

# MAINE STATE LEGISLATURE

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E I G H T Y - S I X T H   L E G I S L A T U R E

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Legislative Document

No. 541

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S. P. 337

In Senate, Feb. 8, 1933.

Referred to Committee on Public Utilities and 500 copies ordered printed.  
Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Kitchen of Aroostook.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-  
THREE

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AN ACT Relating to Abolishment of Grade Crossings.

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

**R. S. c. 27, § 39, amended.** Section 39 of chapter 27, revised statutes, as amended by chapter 266 of the public laws of 1931 is hereby further amended, to read as follows:

**‘Sec. 39. Abolishment, alteration, change or removal of grade crossings.**

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 10 days to the petitioners, the state highway commission, the railroad corporation, the municipality in which such crossing is situated, the owners or occupants 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 41. 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 40% thereof to be paid by the state, 10% 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 50% to the state, to be paid by the state from the state highway department funds and 50% 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 10% 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 construction. 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 any such crossing 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.

**The county commissioners shall have the same right of petition under this section, with respect to roads in unorganized places laid out by them under the provisions of section 55 of chapter 27, as have municipal officers of a city or town under the foregoing provisions of this section; and in case a petition is filed by them, all parties interested in the subject matter of the petition shall be notified by the public utilities commission of the filing of such petition and given opportunity to appear and be heard thereon.'**