

MAINE STATE LEGISLATURE

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5/11/14
R. G. G.

Date: 3/27/14

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STATE OF MAINE
SENATE
126TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 414,
L.D. 1177, Bill, "An Act To Implement the Recommendations from the Discontinued and
Abandoned Roads Stakeholder Group"

Amend the amendment by inserting after the enacting clause the following:

'Sec. 1. 17 MRSA §3853-E is enacted to read:

§3853-E. Damage to public easement; discontinued or abandoned road

1. Definitions. For the purposes of this section, the following terms have the following meanings.

A. "Damage to a road" means damage to a road in a way that impedes reasonable access by motor vehicle to a property owner's property abutting the road.

B. "Motor vehicle" has the same meaning as in Title 29-A, section 101, subsection 42.

2. Damage to roads. A person who causes damage to a road that has been discontinued or abandoned pursuant to Title 23, chapter 304 but in which a public easement exists commits a Class E crime.

3. Application. This section does not apply to:

A. A landowner operating a motor vehicle on land owned by that landowner;

B. A person given permission by a landowner to operate a motor vehicle on land owned by that landowner; or

C. A law enforcement officer who, in an emergency and in the scope of that law enforcement officer's employment, operates a motor vehicle on land owned by another.

4. Restitution. When appropriate, the court may order restitution in accordance with Title 17-A, chapter 54 for damage to a road.'

Amend the amendment in section 5 by striking out all of the first line (page 2, line 9 in amendment) and inserting the following:

'Sec. 5. 23 MRSA §3026-A is enacted to read:'

1 Amend the amendment in section 5 by striking out all of §3026-B (page 3, lines 19 to
2 35 in amendment)

3 Amend the amendment in section 7 in subsection 1 in the first line (page 4, line 26 in
4 amendment) by striking out the following: "~~It~~ Except as provided by subsection 1-A, it"
5 and inserting in its place the following: 'It'

6 Amend the amendment by striking out all of sections 8 and 9 and inserting the
7 following:

8 '**Sec. 8. 23 MRSA §3028, sub-§5** is enacted to read:

9 **5. Filing.** If after the effective date of this subsection the municipal officers or a
10 court determines that a town way has been abandoned pursuant to subsection 1, the
11 municipal clerk shall file a record of this determination with the registry of deeds, the
12 Department of Transportation and the municipality. The register of deeds shall record a
13 document regarding an abandoned town way under the name of the town way, the name
14 of the municipality and the names of the abutters.'

15 Amend the amendment by striking out all of section 12 (page 6, lines 1 to 11 in
16 amendment) and inserting the following:

17 '**Sec. 12. Municipalities authorized to develop road inventories.** To the
18 extent data are available, municipalities working collaboratively with the Department of
19 Transportation may develop comprehensive road inventories identifying all town ways,
20 abandoned town ways and discontinued town ways or any segments of those town ways,
21 abandoned town ways and discontinued town ways.'

22 Amend the amendment by relettering or renumbering any nonconsecutive Part letter
23 or section number to read consecutively.

24 SUMMARY

25 This amendment amends Committee Amendment "A." The amendment:

26 1. Strikes the provision in the committee amendment that requires a municipality to
27 go through a discontinuance procedure in the 21st year after a discontinuance certificate
28 was originally filed;

29 2. Removes the provision in the committee amendment that as of January 1, 2015 the
30 new discontinuance process will be the only means to terminate any interests held by a
31 municipality for highway purposes;

32 3. Requires determinations by municipal officers or a court that a town way has been
33 abandoned to be recorded with the registry of deeds, the Department of Transportation
34 and the municipality. The committee amendment requires recordation of determinations
35 only by the municipal officers;

36 4. Strikes the provision in the committee amendment that required municipalities to
37 develop lists of town ways by January 1, 2016. This amendment instead authorizes
38 municipalities to work collaboratively with the Department of Transportation to develop
39 comprehensive road inventories; and

1 5. Provides that a person who causes damage to a discontinued or abandoned road in
2 which a public easement exists commits a Class E crime.

3 SPONSORED BY: 

4 (Senator THOMAS)

5 COUNTY: Somerset

FISCAL NOTE REQUIRED
(See attached)



126th MAINE LEGISLATURE

LD 1177

LR 1124(10)

An Act To Implement the Recommendations from the Discontinued and Abandoned Roads Stakeholder Group

Fiscal Note for Senate Amendment "A" to Committee Amendment "A"

Sponsor: Sen. Thomas of Somerset

Fiscal Note Required: Yes

Fiscal Note

Changes to Municipal Requirements

Fiscal Detail and Notes

The amendment eliminates the requirement that municipalities vote to reconsider a discontinuance 21 years after a certificate of discontinuance is filed and may only terminate a non-abandoned interest held for highway purposes through discontinuance. The requirement that municipalities must prepare and file with the registry of deeds and the Department of Transportation (DOT), by January 1, 2016, a list of all town ways maintained with public funds, discontinued since 1965 and abandoned since 1965 has now been made optional in this amendment. The amendment retains the committee amendment requirement that a record of abandonment be filed with the registry of deeds and DOT when municipal officers determine that a town way is presumed abandoned, but this amendment also requires this filing to occur if a court determines that a town way is presumed abandoned.

The net effect of these changes on municipalities is less costs associated with listing certain town ways and filing certain certificates of discontinuance as compared to the committee amendment.