reliable rail service for the State. For any  
railroad line acquired under this chapter, it is the intent of  
44 the Legislature that the State may acquire the railroad line, but  
the State may not be an operator of the railroad ~~ex-a-rail~~  
46 ~~carrier-under-federal-law.~~

48  
Emergency clause. In view of the emergency cited in the  
preamble, this Act takes effect when approved.

2

## STATEMENT OF FACT

4

6 Under federal law, it is possible for an owner of active  
8 rail lines to be classified as a rail carrier even though it does  
10 not directly operate rail service. Under the Maine Revised  
12 Statutes, Title 23, chapter 615, such a classification would  
prevent the acquisition by the State of rail lines under  
Interstate Commerce Commission jurisdiction. This bill removes  
the prohibition against the State being a rail carrier under  
federal law but leaves intact the prohibition against the State  
acting as a rail operator.