

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1452

S.P. 484

In Senate, March 27, 2003

An Act To Provide Incentives for Development and To Amend Traffic Movement Permit Standards

Submitted by the Department of Transportation pursuant to Joint Rule 204.
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 HATCH of Somerset.
Cosponsored by Representative USHER of Westbrook.

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

4 **Sec. 1. 23 MRSA §704-A, sub-§1, ¶A-1** is enacted to read:

6 A-1. "High-speed rural arterial highway" means an arterial
8 highway as defined in section 704 that is not located in the
10 urban compact area of an urban compact municipality as
described in section 754 and where the posted speed limit at
the time of the application for a traffic movement permit is
40 miles per hour or greater.

12 **Sec. 2. 23 MRSA §704-A, sub-§1, ¶D** is enacted to read:

14 D. "Traffic demand management techniques" means measures
16 taken to reduce or spread peak hour traffic over a longer
18 period of time. Such measures include, but are not limited
20 to, on-site facilities or on-site design considerations to
22 support local, regional or state bicycle, pedestrian,
passenger rail, transit and ride-sharing efforts or plans.
The department may not require operational support of
passenger transportation systems or require parking
management strategies of the permit applicant.

24 **Sec. 3. 23 MRSA §704-A, sub-§2, ¶C**, as enacted by PL 1999, c.
26 468, §2, is repealed.

28 **Sec. 4. 23 MRSA §704-A, sub-§2, ¶D**, as enacted by PL 1999, c.
468, §2, is repealed and the following enacted in its place:

30 D. If a project is located in an area designated as a
32 growth area in a local growth management plan that has been
34 found by the State to be consistent with the growth
36 management program in Title 30-A, chapter 187 and the
38 project does not have an entrance or exit located on a
high-speed rural arterial highway and the applicant for a
traffic movement permit implements traffic demand management
techniques recommended by the department, then the required
improvements are limited:

40 (1) To those necessary to mitigate the impact of the
42 project provided all safety standards are met, even if
44 part or all of the traffic impact occurs outside the
boundaries of the growth area; and

46 (2) To the entrances and exits of the project, if the
48 project reuses previously developed land area and
buildings with no more than a 10% increase in building
footprint regardless of the extent of vertical
development.

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Sec. 5. 23 MRSA §704-A, sub-§2, ¶G is enacted to read:

G. For a project that generates 400 or more passenger car equivalents at peak hour, with entrances or exits located on an arterial highway as defined in section 704, in order to limit unnecessary arterial curb cuts and to provide for street access to undeveloped adjoining property, the applicant shall dedicate for public use at least a 50-foot wide right-of-way to the boundary of adjacent properties unless:

(1) Following written opportunity for written comments from the municipality, the department determines it is not in the public interest to require access to adjoining land;

(2) The topography is not suitable for access to adjoining land;

(3) The project is surrounded by wetlands or other protected natural or cultural resources and no suitable land is available for continuation; or

(4) The department finds that a narrower right-of-way would accomplish the public interest.

Sec. 6. 23 MRSA §704-A, sub-§10 is enacted to read:

10. Violation. A violation of this section or the rules adopted pursuant to this section is punishable by a fine of not more than \$100 per day per violation. The fine begins to accrue 30 days after the Department of Transportation sends notice of the violation to the landowner. The department shall establish procedures for administrative enforcement of this section, establishing fines and reconsideration and appeals of enforcement actions.

Sec. 7. 30-A MRSA §4103, sub-§3, ¶D is enacted to read:

D. The licensing authority may not issue a permit for a building or use until the Department of Transportation has provided a permit or documentation indicating that an exit or entrance conforms to Title 23, section 704, if applicable, and section 704-A, if applicable.

Sec. 8. Rulemaking. The Department of Transportation may adopt rules to implement the purposes of this Act. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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SUMMARY

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This bill revises existing incentives that guide the location of high-traffic developments generating more than 100 cars per hour and relaxes the standard for projects in growth areas that reuse currently developed land and buildings with no more than a 10% increase in building footprint by limiting traffic mitigation requirements to improvements to entrances and exits of a project. Current law provides this incentive only for conversion of existing buildings.

This bill limits the relaxed standard of traffic mitigation requirements to certain growth areas.

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Development incentives are not provided if a development has an entrance or an exit on a high-speed arterial highway. This bill provides development incentives only if a project provides prudent traffic demand management strategies, such as provision of appropriate on-site bus stops or train platforms. The department may not require operational support of passenger transportation systems or parking management strategies.

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This bill requires that the largest developments that generate 400 or more passenger car equivalents at peak hour provide right-of-way access to adjacent parcels, where sensible, if these developments are located on arterial highways.

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This bill also provides enforcement mechanisms for applicants for a building occupancy permit to prove that their entrances and exits are legally permitted.