

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 1227

S.P. 368

In Senate, February 25, 1997

**An Act to Require the Department of Transportation to Improve the  
Conditions of Any Road That May be Turned Over to a Municipality.**

(EMERGENCY)

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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 HARRIMAN of Cumberland.  
Cosponsored by Representative BULL of Freeport and  
Senators: GOLDTHWAIT of Hancock, HALL of Piscataquis, LIBBY of York, MITCHELL  
of Penobscot, Representatives: FISHER of Brewer, MACK of Standish, VEDRAL of Buxton,  
WHEELER of Eliot.

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

4           **Whereas,** current law allows the Department of Transportation  
6 to transfer certain roads to municipalities, regardless of the  
conditions of those roads; and

8           **Whereas,** a municipality receiving responsibility for these  
10 roads could incur major expenses to repair these roads; and

12           **Whereas,** these expenses could be a financial burden to the  
municipality; and

14           **Whereas,** it is inequitable that the State should be allowed  
16 to transfer roads in a state of disrepair and avoid the  
responsibility of repairing the roads; and

18           **Whereas,** it is necessary that this legislation take effect  
20 as soon as possible to avoid further inequities; and

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

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

30           **Sec. 1. 23 MRSA §53, sub-§1,** as enacted by PL 1981, c. 702,  
Pt. Z, §1, is amended to read:

32           **1. Classification.** The department shall cause charts and  
34 maps to be made showing the location and mileage of all highways  
in the State, and shall classify the highways of the State, and  
36 may, from time to time, amend that classification, namely:  
First, state highways, which mean a system of connected main  
38 highways throughout the State which that primarily serve arterial  
or through traffic; 2nd, state aid highways, which mean those  
40 highways not included in the system of state highways which that  
primarily serve as collector and feeder routes connecting local  
42 service roads to the arterial state highway system; and 3rd,  
regional highways, which mean those state highways and state aid  
44 highways located within towns upon which at least 50% of the  
traffic traverses the town boundary; and 4th, town ways, which  
46 mean all other highways not included in the first 2 3 classes,  
which that are maintained by the towns and primarily serve as  
48 local service roads providing access to adjacent land. The  
criteria to be used in the classification of highways shall be

2 are considered rulemaking and subject to Title 5, chapter 375,  
subchapter II.

4 **Sec. 2. 23 MRSA §53, sub-§2**, as enacted by PL 1981, c. 702,  
Pt. Z, §1, is repealed and the following enacted in its place:

6 **2. Maintenance, repair and upkeep.** The maintenance, repair  
8 and upkeep of a state or state aid highway that is reclassified  
10 as a town way pursuant to subsection 1 is the responsibility of  
12 the town in which that way lies and any and all rights of the  
State in that highway are transferred to the town for those  
purposes. The transfer of a regional highway is prohibited.

14 **Sec. 3. 23 MRSA §754**, as amended by PL 1989, c. 46, §2, is  
further amended to read:

16 **§754. Town maintenance in compact areas**

18 Except as otherwise provided, and except for regional  
20 highways, all state and state aid highways within compact or  
22 built-up sections of towns having a population of 6,000 and over,  
as determined by the department, shall ~~must~~ be maintained in good  
24 repair by the town in which the highways are located at the  
expense of the town. For the purposes of this section, compact  
26 or built-up sections include compact areas as determined by the  
department in which compact sections may be intermittent and  
28 separated by a short interval or intervals of sections that are  
not compact. Municipalities shall ~~must~~ be notified one year in  
30 advance of changes in compact or built-up sections which that  
place additional maintenance responsibilities on the  
32 municipalities. When responsibility for maintenance of a section  
of state or state aid highway is transferred to a municipality,  
the department shall ensure that the section of state or state  
34 aid highway is in good repair at the time of transfer. The  
department shall develop guidelines for determining good repair  
36 in accordance with generally accepted engineering standards.  
Prior to adoption of these guidelines, the department shall offer  
38 an opportunity for a public hearing or hearings. When a section  
of state or state aid highway is transferred to a municipality  
40 for maintenance in accordance with this section, the department  
shall provide the municipality with a maintenance plan for that  
42 section of state or state aid highway. Whenever any town  
neglects to maintain the highways within 14 days after notice  
44 given its municipal officers by the department, the department  
may proceed to make necessary repairs to that way, which shall  
46 ~~must~~ be paid for by the State and the cost thereof shall ~~must~~ be  
withheld from funds due the town under chapter 19, subchapter VI,  
48 Local Road Assistance Program. The amounts collected from these  
towns shall ~~must~~ be added to the fund for maintenance of state  
50 and state aid highways. The department may take over the

2 maintenance of portions of controlled access highways within  
compact sections as it determines advisable. The department may  
4 grant these towns financial assistance as it determines advisable  
to carry out the purposes of this section.

6 **Sec. 4. Retroactivity.** This Act applies retroactively to  
January 1, 1997.

8  
10 **Emergency clause.** In view of the emergency cited in the  
preamble, this Act takes effect when approved.

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### SUMMARY

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16 This bill requires the Department of Transportation to  
develop guidelines for determining whether a section of road is  
18 in good repair according to generally accepted engineering  
standards and requires that a section of road be in good repair  
at the time of transfer to a municipality for future  
20 maintenance. It further requires the department to provide a  
maintenance plan for the section of road being transferred. A  
22 municipality's maintenance responsibility within a compact area  
is limited to state aid highways. The department could not  
24 transfer responsibility for sections of roads classified as  
regional highways, which are those state and state aid highways  
26 located within town boundaries upon which at least 50% of the  
traffic traversing the town boundaries. The bill contains a  
28 retroactive effective date of January 1, 1997 so that any  
regional highways transferred after that date are unauthorized.