

# MAINE STATE LEGISLATURE

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# NINETY-SECOND LEGISLATURE

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## Legislative Document

No. 792

H. P. 1143

House of Representatives, February 13, 1945.

Referred to Committee on Legal Affairs. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Lackee of Addison.

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## STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-FIVE

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### AN ACT Relating to Permits for Digging Into and Opening Streets and Highways.

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

**Sec. 1. R. S., c. 84, § 112, amended.** Section 112 of chapter 84 of the revised statutes is hereby amended to read as follows:

**'Sec. 112. Opening of streets or highways in cities or towns, regulated.** Whenever the paving or repairing of any street or public highway shall have been ordered by the city government **or town authorities**, the commissioner of public works or such officer as the city government **or town authorities** may appoint shall duly serve ~~upon owners of property abutting on such street or highway, and~~ upon all corporations, persons, firms, and bridge or water districts occupying such street or highway, a notice directing such ~~owners,~~ corporations, persons, firms, and bridge or water districts to make such sewer, water and conduit connections or other work, as may be ~~designated~~ **needed**, within 60 days from date of such notice. At the expiration of the time fixed, and after such street has been paved or repaired, no permit shall be granted to open such street **or highway for a period of 5 years** except as hereinafter provided. **Nothing in this section shall be construed in such a manner as to relieve any corporation, person,**

firm, and bridge or water district from the cost of such sewer, water or conduit connections or other work as may be needed.'

**Sec. 2. R. S., c. 84, § 113, amended.** Section 113 of chapter 84 of the revised statutes is hereby amended to read as follows:

**'Sec. 113. Permits for digging or making excavations.** If the ~~owners,~~ corporations, persons, firms, or bridge or water districts comply with the ~~notice given under the~~ provisions of the preceding section, the commissioner of public works, or such officer as the city **or town** government may appoint, may, ~~in the case of an emergency,~~ grant and renew permits for digging or making excavations in the ~~driveways wrought portions~~ of any of the public highways of the city **or town** for the laying of gas, water, steam, oil, gasoline, petroleum, or any other liquid, or ammonia pipes or conduits, or for any other lawful purpose. Every permit shall specify the time prescribed by resolution or ordinance or, when no time is prescribed, the commissioner of public works or such officer as the city **or town** government may appoint shall specify a time during which said excavation may remain open, the place where such excavation may be made, and the number of square yards of surface which may be disturbed.'

**Sec. 3. R. S., c. 84, § 114, amended.** Section 114 of chapter 84 of the revised statutes is hereby amended to read as follows:

**'Sec. 114. Penalty.** Any person or persons, firm, corporation, or bridge or water district, who shall dig or make an excavation in the ~~drive-way wrought portion~~ of any public highway without first obtaining such permit as provided for in the preceding section or who having obtained such permit shall disturb a greater area of surface than specified in such permit, ~~shall~~ **may** be punished by a fine of \$25 for each offense.'

**Sec. 4. R. S., c. 84, § 115, amended.** Section 115 of chapter 84 of the revised statutes is hereby amended to read as follows:

**'Sec. 115. A record of all permits to be kept; fees for excavation permits.** The commissioner of public works, or such officer as the city **or town** government may appoint, shall keep a record of all permits granted by him, ~~and before any permit is granted,~~ work done by the city **or town** employees excepted, ~~the.~~ The applicant shall pay to the city **or town** treasurer for every permit for making an excavation within the ~~driveways wrought portions~~ of any public highway paved with broken stone, concrete, bitulithic, granite block, brick, wood block, sheet asphalt, or other pavements the following fees: for sheet asphalt, wood block, brick, and granite block, all on concrete base, \$6 per square yard; for granite block on gravel base, bitulithic, and concrete, \$3.50 per square yard; ~~and for~~

broken stone and ~~all~~ other similar pavements, \$2.50 per square yard; for bituminous surface, treated gravel or untreated surface, \$1 per square yard; and for untreated shoulder, 50c per square yard for any amount not exceeding 50 square yards, plus actual cost of repairs for any amount exceeding 50 square yards. All such fees paid to the city or town treasurer shall be regularly accounted for by him in his report ~~to the city government~~, and shall constitute a special fund for the repaving of said cuts; when such cuts are repaired by the street department, the cost thereof shall be charged to said fund.

Upon completion of the repairs, except for repaving, the holder of the permit shall so notify in writing the officer granting the permit, and within 20 days thereafter such officer shall certify in writing to the holder of the permit that the repairs have been properly completed or shall give notice in writing to the holder of the permit of his specific objections to the repairs. All liability for the making of repairs on the part of the holder of the permit shall cease as of the date of the certificate or at the expiration of said 20 day period in the event no such certificate is issued and no notice of specific objections is given.'

Sec. 5. R. S., c. 84, § 116, amended. Section 116 of chapter 84 of the revised statutes is hereby amended to read as follows:

'Sec. 116. Unlawful to leave trench or excavation open, except by permission; method of filling trenches; penalty; paving to be protected on either side of opening. It shall be unlawful for any person or persons, firm, corporation, or bridge or water district, having the right of opening or making excavations within the ~~driveways~~ wrought portions of public highways in ~~the city~~ cities and towns, to leave open at any time any trench or excavation of a greater length than 200 feet, except by permission of the officer granting such permit; and such person or persons, firm, corporation, or bridge or water district shall fully and completely fill up such trench to the surface of the ~~bed upon which the pavement is to be relaid~~ roadway, before making any further trench or excavation; such filling shall be puddled or rammed as the nature of the soil may require, and shall be done and completed within the time designated in the permit for completing such trench or excavation; any person or persons, firm, corporation, or bridge or water district, failing to comply with the requirements, or infringing on the prohibitions of this section, ~~shall~~ may be punished by a fine of \$50 for each offense; provided that these requirements, prohibitions, and penalties shall not apply to excavations in grading, building, or repairing any of the public highways under the supervision of the city or

**town** authorities. Such person or persons, firm, corporation, or bridge or water district shall protect the paving on either side of the opening by the use of sheet piling or such other means as will prevent the escape of sand from underneath it; and in determining the number of square yards of paving disturbed, there shall be included such area of paving adjoining the trench actually opened as will, in the opinion of the commissioner of public works or such officer as the city **or town** government may appoint, be required to be taken up and relaid by reason of such failure to properly protect the same.'

**Sec. 6. R. S., c. 84, § 117, amended.** Section 117 of chapter 84 of the revised statutes is hereby amended to read as follows:

**'Sec. 117. Work of repairing or filling trenches to be skilfully done; penalty.** If the work or any part thereof mentioned in the preceding sections of repairing or filling the trenches or excavations aforesaid shall be unskilfully or improperly done, the commissioner of public works, or such officer as the city **or town** government may appoint, may forthwith cause the same to be skilfully and properly done, and shall keep an account of the expense thereof; and in such case such person or persons, firm, corporation, or bridge or water district, in default as aforesaid, shall forfeit and pay a penalty equal to the whole of said expense incurred by said commissioner of public works or such officer as the city **or town** government may appoint, with an addition of 50%; and thereafter, that is to say, upon the completion of the work and the determination of the costs thereof, the said commissioner of public works or such officer as the city **or town** government may appoint shall issue no further or new permit to any person or persons, firm, corporation, or bridge or water district, so in default, until he shall receive in addition to the fees ~~herein above~~ **herein-above** provided, the amount of the penalty as by this section provided and determined.'

**Sec. 7. R. S., c. 84, § 118, amended.** Section 118 of chapter 84 of the revised statutes is hereby amended to read as follows:

**'Sec. 118. Relaying of pavements.** When any excavation shall be made in any paved public highway and the trench shall have been filled as required by the 2 preceding sections, the commissioner of public works or such officer as the city **or town** government may appoint shall relay the pavement; the cost thereof, including materials, labor, and inspection, shall be paid out of any moneys in the city **or town** treasury standing to the credit of the regular fund for this purpose.'

**Sec. 8. R. S., c. 84, §, 119, amended.** Section 119 of chapter 84 of the revised statutes is hereby amended to read as follows:

**'Sec. 119. Map of sketch of location to be filed.** The party applying for a permit for said excavation under the provisions of sections 112 to 119, inclusive, must file a map or sketch with the commissioner of public works or such officer as the city **or town** government may appoint, showing the location and size of cuts to be made.'

**Sec. 9. R. S., c. 84, § 120, amended.** Section 120 of chapter 84 of the revised statutes is hereby amended to read as follows:

**'Sec. 120. Duty of commissioner of public works or town officials.** When any excavation shall be made in any paved public highway and said pavement is repaired by a contractor or the commissioner of public works or such officer as the city **or town** government may appoint, the commissioner of public works or such officer as the city **or town** government may appoint, where said pavements are laid on a concrete base, shall have the concrete cut back on each side of the ditch a distance of 8 inches, and in issuing the permits for cutting the pavements, this extra width shall be charged to the person applying for the same.'

**Sec. 10. R. S., c. 20, § 10, amended.** Section 10 of chapter 20 of the revised statutes is hereby amended to read as follows:

**'Sec. 10. Certain provisions shall be enforced by commission.** The provisions of section 18 of chapter 46 and of sections 112 to 120, inclusive, of chapter 84, relating to the repair of ways dug into, ~~may~~ shall be enforced by the commission wherever ~~state or state aid~~ highways **maintained by the state** are affected.'

**Sec. 11. R. S., c. 46, § 18, amended.** Section 18 of chapter 46 of the revised statutes is hereby amended to read as follows:

**'Sec. 18. Public travel not to be obstructed in opening streets.** Any corporation mentioned in section 3, digging up and opening roads and streets under authority granted in this chapter, **maintained by any city or town**, shall do so in such a manner as to cause the least possible interference with public travel, and shall put all such highways, roads, and streets which it shall dig into and open, into as good repair as they were before they were dug into and opened; and on failure ~~so~~ to do **so** within a reasonable time, such corporation shall be deemed guilty of causing a public nuisance and shall be liable to the city or town for all expenses incurred in making such repairs. **Any corporation digging up and open-**

ing highways, roads and streets, maintained by the state, shall procure permits in accordance with the provisions of sections 112 to 120, inclusive, of chapter 84.'