

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Ninety-eighth Legislature

OF THE

STATE OF MAINE

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and processor's license and his resident or nonresident interstate shellfish transportation license shall be suspended by the Commissioner of Sea and Shore Fisheries until such fine and all payments due the State on the aforesaid quahog tax are paid in full. Whenever any shellfish dealer shall fail to pay any tax due under the provisions of said sections within the time limited herein, the Attorney General shall enforce payment of such tax by civil action against the shellfish dealer for the amount of such tax in either the Superior Court in Kennebec county or in a municipal court in the county in which such shellfish dealer has his residence or established place of business.

Sec. 289. Appropriation and use of moneys received. Money received under the provisions of sections 282 to 289, inclusive, by the Treasurer of State shall be appropriated and used for the following purposes:

I. For the collection of the tax provided for by section 284 and for the enforcement of all the provisions of sections 282 to 289, inclusive.

II. The balance in such amounts as shall from time to time be determined by the Commissioner of Sea and Shore Fisheries:

A. For the purpose of buying, maintaining and operating boats and equipment to transplant seed quahogs to flats and waters of the State.

B. To carry on scientific and management work deemed necessary for the benefit of the quahog industry. Any unexpended balance from the above apportionment shall not lapse, but shall be carried forward to the same fund for the next fiscal year.'

Effective August 28, 1957

Chapter 356

AN ACT Clarifying Procedure Relating to Reconstructing or Altering Railroad Crossings.

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

Sec. 1. R. S., c. 96, § 49, amended. Section 49 of chapter 96 of the Revised Statutes is hereby amended to read as follows:

'Sec. 49. Maintenance of ways already laid out. Notwithstanding the provisions of any section of chapter 45, in case of ways already laid out which cross over or under any railroad track or tracks and not at grade, the allocation of the expense of rebuilding, reconstructing and maintaining so much thereof as is within the limits of such railroad shall be determined, de novo, as provided by the preceding section 48, by the Public Utilities Commission upon application to it by any corporation whose track is or tracks are so crossed, or upon application by the municipal officers of any town in which the crossing is located, or upon application by the State Highway Commission.'

Sec. 2. R. S., c. 96, § 51, amended. Section 51 of chapter 96 of the Revised Statutes is hereby amended to read as follows:

Sec. 51. Petition to abolish, reconstruct or alter crossings; damages; expenses; temporary ways. ~~Any railroad company, the~~ The State Highway Commission or the municipal officers of a city or town ~~in which~~ whenever a public way over which they have jurisdiction crosses or is crossed by a railroad, whether such crossing be at grade or otherwise, or any railroad company may file a petition in writing with the Public Utilities Commission alleging that safety or public convenience either to the traveling public or in the operation of the railroad requires the abolishment of or the reconstruction of or an alteration ~~in~~ of such crossing 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.~~ 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, reconstruction, alteration, change or removal, if any, shall be made to insure safety ~~as aforesaid~~ or public convenience and by whom such abolishment, reconstruction, alteration, change or removal shall be made. The jurisdiction and authority of said Commission as conferred by this section shall exist whether the change or alteration in such crossing is within or without the located limits of a public way. To facilitate such abolishment, reconstruction, 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~~ purposes 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.~~ Appeal from any decision, order or award of the Commission may be had as provided in section 53. The Commission shall apportion ~~such~~ the expenses pertaining thereto 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 as follows: if the way involved is a state highway, 50% to the State Highway Commission and 50% to the corporation operating the railroad; if the way involved is a state aid highway, 50% to the State Highway Commission and the municipality or municipalities in which the way is located, the pro rata share being determined by the percentage of state aid granted on the way involved and 50% to the corporation operating the railroad; if the way involved is a town way, 35% to the State, to be paid out of the general fund, 15% to the town, or in cases under the provisions of the last paragraph of this section, 15% to the county commissioners of the county, in which the way is located and over which the county commissioners have jurisdiction, and 50% to the corporation operating the railroad; provided, however, that the Public Utilities Commission may vary the aforesaid percentages of expenses and damages as it may deem proper after due consideration of the relative benefits to be derived from such abolishment, alteration or recon-

struction; and provided, further, that the amount ordered to be paid by the corporation operating the railroad shall not in any event exceed 50% of said expenses and damages. 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 to the work, or varying the above percentages provided the amount to be paid by the town by agreement shall not exceed the ~~10%~~ 15% 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 or otherwise as it may deem necessary, and may determine whether such expense shall be borne by such railroad corporation, by the ~~city or town~~ municipality 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~~ municipality 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~~. 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 the provisions of this section, with respect to roads in unorganized places laid out by them under the provisions of section 55 of chapter 89, as have municipal officers of a ~~city or town~~ municipality under the foregoing provisions of this section; ~~and in~~. 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.'

Sec. 3. R. S., c. 96, § 52, amended. Section 52 of chapter 96 of the Revised Statutes is hereby amended to read as follows:

'Sec. 52. Public way crossing tracks of more than one railroad. Whenever the Public Utilities Commission, upon an application or petition brought under the provisions of the preceding section 51, finds that a public way crosses or is crossed by tracks of more than one railroad and the tracks of such railroads are so near together that public safety or convenience requires the work of abolishment, reconstruction, alteration, change or removal to be done under and in compliance with one order, they shall give notice to all the corporations operating such railroads to appear before them and be heard upon the application; ~~and after~~. After such notice and hearing said Commission shall determine what abolishment, reconstruction, alteration, change or removal, if any, of said crossing shall be made and shall determine by whom such work shall be done and shall apportion the percentage of expense to be borne by the railroad corporations as ~~hereinbefore provided~~ between such corporations in such manner as said Commission shall deem just and proper.'

Sec. 4. R. S., c. 96, § 54, amended. Section 54 of chapter 96 of the Revised Statutes is hereby amended to read as follows :

'Sec. 54. Amount paid by state or railroad corporation limited. The amount to be paid in any year by the Public Utilities Commission acting for the State under the provisions of the 3 preceding sections 51, 52 and 53, except as herein provided, shall not exceed ~~\$15,000~~ \$25,000 for work in connection with ~~state aid and 3rd class highways town ways,~~ and said amount shall be appropriated ~~annually~~ from the general fund for each fiscal year; ~~the~~. The said appropriation shall be cumulative and any part of said sum of ~~\$15,000~~ \$25,000 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 3 preceding sections, more than ~~\$100,000~~ \$110,000 during any period of 3 consecutive calendar years ~~except that railroad corporations operating narrow gauge railroads or standard gauge railroads of less than 50 miles of main track may not be required to expend more than \$50,000 during any period of 6 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 3 preceding sections 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.'

Effective August 28, 1957

Chapter 357

AN ACT Relating to Computation of Tax on Telegraph Companies.

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

Sec. 1. R. S., c. 16, § 128, amended. Section 128 of chapter 16 of the Revised Statutes, as amended by section 2 of chapter 410 of the public laws of 1955, is hereby further amended to read as follows :

'Sec. 128. Computation of telephone tax. The amount of the annual excise tax on telephone and telegraph companies shall be ascertained as follows : When the total gross operating revenues of such corporation, association or person from its or his operations within this State during the calendar year preceding the year for which the tax is assessed on such corporation, association or person exceed \$1,000 and do not exceed \$5,000, the tax shall be 1¼% of such total gross operating revenues; when such total gross operating revenues exceed \$5,000 and do not exceed \$10,000, the tax shall be 1½% of such total gross operating revenues; when such total gross operating revenues exceed \$10,000 and do not exceed \$20,000, the tax shall be 1¾% of such total gross operating revenues; when such total gross operating revenues exceed \$20,000 and do not exceed \$40,000, the tax shall be 2% of such total gross operating revenues; and so on, increasing the rate of tax ¼ of 1% for each additional \$20,000 or fractional part thereof, of such total gross operating revenues, provided that the rate shall in no event exceed 7% of such total gross operating revenues.'

Sec. 2. R. S., c. 16, § 128-A, additional. Chapter 16 of the Revised Statutes is hereby amended by adding thereto a new section, to be numbered 128-A, to read as follows :