

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

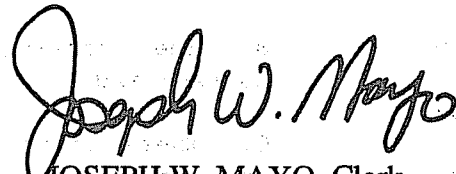
No. 189

H.P. 144

House of Representatives, January 28, 1993

An Act to Facilitate Municipal Road Construction.

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


JOSEPH W. MAYO, Clerk

Presented by Representative LORD of Waterboro.

Cosponsored by Representatives: AHEARNE of Madawaska, ANDERSON of Woodland, BARTH of Bethel, CARON of Biddeford, CLARK of Millinocket, DEXTER of Kingfield, DONNELLY of Presque Isle, FARNUM of South Berwick, GEAN of Alfred, GOULD of Greenville, HICHBORN of Howland, HILLOCK of Gorham, KERR of Old Orchard Beach, KNEELAND of Easton, LIBBY of Kennebunk, MURPHY of Berwick, NICKERSON of Turner, PLOURDE of Biddeford, POULIOT of Lewiston, REED of Dexter, ROBICHAUD of Caribou, STEVENS of Sabattus, STROUT of Corinth, TARDY of Palmyra, TAYLOR of Cumberland, TRUE of Fryeburg, TUFTS of Stockton Springs, VIGUE of Winslow, YOUNG of Limestone, ZIRNKILTON of Mount Desert, Senators: CIANCHETTE of Somerset, KIEFFER of Aroostook, SUMMERS of Cumberland.

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

2
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 a great pond, river, stream or brook, wetland
21 or sand dune; maintenance of any road by a municipality, as long
22 as the municipality stays within the bounds of the right-of-way;
23 and maintenance and repair of private crossings of a river,
24 stream or brook, ~~provided that~~ as long as:

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:

34
35 This ~~Article shall~~ article does not apply to any development
36 in existence ~~or, any development~~ in possession of applicable
37 state 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.
49
50
51
52

2
4
6
8
10

STATEMENT OF FACT

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 repairs as long as the municipality stays within the bounds of the right-of-way.