

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1626

H.P. 1204

House of Representatives, March 13, 2001

**An Act to Make the Laws Affecting Certain Bridges Consistent with
Federal Law.**

(EMERGENCY)

Submitted by the Department of Transportation pursuant to Joint Rule 204.
Reference to the Committee on Transportation suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative FISHER of Brewer.
Cosponsored by Senator FERGUSON of Oxford and
Representatives: BUNKER of Kossuth Township, COLLINS of Wells, Senator: SAVAGE of
Knox.

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

4
6 **Whereas,** the Department of Transportation's biennial
transportation program takes effect July 21, 2001; and

8 **Whereas,** in order for the Department of Transportation's
laws to be consistent with the biennial transportation program,
10 this legislation must be an emergency; and

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

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

20 **Sec. 1. 23 MRSA c. 9, sub-c. VII,** as amended, is repealed.

22 **Sec. 2. 23 MRSA c. 9, sub-c. IV-A** is enacted to read:

24 SUBCHAPTER IV-A

26 LOCAL BRIDGES

28 **§561. Applicability**

30 This subchapter applies to all minor spans and bridges, as
32 those terms are defined in this subchapter, that are located on
public ways classified as town ways or state aid highways
34 pursuant to section 53, excluding railroad bridges, bridges over
the Maine Turnpike, bridges over interstate highways and bridges
over state highways and state aid highways.

36 **§562. Definitions**

38 As used in this subchapter, unless the context otherwise
40 indicates, the following terms have the following meanings.

42 1. Average annual daily traffic. "Average annual daily
traffic" or "AADT" means the average annual daily traffic as
44 determined by the department using accepted engineering practices.

46 2. Bridge. "Bridge" means a structure, including supports,
designed principally to carry motor vehicles that is erected over
48 a depression or an obstruction, such as water, a highway or a
railway, and has an opening measured along the center of the
50 roadway of more than 20 feet between the undercropping of

2 abutments or spring lines of arches or the extreme ends of
3 openings for multiple boxes. It also includes multiple pipes when
4 the clear distance between openings is less than 1/2 of the
5 smaller contiguous opening. Issues arising regarding the
6 definition of "bridge" must be resolved in accordance with the
7 method specified in a publication entitled "Recording and Coding
8 Guide for the Structure Inventory and Appraisal of the Nation's
9 Bridges" published by FHWA, or any subsequent replacement
10 publication by FHWA. "Bridge" is defined in accordance with the
11 FHWA definition.

12 **3. Capital improvement.** "Capital improvement" means the
13 creation of, addition to or restoration of structural or
14 functional capacity of a structure. "Capital improvement"
15 includes construction of new structures, replacement of existing
16 structures, removal of closed structures and rehabilitation of
17 existing structures. Rehabilitation differs from maintenance in
18 that it makes comprehensive structural or functional improvements
19 that impact serviceability for at least 20 years, whereas similar
20 maintenance is restricted to repairs to individual members of a
21 structure or isolated areas of a structure. "Capital
22 improvement" includes the cost of property acquisition,
23 permitting, design, construction, traffic control, supervision
24 and administration and all related costs.

26 **4. Capital responsibility.** "Capital responsibility" means
27 the responsibility to provide all resources needed to make
28 capital improvement to a structure.

30 **5. Culvert.** "Culvert" means any pipe or other structure
31 that has a span of less than 10 feet or multiple pipes or other
32 structures with a combined opening of less than 80 square feet in
33 area.

34 **6. Detour length.** "Detour length" means the shortest
35 distance measured along a public way from one abutment of a
36 bridge to the other abutment that would result if the bridge were
37 closed.

40 **7. Federal Highway Administration.** "Federal Highway
41 Administration" or "FHWA" means an agency of the United States
42 Department of Transportation.

44 **8. Low use bridge.** "Low use bridge" means a bridge with an
45 AADT of under 100 motor vehicles.

46 **9. Maintenance.** "Maintenance" means the work necessary to
47 preserve a structure's existing structural or functional capacity
48 and integrity and to abate deterioration of its components.
49 Maintenance is not intended to increase or fully restore
50 the structure's existing structural or functional capacity.

2 structural or functional capacity. Maintenance is performed to
3 ensure safety of a user of the structure or the structure in
4 response to vehicular accident damage, flood damage or ice damage
5 or unanticipated component failure. Maintenance normally is
6 scheduled for routine operations or to address limited
7 deficiencies found in periodic inspections.

8 **10. Maintenance responsibility.** "Maintenance
9 responsibility" means the responsibility to provide all resources
10 needed to perform maintenance on a structure. "Maintenance
11 responsibility" does not include snow and ice control.

12 **11. Minor span.** "Minor span" means a structure designed
13 principally to carry motor vehicles that is larger than a culvert
14 but has a span less than that required to be defined as a bridge.

15 **12. Municipality.** "Municipality" means any unit of
16 municipal government, including towns, cities, plantations and
17 unorganized townships. "Municipality" includes departments or
18 bureaus of State Government and quasi-independent agencies or
19 boards of State Government that are responsible for structures on
20 public highways, excepting the Maine Turnpike Authority. In
21 cases of unorganized townships, "municipality" means county.

22 **13. Property valuation.** "Property valuation" means the
23 value of all taxable property in a municipality based upon 100%
24 of the current market value as determined by the State Tax
25 Assessor.

26 **14. Redundant bridge.** "Redundant bridge" means a bridge in
27 which the AADT multiplied by the detour length in miles is less
28 than 200.

29 **15. Structure.** "Structure" means a bridge or minor span.

30 **§653. Inspection, posting and closure**

31 The department shall inspect all structures.

32 **1. Municipal-maintained structures.** For a structure for
33 which a municipality has maintenance responsibility, the
34 department shall advise the municipality of its inspection
35 findings, noted deficiencies and recommendations regarding
36 posting or closure. The municipality has sole responsibility and
37 authority to determine whether a structure must be posted or
38 closed, except that the department may close the structure in
39 cases of emergency or when the department reasonably determines
40 closure is necessary to protect the traveling public from
41 imminent hazard. If the department becomes aware of deficiencies
42 in a structure that could impact posting or closure decisions,
43

2 the department shall promptly notify the municipality. The
3 municipality is responsible for all costs and expenses related to
4 the posting and closure, including any needed notifications,
5 procedures, signing and barricades.

6 2. Department-maintained structures. For a structure for
7 which the department has maintenance responsibility, the
8 department has sole responsibility and authority to determine
9 whether the structure must be posted or closed, except that a
10 municipality may close the structure in cases of emergency. If
11 the municipality becomes aware of deficiencies in a structure
12 that could impact posting or closure decisions, the municipality
13 shall promptly notify the department. The department is
14 responsible for all costs and expenses related to the posting and
15 closure, including any needed notifications, procedures, signing
16 and barricades.

18 **§564. Minor spans**

20 The department has maintenance responsibility and capital
21 responsibility for all minor spans on state aid highways, unless
22 provided otherwise pursuant to section 566, subsection 5.

24 A municipality has maintenance responsibility and capital
25 responsibility for all minor spans on town ways except as
26 provided otherwise pursuant to section 566, subsection 5. For a
27 minor span located on a town line, the municipalities shall
28 equally share capital responsibility unless the municipalities
29 agree otherwise.

30 Upon request by a municipality, the department shall provide
31 limited technical advice regarding repair and capital improvement
32 options without assuming any cost of or liability to the
33 municipality.

36 **§565. Bridges**

38 1. Generally. The department has maintenance
39 responsibility and capital responsibility for all bridges on
40 state aid highways and town ways except as provided in subsection
41 2 or unless provided otherwise pursuant to section 566,
42 subsection 5.

44 2. Low use or redundant bridges on town ways. A
45 municipality has maintenance responsibility for all low use
46 bridges on town ways and all redundant bridges on town ways.

48 For the capital improvement of a low use bridge on a town way or
49 a redundant bridge on a town way located wholly within one
50 municipality, the municipality shall pay 50% of the cost or 1% of

2 its property valuation, whichever is less. For a bridge located
4 on a town line, each municipality shall pay 25% of the cost of
6 the capital improvement or 1% of its property valuation,
8 whichever is less, unless the municipalities and the department
10 agree otherwise. The department shall pay the remaining portion
12 of the cost of the capital improvement.

8 **§566. Changes affecting responsibilities**

10 1. Changes to structures. If a structure is improved in a
12 manner that affects whether it is defined as a minor span or a
14 bridge, the responsibilities set forth in this subchapter
16 regarding the structure do not change unless the department
18 determines that there exists a reasonable engineering basis for
20 the improvement.

16 2. New structures. If a municipality constructs a new
18 bridge on a town way, the department shall assume the
20 responsibilities set forth in the subchapter only if the
22 department determines that there is a reasonable engineering
24 basis for the bridge, as opposed to a minor span, and if the
26 department approves the design and construction of the bridge.

24 3. Changes to classification of road. If the department
26 changes the classification of the road carried by the structure,
28 the responsibilities regarding the structure change in accordance
30 with this subchapter.

28 4. Changes to federal definition of bridge. If FHWA
30 changes its definition of "bridge," the responsibilities change
32 in accordance with this subchapter regarding structures affected
34 by that change.

34 5. Special finding by commissioner. Upon application by a
36 municipality or upon the department's initiative, the
38 commissioner, after notice and opportunity to be heard, may alter
40 responsibilities set forth in this subchapter upon a finding that
42 special and unusual factual circumstances related to the
44 structure or its location justify the alteration.

40 **§567. Bridge capital improvement priorities**

42 The department shall biennially prepare a list of bridges
44 that are eligible for capital improvement under this subchapter,
46 arranged in priority order using accepted bridge management
48 principles and as constrained by available funding. The
50 department is the final arbiter as to whether any bridge is
placed on the list. The department shall consult with
municipalities regarding the manner of improving low use bridges
on town ways and redundant bridges on town ways.

2 **§568. Emergency improvements**

4 In case of an emergency as determined by the department, the
6 department may perform any maintenance or capital improvement to
 a structure.

8 **Sec. 3. Retroactivity.** This Act applies retroactively to July
10 1, 2001.

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

14

SUMMARY

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18 This bill repeals the current laws governing responsibility
 for local bridges.

20 The bill also does the following.

22 It defines a "bridge" as a structure with a span of more
24 than 20 feet in accordance with federal regulations and defines
 structures of 20 feet or less as "minor spans."

26 It places capital and maintenance responsibility for minor
28 spans that are on state aid highways on the Department of
 Transportation.

30 It places capital and maintenance responsibility for all
 minor spans that are on town ways on municipalities.

32

34 It places capital responsibility for most bridges on state
 aid highways and town ways on the Department of Transportation,
 excepting low use and redundant bridges.

36

38 It requires that capital responsibility for low use or
 redundant bridges on town ways be shared by the Department of
40 Transportation and the municipality on a 50%-50% basis, with a 1%
 valuation cap for low valuation municipalities.

42 It eliminates county funding for local bridges, except when
 acting for unorganized townships.