

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)

M
1111

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

Date: 5/10/07

L.D. 921
(Filing No. H-222)

TRANSPORTATION

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 696, L.D. 921, Bill, "An Act To Allow a Landowner To Alter Land within a Highway Right-of-way Held by the Department of Transportation"

Amend the bill by striking out the title and substituting the following:

'An Act To Allow a Landowner To Erect Installations in or near a State or State Aid Highway'

Amend the bill by striking out everything after the title and before the summary and inserting the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation will allow certain projects to proceed to address erosion control issues and these projects need to occur during this construction season; and

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

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

Sec. 1. 23 MRSA §1401-A, as enacted by PL 2003, c. 452, Pt. L, §3 and affected by Pt. X, §2, is amended to read:

§1401-A. Installations restricted

1. Installing of buildings or fixtures. A Except as provided in subsection 1-A, a person may not install, erect or construct, or cause to be installed, erected or constructed, installations such as buildings, gasoline pumps or other fixtures; in, upon or near any state or state aid highway, located as follows:

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "A" to H.P. 696, L.D. 921

1 A. Within the full width of the right-of-way of any state or state aid highway as laid
2 out by the State, the county or the town;

3 B. Within 33 feet of the center line of any state or state aid highway. This paragraph
4 does not apply to installations or other property in existence on August 6, 1949. The
5 commissioner has discretion to waive the application of this paragraph to the
6 reconstruction of a building in the general location of the previously existing building
7 if the commissioner determines that highway safety and the public welfare will not be
8 adversely affected; or

9 C. Within 20 feet from the outside edge of any of the paved portion of any state or
10 state aid highway having more than 2 travel lanes and having a total paved portion in
11 excess of 24 feet in width. This paragraph does not apply to installations or other
12 property in existence on September 1, 1955.

13 **1-A. Limited waiver.** The commissioner may grant a person a written waiver of any
14 of the provisions of subsection 1 and permit the construction of a fixture in, upon or near
15 a state or state aid highway located in a municipality if:

16 A. The commissioner receives a written statement from the municipal officers
17 requesting or supporting the waiver;

18 B. The posted speed limit where the construction will occur is no more than 35 miles
19 per hour; and

20 C. The commissioner determines that highway safety and public welfare will not be
21 adversely affected.

22 The commissioner may include in the waiver any conditions the commissioner
23 determines necessary to ensure public safety and welfare. Violation of the terms of a
24 waiver constitutes a violation of this section.

25 **2. Penalties.** The following penalties apply to violations of this section.

26 A. A person who violates this section commits a civil violation for which a fine of
27 not less than \$5 and not more than \$500 may be adjudged.

28 B. After having been adjudicated as having violated paragraph A, a person who
29 unlawfully maintains any installations such as buildings, gasoline pumps or other
30 fixtures for 30 days after the adjudication is subject to an additional fine of not more
31 than \$50 for each day such installations are maintained.

32 **3. Application.** This section does not apply to the installations or other property
33 devoted to the public use of any public utility or district and underground pipelines.

34 **Emergency clause.** In view of the emergency cited in the preamble, this
35 legislation takes effect when approved.

36 **SUMMARY**

37 This amendment replaces the bill. The bill allowed landowners to alter land within
38 the right-of-way of a state or state aid highway in order to control erosion or improve the
39 land. The amendment allows the Commissioner of Transportation to allow construction
40 of fixtures within the bounds a state or state aid highway located in a municipality if the

COMMITTEE AMENDMENT "A" to H.P. 696, L.D. 921

- 1 construction is supported by the municipal officers, the road speed is no more than 35
- 2 miles per hour and the commissioner determines the construction will not adversely affect
- 3 safety or the public welfare. The amendment also adds an emergency preamble and
- 4 clause to the bill.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



123rd MAINE LEGISLATURE

LD 921

LR 943(02)

**An Act To Allow a Landowner To Alter Land within a Highway Right-of-way Held by the
Department of Transportation**

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Transportation

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Highway Fund