



116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 107

H.P. 77

House of Representatives, January 21, 1993

Reference to the Committee on Transportation suggested and ordered printed.

OSEPH W. MAYO, Clerk

Presented by Representative ERWIN of Rumford. Cosponsored by Senator LUTHER of Oxford.

STATE OF MAINE

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

An Act to Authorize Municipal Snow Removal from Certain Private Driveways for Public Purposes.

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

Sec. 1. 23 MRSA §3106 is enacted to read:

<u>§3106. Snow removal from private driveways</u>

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1. Purpose; findings. This section addresses the need of municipalities to provide for the removal of snow and ice from 8 the driveways of certain residents to eliminate conditions hazardous to public health and safety and recognizes the home 10 rule authority of municipalities to do so in the limited circumstances provided in this section. The Legislature finds 12 that removal of snow and ice from certain private driveways is a 14 public necessity and that expenditures for this purpose are made in the furtherance of a public purpose as required by the 16 Constitution of Maine in that those expenditures are necessary to protect the health and safety of citizens whose mobility is severely hampered by snow and ice, to improve the safety and 18 working conditions of public safety workers and other municipal 20 employees who from time to time require immediate access to the homes of those citizens and to enhance the ability of all citizens to participate in community commercial, social, 22 educational and recreational activities to the benefit of the 24 municipality as a whole.

2. "Driveway" defined. For the purposes of this section, "driveway" means that portion of privately owned property adjacent to a dwelling that is customarily used by the resident of the dwelling for vehicular parking and as a means of vehicular access to or egress from a public way.

 32 3. Authorization. Under its home rule authority, a municipality may authorize, by vote of its legislative body, snow
34 removal and the sanding and salting of driveways within the municipality only under the following conditions.

A. The driveway provides the only means of vehicular access to and egress from a public way.

- B. The municipality finds that:
- 42 (1) The age or physical condition of the resident prevents that resident from clearing the driveway;

(2) The resident can not afford to clear the driveway;

(3) Snow and ice in the driveway create a significant impediment to vehicular access and egress; and

(4) The driveway would otherwise remain unplowed.

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4. Liability. The Maine Tort Claims Act applies to a municipality and to any officer, official or employee of a municipality that performs snow or ice removal under this section.

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5. No duty. This section may not be construed to establish any duty upon a municipality to remove snow or ice from any privately owned driveway. Except as provided in any contract between the municipality and any private party, it is solely a decision of the municipality whether to perform maintenance and the level of that maintenance.

STATEMENT OF FACT

16 This bill clarifies the ability of municipalities to provide for snow and ice removal from private driveways in certain limited circumstances if the legislative body of the municipality 18 votes to do so. When a resident is physically and financially unable to make provision for snow and ice removal from the 20 driveway, the municipality may vote to do so for the resident. 22 The bill describes the public benefits that the removal of snow and ice in those circumstances provides to the municipality and declares that expenditure of public funds for this purpose is 24 intended to satisfy the public purpose requirement of the Constitution of Maine. 26