

# MAINE STATE LEGISLATURE

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EIGHTY-FIFTH LEGISLATURE

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Legislative Document

No. 1010

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S. P. 599

In Senate, March 26, 1931.

Reported by Senator Weatherbee of Penobscot from the Committee on Public Utilities and laid on Table to be printed under Joint Rules.

ROYDEN V. BROWN, Secretary.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND THIRTY-ONE

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AN ACT Relating to Abolishment or Alteration of Grade  
Crossings.

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

Section 1. Section thirty-nine of chapter thirty-seven of the revised statutes hereby is amended by striking out said section in its entirety and substituting therefor the following:

'Sec. 39. Any railroad company, the state highway commission, or the municipal officers of a city or town in which a public way crosses or is crossed by a railroad, whether such crossing be at grade or otherwise, may file a petition in writing with the public utilities commission alleging that safety either to the traveling public or in the operation of the railroad requires the abolishment of or an alteration in such crossings, or its approaches; or a change in the method of crossing a public way; or the closing of a crossing and the substitution of another therefor; or the removal of obstructions to the sight at such crossing, and praying that the same may be ordered; whereupon said commission shall appoint a time and place for a hearing thereon after notice of not less than ten days to the petitioners, the state highway commission, the railroad corporation, the municipality in which such crossing is situated, the owner or occupant of the land adjoining such crossing, or adjoining that part of way to be changed in grade,

and to the attorney general of the state, whose duty it shall be by himself or through the county attorney of the county wherein the crossing is located, to represent the interests of the state at such hearing. After such notice and hearing the commission shall determine what abolishment, alteration, change, or removal, if any, shall be made to insure safety as aforesaid and by whom such abolishment, alteration, change, or removal shall be made. To facilitate such abolishment, alterations, changes, or removals, highways and other ways may be raised or lowered or the courses of the same may be altered to permit a railroad to pass at the side thereof. For the purpose aforesaid land may be taken and damages awarded as provided for laying out highways. The commission shall determine how much land may be taken and shall fix the damages sustained by any person whose land is taken and the special damages which the owner of land adjoining the public way may sustain by reason of any change in the grade of such way; appeal from any decision, order, or award of the commission may be had as provided in section forty-one. The commission shall apportion such expenses and damages between the state, the town in which the crossing is located, and the corporation operating the railroad which crosses such public way, and shall order forty percent thereof to be paid by the state, ten percent thereof to be paid by the town in which such crossing is located, and the remainder thereof shall be paid by the corporation operating the railroad; provided, however, that as to the state highways the commission shall apportion such expenses and damages between the state and the corporation operating the railroad on a basis of fifty percent to the state, to be paid by the state from the state highway department funds and fifty percent to such corporation. The commission may approve agreements made by the corporation or other parties interested, including the state, acting by and through the state highway commission, in respect of the work or varying the above percentages provided the amount to be paid by the town shall not exceed the ten percent herein specified unless the town shall otherwise vote. As to any elimination or alteration made under the provisions of this section, the commission may determine what work fairly and properly is a part of such elimination or alteration and what work fairly and properly should be regarded as highway con-

struction. The commission may make such order relative to the maintenance of crossings at grade, and of crossings where the highway is carried over the railroad, as it may deem necessary, and may determine whether such expense shall be borne by such railroad corporation, by the city or town in which such crossings is located, or by the state acting by or through the state highway commission, or said commission may apportion such expense equitably between such railroad corporation, such city or town, and the state acting by or through the state highway commission. While the use of any way is obstructed in carrying out the foregoing provisions of this section, such temporary way shall be provided as the commission may order; provided, however, that the commission shall not make any order upon any petition filed under the provisions of this section until they are satisfied, by investigation, or otherwise, that the financial condition of the corporation operating the railroad in question will enable said corporation to comply with such order, and that the probable benefit to the public will warrant said order and the probable expense resulting therefrom, and that said order can be complied with without exceeding the state appropriation available therefor.

Sec. 2. Section forty-two of chapter twenty-seven of the revised statutes hereby is amended by striking out said section and substituting therefor the following:

Sec. 42. The amount to be paid in any year by the state under the provision of the three preceding sections, except as herein provided, shall not exceed fifteen thousand dollars for work in connection with state aid and third-class highways, and said amount shall be appropriated annually; the said appropriation shall be cumulative and any part of said sum of fifteen thousand dollars not expended during the year for which it is appropriated shall be added, at the close of said year, to the sums subsequently appropriated and may be expended in any subsequent year or years. No railroad corporation shall be required to expend, under the provisions of the three preceding sections, more than one hundred thousand dollars during any period of three consecutive calendar years, except that railroad corporations operating narrow gauge railroads or standard gauge railroads of less than fifty

miles of main track may not be required to expend more than fifty thousand dollars during any period of six consecutive calendar years; provided, if any two or more railroad corporations are each using the facilities of any railroad terminal company, any sums expended by said terminal company under the provisions of the three preceding sections hereof shall for the purposes hereof be regarded as expended by said railroad corporations and in the proportions in which said railroad corporations are at the time of such decree bound to pay the said terminal company for the use of its facilities.