

# MAINE STATE LEGISLATURE

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# ACTS AND RESOLVES

AS PASSED BY THE

## Ninety-fifth Legislature

OF THE

# STATE OF MAINE

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

As Passed by the Ninety-fifth Legislature

**1951**

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## Chapter 321

### AN ACT Clarifying Certain Highway Laws.

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

**Sec. 1.** R. S., c. 20, § 2, amended. Section 2 of chapter 20 of the revised statutes is hereby amended to read as follows:

**Sec. 2. Rules of construction.** The rules of construction in section 21 of chapter 9 shall apply to this chapter. The word "maintenance" shall include the restoring of reconstructed and improved highways to their condition when improved and shall be applicable only to highways to the improvement of which the state has contributed or shall hereafter contribute, except as elsewhere herein provided. The word "commission" shall mean the state highway commission. The word "highway" shall mean all of the right of way that may have been laid out by the state, county or town. The word "town" shall include cities, towns, organized plantations, and unincorporated townships, except as herein otherwise indicated. The words "municipal officers" shall also include county commissioners having jurisdiction over highways in unincorporated townships. The word "valuation" shall mean the valuation last made by the state tax assessor. The word "section" shall refer to this chapter, unless otherwise indicated.

**Sec. 2.** R. S., c. 20, §§ 7-A - 7-L, additional. Chapter 20 of the revised statutes is hereby amended by adding thereto 12 new sections to be numbered 7-A to 7-L, inclusive, to read as follows:

**Sec. 7-A. Provisions of Federal Aid Road Act accepted; commission authorized to cooperate with federal government.** The provisions of the Federal Aid Road Act (public number 156) entitled "An Act to Provide that the United States shall aid the states in the construction of Rural Post Roads and for other purposes," approved July 11, 1916, and all other acts amendatory thereof and supplementary thereto, are assented to. The state highway commission is authorized and empowered to accept, for the state, federal funds apportioned under the provisions of the above act as amended and supplemented, to act for the state, in conjunction with the representatives of the federal government, in all matters relating to the location and construction of highways to be built with federal aid pursuant to the provisions of said act, and to make all contracts and do all things necessary to cooperate with the United States government in the construction and maintenance of public highways in accordance with the above act, as amended and supplemented.

**Sec. 7-B. Highway commission to cooperate with federal government**

in marking interstate roads. The commission is authorized to cooperate with the federal government in formulating and adopting a uniform system of numbering, or designating roads of interstate character within this state, and in the selection and erection of uniform danger signals and safety devices for the protection and direction of traffic on said highways.

Sec. 7-C. Additional powers. The commission is authorized and empowered to obtain from the federal government or any agency thereof, through purchase or gift supplies, materials and equipment which is adaptable to highway maintenance and construction. Such supplies, materials and equipment may be sold, leased or given by the commission to the several towns in the state who make a written request therefor, on such terms and conditions as the commission, in its discretion, deems necessary.

Sec. 7-D. Cooperation with Bureau of Public Roads, Department of Commerce authorized. Municipal officers are hereby authorized to cooperate with the state highway commission and with the Bureau of Public Roads, Department of Commerce in the designation and construction of such parts of any federal aid secondary highway roads that are or will be within their respective towns.

Sec. 7-E. Authority as to location, alteration, discontinuance and drainage of state and state aid highways. The commission may alter, widen or change the grade of any state or state aid highway whenever in its judgment the public exigency may require, and may lay out, establish and open a new highway as a state highway; and upon appropriate petition from municipal officers may lay out, establish and open a new highway as a state aid highway. It may also discontinue a highway or a portion thereof, as a state or state aid highway and the same shall be thereafter maintained by the town or county originally liable therefor except as herein otherwise provided.

The commission may construct ditches and drains to carry water away from any highway, that is under its supervision or that it is constructing, and over or through any lands of persons or corporations when it deems it necessary for public convenience or for the proper care of such highway; provided that no such ditch or drain shall pass under or within 20 feet of any dwelling house without the consent of the owner thereof.

Sec. 7-F. Commission may purchase or take lands for highways and materials. The commission may purchase, or take over and hold for the state such materials, and land as it may deem necessary to lay out and establish, construct, improve or maintain, or to provide a change of location or alignment of, or to provide drainage for, any state or state aid highway as herein designated, or to secure materials, including clay, gravel, sand and rock, with necessary ways and access thereto, for the construction, im-

provement and maintenance of state and state aid highways under the provisions of this chapter.

Sec. 7-G. Condemnation proceedings. If the said commission determines that public exigency requires the taking of such land or any interest therein forthwith, or if the commission is unable to purchase such material or land or the necessary ways and access thereto at what it deems a reasonable valuation, it shall cause the same to be surveyed and described and a plan thereof made and said description to be recorded in the registry of deeds for the county or registry district where the same is located, and a print of the plan to be filed in the county commissioner's office for the county where the same is located, and a notice thereof to be given in some newspaper, if any, published wholly or in part in said county.

In case there is a mortgage of record covering any of said land, written or printed notice of said taking shall be sent forthwith by registered mail to the holder of record of said mortgage, addressed to his place of abode if known, otherwise to the abode or address as set forth in said record.

The recording of the said description shall vest the fee of the described property in the state. Within 1 year after the completion of the project for which the land is taken, the commission shall file a plan for recording in the registry of deeds for the county or registry district where the same is located. The commission or any party claiming an interest in the land taken by eminent domain may petition the "joint board," so called which shall be composed of the members of the commission and the county commissioners of the county wherein such material or land is located, for a determination of the damages caused by the taking. The joint board shall order a time and place for a hearing to be held in the county where the property lies and shall cause 30 days' notice to be given of the said time and place by posting copies of the petition with their order thereon in 1 conspicuous place in each town in which any such property lies, by publishing said petition and order in some newspaper, if any, in said county and by giving written notice by registered mail to the holders of record titles to the land to be sent to said owner's place of abode, if known, otherwise to the abode or address as set forth in said records.

The joint board shall meet at the time and place appointed, and view the property, and hear the interested parties present. They shall then determine the damages. The board shall notify the interested parties by registered mail of the final decision of the board. Verbal notice shall not be considered as official or binding.

Sec. 7-H. Proceedings on damage claims. Whenever the commission shall alter, widen or change the grade of any state or state aid highway as provided in this chapter, to the injury of an owner of adjoining land, he

may within 6 months after completion of the work apply to the commission in writing for a determination and assessment of his damages; and if the commission is unable to settle such damages at what it deems a reasonable amount, the commission or interested parties may apply to the joint board in writing for a determination and assessment of the damages. The proceedings shall then be the same as in condemnation cases.

Sec. 7-I. Appeals from decisions of the "joint board." Any person aggrieved by said decision of the joint board may appeal therefrom to the superior court in the county where the land is situated within 30 days after the date of the receipt of the notice of award. The appellant shall file notice of his appeal with the state highway commission at Augusta by registered mail within the time above limited, and at the 1st term of the court held following the expiration of the said 30 days shall file a complaint setting forth substantially the facts, upon which the case shall be tried like other cases. The court shall determine the same by a committee of reference if the parties so agree, or by a verdict of its jury, and shall render judgment for the damages recovered, and judgment for costs in favor of the party entitled thereto, and shall issue execution for the costs only. The clerk shall certify the final judgment of the court to the commission, which shall enter the same of record, and order the damages therein recovered to be paid by the treasurer of state. The party prevailing recovers costs to be taxed and allowed by the court, except that they shall not be recovered by the party claiming damages, but by the other party, if on such appeal by either party said claimant fails to recover a greater sum as damages than was allowed to him by the board. The committee shall be allowed a reasonable compensation for their services to be fixed by the court upon the presentation of their report and paid by the treasurer of state upon the certificate of the clerk of courts.

Sec. 7-J. Land acquired may be vacated, sold or leased. The commission may vacate any land or part thereof or rights in land which have been taken or acquired for highway purposes under the provisions of this chapter, by executing and recording a deed thereof, and such action shall revert the title to the lands or rights so vacated in the persons, their heirs and assigns, in whom it was vested at the time of the taking, and the value at the time of vacation may be pleaded in mitigation of damages in any proceedings therefor on account of such taking. The governor and council on recommendation of the commission may sell and convey on behalf of the state the interests of the state in property taken or acquired by purchase under this chapter and deemed no longer necessary for the purposes hereof, and they may lease such interests in such property pending such sale or the advantageous use of such property for highway purposes.

The proceeds of such sales or leases shall, as far as practicable, be credited to the fund from which payment was made for the land.

Sec. 7-K. Commission may establish highway boundaries; procedure; damages. The commission may establish the boundary lines, limits or locations of any or all state highways and state aid highways and cause durable monuments to be erected at the angles thereof. Whenever in the opinion of the commission the boundary lines, limits or locations of any state highway or state aid highway, or any part thereof shall become lost, uncertain or doubtful, they may reestablish the same. They shall file with the town clerk of the town in which the highway is located and with the registry of deeds in the county in which the highway is located, maps showing the boundary lines, limits or location of such reestablished highway, and such lines, boundaries, limits and location, as reestablished, shall be the lines, boundaries, limits and location of such highway. The commission shall post descriptions, of such parts of such highways as lie within any towns, in 1 conspicuous place in such towns, and shall publish a description of such parts of such highways as lie within any county, in some newspaper, if any, in such county. Any person aggrieved by the reestablishment of such boundary lines, limits and location may petition for the assessment of damages to the superior court in the county where the reestablished highway is located within 60 days from the filing of such maps with the registry of deeds, and not thereafter, and the court shall assess the damages, if any, by jury, provided such reestablished boundary lines, limits or location are not the same as originally established. The commission shall pay from the funds of its department all expenses incurred hereunder and the amount of final judgment and costs; except that the amount of the final judgment costs shall be paid by the petitioner if such petitioner fails to recover any damages.

Sec. 7-L. Detour roads and signs. Whenever it becomes necessary to close a state or state aid highway to travel on account of construction, before such state or state aid highway is closed the commission shall establish the most practical detour road around the state or state aid highway to be constructed, have the same properly signed at all intersecting roads or streets indicating the principal town or city in either direction and cause the detour road to be put in proper condition to withstand the travel and maintained in such condition until the state or state aid highway being constructed or reconstructed is open to travel. If the commission neglects to so sign, establish or maintain such detour road the same shall be done by order of the governor and council. Whenever practicable, the travel shall be permitted to pass over a state or state aid highway under construction, and the commission shall then cause to be erected the following sign at either end of the construction work: "State road under construction.



Pass at your risk. Maine State Highway Commission." Upon completion of the state or state aid highway the commission shall cause the immediate removal of all such signs as also all detour signs.'

Sec. 3. R. S., c. 20, § 8, repealed and replaced. Section 8 of chapter 20 of the revised statutes, as amended, is hereby repealed and the following enacted in place thereof:

'Sec. 8. General powers and duties of commission. The commission may from time to time make and shall enforce rules and regulations relating to construction, maintenance, and use of all state and state aid highways and all other highways to which the state contributes by law for the improvement thereof, and relating to the manner of conducting all investigations and hearings and the administration of its office, powers and duties, subject to the provisions of this chapter; and shall direct the expenditure of all moneys for construction, maintenance, and use of all state and state aid highways and of all other highways for which state funds are provided by law. It may obtain leases for such land and office space as it deems necessary for the performance of its duties.

By consent of all parties in interest, any investigation, inquiry, or hearing which the commission is authorized to hold may be held by a single member of the commission, and his finding, when approved by the commission and so shown on its records, shall be deemed to be the finding of the commission.

Except as otherwise provided in this chapter, the purchase of supplies, materials and equipment for highway maintenance and construction purposes shall be made through the state purchasing agent as by law provided. The commission may be consulted by and shall without charge advise municipal officers and road commissioners on the subject of construction and maintenance of public highways, bridges and other structures. The commission shall whenever practicable give preference in employment to the inhabitants of the town in which such highways are located.'

Sec. 4. R. S., c. 20, §§ 8-B, 9, 10, 11, 12, 13, 14, 15, 16, 16-A, 17, 18, 18-A, repealed. Section 8-B, as enacted by chapter 266 of the public laws of 1945 and reallocated by section 18 of chapter 378 of the public laws of 1945; sections 9 to 16, inclusive, as amended; section 16-A, as enacted by chapter 223 of the public laws of 1949; sections 17 and 18; and section 18-A, as enacted by section 2 of chapter 329 of the public laws of 1945; all of chapter 20 of the revised statutes are hereby repealed.

Sec. 5. R. S., c. 20, § 8-C, reallocated. Section 8-C of chapter 20 of the revised statutes, as enacted by section 1 of chapter 329 of the public laws

of 1945 and reallocated by section 27 of chapter 349 of the public laws of 1949, is hereby reallocated to be section 8-B of said chapter 20.

Sec. 6. R. S., c. 20, §§ 8-C - 8-H, additional. Chapter 20 of the revised statutes is hereby amended by adding thereto 6 new sections to be numbered 8-C to 8-H, inclusive, to read as follows:

'Sec. 8-C. Rights granted commission in connection with highway openings. Wherever highways maintained by the state are affected, whether said highways are situated in cities, in towns or in plantations, the commission shall have all and the same rights, powers and duties in connection therewith as are granted to cities in city streets by the provisions of sections 112 to 120, inclusive, of chapter 84, and to cities and towns by the provisions of sections 16 and 18, of chapter 46. Whenever the opening fee provided by section 115 of chapter 84 or by section 18-B of chapter 46 has been paid to the commission and a permit for digging up and opening a highway maintained by the state has been issued by the commission, the holder of said permit shall be entitled to make the opening described therein without the payment of fees to the city or town in which the street, road or highway to be opened is situated.

Sec. 8-D. Commission to enforce provisions of section 77 of chapter 84. The commission shall cause complaint to be entered against any offender of the provisions of section 77 of chapter 84 when the way obstructed or affected by the obstruction is maintained by the state. The fines recovered in such cases shall be paid to the treasurer of state for the use of the state highway maintenance fund.

Sec. 8-E. Logs, etc. in highway, may be removed. When logs, lumber or other obstructions, without necessity, are left within the limits of any highway right of way under the supervision and maintenance of, or construction by the commission, it may cause them to be removed, and shall not be liable for loss or damage thereof, unless occasioned by design or gross negligence. When no one appears to pay for the expense and trouble of removal, the commission may sell at public auction so much thereof as is sufficient for that purpose, including charges of sale. The person through whose neglect or wilful default they were left may be prosecuted as for a nuisance.

Sec. 8-F. Highway commission may assign men to assist in enforcing collection of gasoline tax. The commission may assign any person in the employ of the state highway department to act in conjunction with state, county, or town officers to enforce collection of the tax on gasoline; but no such person shall be so assigned unless his duties as an employee of said department permits such assignment, or if otherwise he would be unemployed.

Sec. 8-G. Commission may appoint officers who shall enforce its orders as to closed or restricted ways; such officers shall have powers of and shall be entitled to fees of sheriffs and their deputies. The commission may appoint any person in its employ whose special duty it shall be to enforce the statutes and orders promulgated thereunder which prohibit or restrict the passage of vehicles and trailers over ways and bridges, or designate sections thereof, under such conditions, or in such manner, as may cause undue damage to any such way or bridge. Every such person shall be appointed in writing by the commission to serve during its pleasure, and shall have the same power as sheriffs and their deputies to arrest and prosecute all persons caught violating the provisions of said statutes and orders within the territorial limits designated in his appointment. He shall be entitled to the same fees as sheriffs and their deputies for like services.

Sec. 8-H. State liable for certain judgments recovered against towns and counties on account of defects in state and state aid highways and for attorney fees, costs and expenses in defending. The state shall be liable to towns and counties for any judgment recovered in any action against such town or county and for reasonable attorney fees, costs and expense incurred in defending such action under the provisions of sections 88 to 92, inclusive, of chapter 84, but only when pertaining to those state and state aid highways to the improvement of which the state has contributed; or to which sections 46 or 50 may apply; provided, however, that within 24 hours after any of the various officials mentioned in said section 88 of chapter 84 first has notice of such defect or want of repair or sufficient railing, such officials shall give written notice thereof to some member of the commission; provided also that within 10 days after any of the various officials mentioned in said section 88 first has notice of any injury to any person, such officials shall give written notice thereof to some member of the commission; provided also that the state shall not be liable for any injury sustained upon the sidewalk of any such state or state aid highway or sustained during the construction of such state or state aid highway within its limits; provided also that the state shall not be liable for any injury under the provisions of this section in an amount exceeding \$4,000; provided also that any sums recoverable under the provisions of section 93 of chapter 84 shall be deducted from the judgment against such town or county in determining the liability of the state under the provisions of this section. The commission may appear and take upon itself the defense of any action affecting the liability of the state under the provisions of this section.

All judgments, fees, costs and expenses reimbursable to towns and counties under the provisions of this section shall be a proper charge against the fund for maintenance.'

Sec. 7. R. S., c. 20, § 81-A, additional. Chapter 20 of the revised statutes is hereby amended by adding thereto a new section to be numbered 81-A, to read as follows:

'Sec. 81-A. Regulation of guide posts. On all state and state aid highways, all guide-posts shall be of such reasonable form, height and design as the commission shall designate, and shall be erected only upon approval of the commission.'

Sec. 8. R. S., c. 84, § 78, amended. The 2nd sentence of section 78 of chapter 84 of the revised statutes is hereby amended to read as follows:

'All fines recovered under the provisions of this section except in cases where the way involved was maintained by the state shall be paid to the treasurer of the city, town or plantation, or, for an unorganized place, to the treasurer of the county where such offense is committed, and shall thereafter be expended in the construction and maintenance of public ways or drains therein.'

Sec. 9. R. S., c. 19, § 91, amended. The 1st sentence of section 91 of chapter 19 of the revised statutes is hereby repealed and the following 3 sentences enacted in place thereof:

'The state highway commission, county commissioners and municipal officers are authorized to promulgate such reasonable rules and regulations as in their judgment may be necessary to insure the proper use and to prevent abuse of all highways under their maintenance or supervision by motor driven and animal drawn vehicles during such seasons of the year as said highways require such special protection. These rules and regulations shall be kept on file. The state highway commission shall designate state and state aid highways and improved 3rd-class highways and bridges, or sections thereof, over which, during such periods of each year as may be determined by the commission, it shall be unlawful for any motor truck or other vehicle or team to pass having a weight, with or without load, exceeding that prescribed by said commission; or to pass except according to restrictions as to weight, speed, operation and equipment prescribed by the commission and pursuant to its permit or notice.'

Sec. 10. R. S., c. 84, §§ 126 and 127, repealed. Sections 126 and 127 of chapter 84 of the revised statutes are hereby repealed.