

# MAINE STATE LEGISLATURE

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NEW DRAFT.

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SEVENTY-SIXTH LEGISLATURE

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SENATE

NO. 438

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*In Senate, March 6, 1913.*

*Laid on table for printing, on motion by Senator Maxwell of Sagadahoc, pending reference to the Committee on Railroads and Expresses.*

*W. E. LAWRY, Secretary.*

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND THIRTEEN.

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AN ACT for the abolishment of grade crossings of railroads.

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

Section 1. The selectmen of the town within which a public way crosses or is crossed by a railroad may file a petition in writing to the board of railroad commissioners alleging that public safety requires an alteration in such crossing, its approaches, the method of crossing the location of the public way, the closing of a public crossing and the substitution of another therefor, not at grade, or the removal

8 of obstructions to the sight at such crossing, and praying  
9 that the same may be ordered; whereupon said commission-  
10 ers shall appoint a time and place for a hearing thereon  
11 after notice of not less than ten days to the petitioners, the  
12 corporation, the municipality in which such crossing is situ-  
13 ated, the owners or occupants of the land adjoining such  
14 crossing and adjoining that part of the way to be changed  
15 in grade, and to the attorney general of the state, whose  
16 duty it shall be by himself or through the county attorney  
17 of the county wherein the crossing is located to represent  
18 the interests of the state at such hearing. And after such  
19 notice and hearing said commissioners shall determine what  
20 alterations, changes or removals shall be made and by whom  
21 made, and shall also determine and fix the damages sustained  
22 by any person whose land is taken, and the special damages  
23 which the owner of land adjoining the public way may sus-  
24 tain by reason of any change in the grade of such way.  
25 Said commissioners shall apportion such expenses and dam-  
26 ages between the state, the town in which the crossing is  
27 located, and the corporation owning or operating the rail-  
28 road which crosses such public way, and shall order an  
29 amount not exceeding twenty-five per cent. of the whole  
30 expense of such alteration, change or removal, including the  
31 land damages as aforesaid, to be paid by the state, and an  
32 amount not exceeding ten per cent. of the whole expense  
33 of such alteration, change or removal, including the land  
34 damages, as aforesaid, to be paid by the town in which such

35 crossing is located, and the remainder of the expense shall  
36 be paid by the corporation owning or operating the railroad.  
37 If, however, the public way affected by such order was con-  
38 structed after the location of the railroad which it crosses  
39 at grade, said commissioners may order an amount not ex-  
40 ceeding twenty-five per cent. of the whole expenses and  
41 damages to be paid by the state, and an amount not exceed-  
42 ing fifteen per cent. thereof to be paid by the town in which  
43 such crossing is located, and the remainder to be paid by  
44 the corporation owning or operating the railroad. Every  
45 corporation operating more than one hundred and fifty miles  
46 of single track road in this state shall remove at least one  
47 grade crossing each year for each one hundred and fifty  
48 miles, or fraction thereof exceeding seventy-five miles of  
49 road operated by it in this state, one of which crossings, at  
50 least, shall be that which in the opinion of said railroad com-  
51 missioners is among the most dangerous on the line of said  
52 railroad. If a railroad corporation fails to remove at least  
53 one grade crossing every year for every one hundred and  
54 fifty miles, or fraction thereof exceeding seventy-five miles,  
55 of road operated by it in this state, the railroad commis-  
56 sioners, if in their opinion the financial condition of the  
57 corporation will warrant, shall order such crossing or cross-  
58 ings removed as in their opinion said directors should have  
59 removed under the above provisions, and said commissioners  
60 in so doing shall proceed in all respects as if selectmen had  
61 applied therefor.

Sect. 2. In the absence of any application therefor the  
2 railroad commissioners may order such alteration in a cross-  
3 ing as they deem necessary for the safety of the public, and  
4 they shall determine and direct by whom such alteration  
5 shall be made, at whose expense and within what time, after  
6 a hearing held or notices to interested parties as provided  
7 in section one; provided, that in all cases arising under this  
8 section twenty per cent. of the expense, including damages  
9 and special damages as set forth in the preceding section,  
10 shall be paid by the state and the remainder shall be assessed  
11 upon the railroad corporation or corporations benefited by  
12 such orders; and provided, that such alterations as are thus  
13 made at the primary instance of the railroad commissioners  
14 shall not be ordered so as to direct the construction of more  
15 than one bridge in any one year on any one railroad.

Sect. 3. Whenever the railroad commissioners, upon an  
2 application or petition brought under the provisions of sec-  
3 tion one of this act find that a public way crosses or is  
4 crossed by the tracks of more than one railroad and the  
5 tracks of such railroads are so near together that public  
6 convenience requires the work of separating the grades to  
7 be done under and in compliance with one order, they shall  
8 give notice to all the corporations operating such railroads  
9 to appear before them and be heard upon the application;  
10 and after such notice and hearing said commissioners shall  
11 determine what alterations shall be made, if any, so as to  
12 separate the grades of all such crossings at the same time

13 and shall determine by whom such work shall be done and  
14 shall apportion the expense to be borne by the railroad cor-  
15 porations between such corporations in such manner as said  
16 commissioners shall deem just and proper.

Sect. 4. A railroad corporation will take land necessary  
2 for making changes in accordance with this act by observing  
3 the provisions of sections twenty-seven, twenty-eight and  
4 twenty-nine of chapter fifty-one of the Revised Statutes of  
5 Maine.

Sect. 5. Whenever a railroad corporation operating a rail-  
2 road within the state operates less than one hundred and  
3 fifty miles of single track, such railroad corporation shall  
4 remove at least one grade crossing upon such railroad every  
5 year in accordance with the provisions of this act unless  
6 such railroad corporation shall, upon application to the board  
7 of railroad commissioners and after notice and hearing, be  
8 exempted by said commissioners from the requirements of  
9 this act for the year then current; notice of such application  
10 and of the time and place of hearing shall be given by said  
11 commissioners to the attorney general of the state, who shall  
12 by himself or through the county attorney of the county  
13 where the crossing is located attend such hearing and repre-  
14 sent the interests of the state. If upon hearing said com-  
15 missioners refuse to exempt such railroad corporation from  
16 the requirements of this act for the current year, said com-  
17 missioners shall designate and determine the crossing upon  
18 such railroad, and the one among the most dangerous upon

19 such railroad, to be removed; and such railroad corporation  
20 shall have the same right of appeal from the decision of  
21 said commissioners as is hereinafter provided in this act.

Sect. 6. The order of the railroad commissioners relating  
2 to any matter upon which they may act under the authority  
3 of the preceding sections of this act shall be communicated  
4 in writing to the petitioners and to all persons to whom  
5 notice of the hearing on such petition was given; and any  
6 person so aggrieved by such order, who was a party to such  
7 proceedings, may appeal from such order to the supreme  
8 judicial court within and for the county in which such way  
9 or crossing is located in the manner now provided by law  
10 for appeals from the findings of the railroad commissioners.  
11 Any person aggrieved by the decision or judgment of the  
12 railroad commissioners in relation to damages for land taken  
13 for the purposes of this act may appeal from said decision  
14 in the manner provided for in section thirty-six of said  
15 chapter fifty-one of the Revised Statutes of Maine.

Sect. 7. The amount to be paid under the provisions of  
2 the preceding six sections by the state in any one year shall  
3 not exceed twenty-five thousand dollars, but if in any year  
4 the expenditure by the state shall not amount to twenty-five  
5 thousand dollars, the unexpended balance thereof shall be  
6 added to the twenty-five thousand dollars allowed to be paid  
7 by it in any subsequent year. The sum of twenty-five thou-  
8 sand dollars is hereby appropriated for the purpose of carry-  
9 ing out the provisions of this act, and the same shall be pay-

10 able through the office of the state treasurer upon the order  
11 of the governor and council.

Sect. 8. When a railroad corporation fails to remove in  
2 any year the crossings required to be removed by the pro-  
3 visions of this act, such crossings not so removed shall be  
4 added to the number required to be removed for the follow-  
5 ing year.

Sect. 9. This act shall not apply to street railway corpo-  
2 rations excepting, however, that in all cases where a street  
3 railway has a right of way in a public way crossing a rail-  
4 road the commission shall apportion to such street railway  
5 an equitable share of the damages and expenses of altera-  
6 tion which shall be paid by said street railway; and in all  
7 cases where a street railway acquires the right to lay its  
8 tracks over a crossing which has been altered under the  
9 provisions of this act, the railroad commissioners shall fix  
10 the amount which such railway shall pay to the state before  
11 it shall exercise its right to lay its tracks over such crossing.

Sect. 10. All acts and part of acts inconsistent with this  
2 act are hereby repealed.

Sect. 11. This act shall take effect January 1st, 1914.