

MAINE STATE LEGISLATURE

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N I N E T Y - F O U R T H L E G I S L A T U R E

Legislative Document

No. 1098

H. P. 1754

House of Representatives, February 25, 1949

Referred to the Committee on Ways and Bridges. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Lackee of Addison.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

AN ACT Relating to Use of Wires or Cables on State Highways.

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

Sec. 1. R. S., c. 46, § 31, amended. The 1st sentence of section 31 of chapter 46 of the revised statutes, as amended by section 8 of chapter 293 of the public laws of 1945, is hereby further amended to read as follows:

'No such company, person or association shall construct lines upon and along highways and public roads, **excepting, however, such highways as are provided for in section 32**, without first obtaining a written permit, signed by the mayor and aldermen in case of cities, the selectmen in case of towns, and the county commissioners in case of plantations and unorganized townships, specifying the kind of posts, where and how they shall be located and set, the height of the wire above ground; and if the line specified in the permit is a telephone line and is not constructed and public telephone service established in connection therewith within 18 months from the time the decision is filed, the permit shall be void.'

Sec. 2. R. S., c. 46, § 32, repealed and replaced. Section 32 of chapter 46 of the revised statutes is hereby repealed and the following enacted in place thereof:

‘Sec. 32. Notice of request for license to be given to state highway commission.

1. No such company, person, corporation or association shall construct lines, having reference to posts, or wire lines, or structures, or underground conduits or cables, upon or along sections of state or state aid highways where houses are not nearer than 200 feet apart for a distance of $\frac{1}{4}$ of a mile in cities and towns where population according to the last U. S. census exceeds 2,000 inhabitants without having first obtained a license from the state highway commission.

Petitions for such licenses shall be addressed to the state highway commission, which shall have exclusive jurisdiction of the disposition of such petitions to the same effect and in the same manner as is provided for municipal officers in the cases of cities and towns and the county commissioners in case of plantations and unorganized townships in regard to the permits under their jurisdiction, and also shall have like power for changing the terms of any such license. The state highway commission is hereby authorized to delegate all or any part of the powers conferred upon them by the provisions of this section to such agent or agents as they may duly appoint in writing; and they are hereby authorized to make such rules and regulations necessary to carry out the provisions of this section. The state highway commission shall also have the same authority conferred upon the municipal officers by section 36 of this chapter.

II. All licenses granted under the provisions hereof shall be retroactive to the date the petition thereof is filed. The word “license” as used in this section shall be construed to include the word “permit”. The holder of such a license, referred to as licensee, shall thereupon and thereafter be entitled to exercise the same and to erect or install and maintain any such poles, structures, conduits, cables and wires in approximately the location designated by such license and to place upon such poles and structures the necessary and proper guys, cross-arms, fixtures, transformers and other attachments and appurtenances which are required in the reasonable and proper operation of the business carried on by such licensee, together with as many wires and cables of proper size and description as such poles and structures are reasonably capable of supporting during their continuance in service; and to place in such underground conduits such number of ducts, wires and cables as they are designed to accommodate, and to supply and install in connection with such underground conduits and cables the necessary and proper manholes, drains, transformers and other accessories which may reasonably be required.

III. Licenses may be had under this section for locating and licensing poles and structures and underground conduits and cables already constructed with or without license, or for changing the location of any such property constructed with or without license; but nothing contained in this section shall effect the validity of locations heretofore granted.

IV. Any such license or any person whose rights or interests are affected by any such license may petition the state highway commission for changes in the terms thereof; and after notice to the parties and hearing, the state highway commission may make such alterations therein as the public good requires. The state highway commission, after notice to any such licensee and hearing, may from time to time revoke or change the terms and conditions of any such license, whenever the public good requires.

V. Joint licenses for erecting or installing and maintaining any jointly owned poles, structures, conduits, cables and wires may be granted under the provisions hereof to 2 or more petitioners.

VI. In connection with the transfer of all or any interest in any poles, structures, conduits, cables or wires, the transferor may by appropriate assignment transfer his or its license to maintain the same and the transferee shall be entitled to have and exercise such license to the extent necessary for his or its use of the transferred property, upon recording such assignment with the clerk of the town in which said property is situated.

VII. Any pole or structure or underground conduit or cable installed under license as provided herein may be renewed or replaced as occasion requires in approximately the location originally designated therefor; and any variation in location which is reasonably necessary in making such renewal or replacement in the usual or customary manner shall not affect the rights of the licensee as defined herein, but the licensee shall notify the state highway commission of such renewal or replacement.

VIII. If any pole or structure or underground conduit or cable or any attachment or appurtenance thereto is wilfully placed or maintained in any state or state aid highway without valid license therefor, it shall be deemed to be a public nuisance.'