

MAINE STATE LEGISLATURE

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M
R. O. S.

L.D. 1207

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DATE: May 3, 1999

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**STATE OF MAINE
SENATE
119TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A " to S.P. 418, L.D. 1207, Bill, "An Act to Amend the Local Highway Laws"

Amend the bill by inserting after section 2 the following:

'Sec. 3. 23 MRSA §3351-A is enacted to read:

§3351-A. Moratorium restoration requirement

If a municipality issues a permit to open a street within 5 years after that street or highway was paved or substantially repaired, the municipality may require the permittee to relay the full width of the road surface on both sides of the cut for a distance of 20 feet from the furthest outside edges of the cut. If that repair overlaps the edge of a repair from a previous opening, the municipality may require the permittee to relay the full width of the road to the furthest edge of that previous repair. The municipality may prescribe the depth and method of restoring the pavement based upon the class of the street, except that in no case may the depth of the restored pavement be less than 1 1/2 inches.'

Further amend the bill by striking out all of sections 4 and 5 and inserting in their place the following:

'Sec. 4. 23 MRSA §3354 is amended to read:

COMMITTEE AMENDMENT

R. O. S.

§3354. Record of permits kept; fees

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The road commissioner, the commissioner of public works or such officer as the city--government municipal officers may appoint in the absence of a commissioner shall keep a record of all permits granted by him that person, work done by the city municipal employees excepted. The applicant shall pay to the city municipal treasurer for every permit for making an excavation within the driveways of any public highway paved with broken stone, concrete, bitulithic, granite block, brick, wood block, sheet asphalt or other pavements such fees as--shall--be established by the municipal officers,--such, Those fees may not te exceed the reasonable cost of replacement of the excavated pavement and base material as well as inspections performed by or for the municipality. The requirement for municipal inspections must bear a reasonable relationship to the complexity of the project or the performance history of the permittee. All such fees paid to the city municipal treasurer shall must be regularly accounted for by-him in his the treasurer's report to the city government municipal officers and shall constitute a special fund for the repaving of said-euts excavations, repair of any roadway adjacent to the excavations and inspections. When such euts excavations are repaired or inspected by the street--department municipality, the cost thereof-shall must be charged to said the special fund. Municipal ordinances and regulations governing activities conducted in accordance with this subchapter may not be arbitrary or capricious.

Sec. 5. 23 MRSA §3355 is amended to read:

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§3355. Size of opening; filling; protection

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It ~~shall-be~~ is unlawful for any person or persons, firm, corporation or bridge or water district, having the right of opening or making excavations within the driveways of public highways in the city municipality, to leave open at any time any trench or excavation of a greater length than 200 feet, except by permission of the officer granting such permit. Such person or persons, firm, corporation or bridge or water district shall fully and completely fill up such a trench to the surface of the roadway before making any further trench or excavation. Such The filling shall must be puddled or rammed as the nature of the soil may require and shall must be done and completed within the time designated in the permit for completing such the trench or excavation. Any person or persons, firm, corporation or bridge or water district, failing to comply with the requirements or infringing on the prohibitions of this section, may be punished by a fine of \$50 for each offense. These requirements, prohibitions and penalties shall may not apply to excavations in grading, building or repairing any of the public highways under

2 the supervision of the city municipal authorities. Such person
3 or persons, firm, corporation or bridge or water district shall
4 protect the paving on either side of the opening by the use of
5 sheet piling or such other means as will prevent the escape of
6 sand from underneath it. In determining the number of square
7 yards of paving disturbed, there shall must be included such area
8 of paving adjoining the trench actually opened as will, in the
9 opinion of the road commissioner, the commissioner of public
10 works or such officer as the city-government municipal officers
11 may appoint in the absence of a commissioner, be required to be
12 taken up and relaid by reason of such failure to properly protect
the same.'

14 Further amend the bill by striking out all of section 7 and
15 inserting in its place the following:

16 'Sec. 7. 23 MRSA §3357 is amended to read:

17 **§3357. Relaying of pavement**

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19 When any excavation shall-be is made in any paved public
20 highway and the trench shall-have has been filled as required by
21 sections 3355 and 3356, the ~~commissioner of public works or such~~
22 ~~officer as the city-government may appoint~~ municipality shall
23 relay the pavement or enter into an agreement for relaying of the
24 pavement by the permittee. The If the municipality relays the
25 pavement, the cost thereof of relaying the pavement, including
26 materials, labor and inspection, shall must be paid out of any
27 ~~moneys~~ money in the city municipal treasury standing to the
28 credit of the regular fund for this purpose.'

29 Further amend the bill by inserting after section 10 the
30 following:

31 'Sec. 11. 35-A MRSA §2513, as enacted by PL 1987, c. 141, Pt.
32 A, §6, is amended to read:

33 **§2513. Relaying of pavement**

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35 When an excavation is made in a paved street, road or
36 highway and the opening is filled as required by sections 2511
37 and 2512, the municipality or village corporation in which the
38 opening was located shall relay the pavement unless the
39 municipality or village corporation has entered into an agreement
40 pursuant to Title 23, section 3357 requiring the permittee to
41 relay the pavement. The If the municipality or village
42 corporation relays the pavement, the cost of relaying the
43 pavement, including materials, labor and inspection shall, must
44 be paid out of any funds in the special fund for this purpose.'

R. W. S.

COMMITTEE AMENDMENT " A " to S.P. 418, L.D. 1207

2 Further amend the bill by relettering or renumbering any
nonconsecutive Part letter or section number to read
consecutively.

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SUMMARY

10 This amendment removes the language in the bill allowing
municipalities to charge a fee to cover the reduced life of a
road resulting from a road cut. The amendment also adds language
12 allowing municipalities to require that a cut into a road within
the first 5 years after the road is resurfaced be repaved for a
14 distance at least 20 feet in from the furthest edges of the cut
across the entire width of the road to minimize construction
16 joints.

18 The amendment also allows municipalities to enter into
agreements requiring the utility or other entity that creates the
20 cut to repave the cut.

22 The amendment also makes several technical corrections to
the bill.

COMMITTEE AMENDMENT