

# MAINE STATE LEGISLATURE

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## CHAPTER 305

## CONSTRUCTION, MAINTENANCE AND REPAIR

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## SUBCHAPTER I

## PUBLIC WAYS

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**§ 3051. Road machines used after August 10th**

Whenever a road commissioner, officer or employee of any city or town improves any highway with a road machine or any similar device after the 10th day of August in any year, except by light smoothing or maintenance work, a surface of gravel to the average depth of 6 inches shall be immediately placed on the section of the highway so improved. Whenever a road commissioner, official or employee of any city or town violates this section, the State Highway Commission shall cause to be withheld all moneys due such city or town for such year for highway purposes under chapters 1 to 19. This section shall not apply to such highways as are improved under the direction of the State Highway Commission.

R.S.1954, c. 96, § 75.

**§ 3052. Materials placed on roadside; removal**

If any municipality in the construction or repair of its highways places any stone, sod or other material upon land within the limit of any highway which the owner has cleared from stone and smoothed so that it is tillable land and so used, said municipality

shall within 30 days remove the same from such land. Failing to do this, the owner of said land may remove such stone, sod or other material therefrom and be paid the same price per hour for such removal as is paid by said municipality for labor in the construction and repair of its roads.

R.S.1954, c. 96, § 76.

### § 3053. Contracts for construction of bridges

Whenever any bridge within the State is to be constructed or repaired at a cost of \$1,000 or more and the cost of such construction or repairs is to be paid wholly or in part by the State, the contract for the same shall be awarded as follows: The State Highway Commission, county commissioners or municipal officers within the county where said new construction or repairs are to be made shall advertise for sealed proposals not less than 2 weeks in such papers as the State Highway Commission may direct, the last advertisement to be at least one week before the time named therein for the closing of such bids. Sealed proposals submitted in accordance with said advertisement shall be addressed to the State Highway Commission or county commissioners having the construction in charge and shall remain sealed until opened in the presence of said commission or commissioners at such times as the State Highway Commission may direct.

Whenever, in the judgment of the State Highway Commission, county commissioners or municipal officers, concrete may be used in repairing or building of bridges or the substructure thereof, Maine granite shall be set up as an alternate competitive construction material and said officials shall require alternate bids to be presented, one based on the use of concrete and the other on use of granite on all or such part of the project as may be deemed feasible from an engineering standpoint.

R.S.1954, c. 96, § 110.

### § 3054. Performance bonds required

No contract shall be awarded unless its faithful performance shall be secured to the State by a bond in penal sum of not less than 20% of the amount of the contract.

R.S.1954, c. 96, § 111.

## SUBCHAPTER II

## PRIVATE WAYS

Sec.

- 3101. Call of meetings.
- 3102. Surveyor's duties; neglect of owners to pay.
- 3103. Contracts for repair; assessments.
- 3104. Penalties and process.
- 3105. Use of town equipment.

**§ 3101. Call of meetings**

When 4 or more persons are owners and occupants of a private way or bridge, any 3 of them may make written application to a justice of the peace to call a meeting, who may issue his warrant setting forth the time, place and purpose thereof, a copy of which shall be posted at some public place in the town 7 days before such time. When so assembled, they may choose a clerk and a surveyor, to be sworn, and they may determine what repairs are necessary and the materials to be furnished or amount of money to be paid by each owner therefor and the manner of calling future meetings.

R.S.1954, c. 96, § 121.

**§ 3102. Surveyor's duties; neglect of owners to pay**

The surveyor chosen under section 3101, with respect to such way or bridge, has the powers of a road commissioner. For refusing to accept the trust or to take the oath he forfeits \$4, to be recovered as provided in section 3104. If any owner or occupant, on requirement of the surveyor, neglects to furnish his proportion of labor, materials or money, the same may be furnished by the other owners and occupants and recovered of him in a civil action.

R.S.1954, c. 96, § 122; 1961, c. 317, § 272.

**§ 3103. Contracts for repair; assessments**

The owners, at such meeting held under section 3101, may authorize a contract to be made for making and keeping such way or bridge in repair by the year or for a less time; may raise money for that purpose and choose assessors to assess it on such owners and occupants in proportion to their interests, who shall deliver their assessment with a warrant for its collection to the

surveyor. Such warrant shall be in substance such as is prescribed for collection of town taxes. The surveyor shall collect the same as town taxes are collected, and be liable for neglect of duty as town collectors are for similar neglects.

R.S.1954, c. 96, § 123.

### § 3104. Penalties and process

Money recovered under sections 3102 and 3103 is for the use of such owners. In any process for its recovery, a description of them in general terms as proprietors and occupants of the way or bridge, clearly describing it therein, is sufficient. Such process is not abated by the death of any owner or by the transfer of his interest.

R.S.1954, c. 96, § 124.

### § 3105. Use of town equipment

The inhabitants of any town or village corporation at a legal town or village corporation meeting may authorize the selectmen of the town or assessors of the village corporation to use its highway equipment on private ways within such town or village corporation, whenever such selectmen or assessors deem it advisable in the best interests of the town or village corporation for fire and police protection.

R.S.1954, c. 96, § 32.

## SUBCHAPTER III

### BRIDLE PATHS AND TRAILS

Sec.

3151. Bridle paths and trails; damages.

3152. Town regulations apply.

3153. No obligation to keep open in winter; bridges to be safe; signs.

### § 3151. Bridle paths and trails; damages

Bridle paths and trails may be laid out, altered or discontinued by any town or city within such town or city on petition therefor in the same manner as is provided by law for the laying out, altering or discontinuing of town ways in a town or city streets in a city, except that no cultivated or improved land shall be taken without the consent of the owner and a  $\frac{2}{3}$  vote shall be



required for the acceptance of such paths and trails by any town. All provisions now in force as to assessment of damages and appeal therefrom in cases of laying out, altering and discontinuing town ways in towns or city streets shall apply to laying out, altering and discontinuing bridle paths and trails except that the petitioners shall have no right of appeal.

R.S.1954, c. 96, § 35.

**§ 3152. Town regulations apply**

Bridle paths and trails, when laid out and accepted under section 3151, shall be subject to such regulations as to use as may be established by the city or town laying them out.

R.S.1954, c. 96, § 36.

**§ 3153. No obligation to keep open in winter; bridges to be safe; signs**

Cities and towns maintaining bridle paths and trails mentioned in sections 3151 and 3152 shall not be under any obligation to keep them in repair or to break them out in winter. If any city or town shall erect a bridge on such bridle path or trail, it shall be under the same obligation to keep such bridge in a safe condition for the use of horses and riders as it is now under to keep highway bridges in repair for the purposes for which they are used. Such city or town shall erect at the entrance of such bridle paths and trails suitable signs, signifying that they are bridle paths or trails only, and not for use of vehicles, and that persons may use them at their own risk.

R.S.1954, c. 96, § 37.

**SUBCHAPTER IV****SNOW REMOVAL**

Sec.

3201. Removal required; damages.

3202. Mail routes; snow fences.

**§ 3201. Removal required; damages**

When any ways are blocked or encumbered with snow, the road commissioner shall forthwith cause so much of it to be removed or trodden down as will render them passable. The town may direct the manner of doing it. In case of sudden injury to

ways or bridges, he shall without delay cause them to be repaired. All damage, accruing to a person in his business or property through neglect of such road commissioner or the municipal officers of such town to so render passable ways that are blocked or encumbered with snow, within a reasonable time, may be recovered of such town by a civil action.

R.S.1954, c. 96, § 70; 1961, c. 317, § 265.

**§ 3202. Mail routes; snow fences**

There shall be furnished and kept in repair in each section of the town through which there is a mail route some effectual apparatus for opening ways obstructed by snow, to be used to break and keep open the way to the width of 10 feet, and the municipal officers of towns, or any road commissioner under their direction, may take down fences upon the line of public highways when they deem it necessary to prevent the drifting of snow therein, but they shall in due season be replaced, in as good condition as when taken down, without expense to the owner.

R.S.1954, c. 96, § 71.

SUBCHAPTER V

DRAINAGE AND WATERCOURSES

Sec.

3251. Ditches, drains and culverts; control; damages.

3252. Drainage of public ways.

3253. Violations; jurisdiction.

3254. Complaints.

3255. Watercourses not to injure property; remedy.

**§ 3251. Ditches, drains and culverts; control; damages**

The municipal officers of a town may at the expense of the town construct ditches, drains and culverts to carry water away from any highway or road therein, and over or through any lands of persons or corporations when they deem it necessary for public convenience or for the proper care of such highway or road, provided no such ditch, drain or culvert shall pass under or within 20 feet of any dwelling house without the consent of the owner thereof. Such ditches, drains and culverts may be constructed under such highways or roads. Such ditches, drains or culverts shall be under the control of said municipal officers and interference therewith may be punishable by a fine of not more than

\$500 or by imprisonment for not more than 3 months, or by both. If such town does not maintain and keep in repair such ditches, drains and culverts, the owner or occupant of the lands through or over which they pass may have his action against the town for damages thereby sustained.

Before land is so taken, notice shall be given and damages assessed and paid therefor as is provided for the location of town ways.

R.S.1954, c. 96, § 151.

### § 3252. Drainage of public ways

No person by himself, his agents or servants, other than a person having legal supervision of a public way, shall cultivate, in connection with the improvement of lands adjacent thereto, any portion of the wrought part of any public way in such manner as to change the drainage thereof or obstruct said way; nor shall any person by himself, his agents or servants, other than a person having legal supervision of a public way, turn teams, tractors, farm machinery or other equipment upon the wrought portion of a highway in such manner as to change the drainage thereof or obstruct said way; nor shall any person by himself, his agents or servants, other than a person having legal supervision of a public way, deposit within or along any ditch or drain in a public way any material that will obstruct the flow of water in such ditch or drain or otherwise obstruct said way. With the written consent and in accordance with specifications of the legal authorities having supervision of such ditch or drain, any person may, to provide egress and regress to and from lands occupied by him, lawfully construct and maintain a bridge across such ditch or drain.

R.S.1954, c. 96, § 78.

### § 3253. Violations; jurisdiction

Whoever willfully violates any provision of section 3252 shall be punished, for the first offense by a fine of not more than \$50 and costs, and for each subsequent offense by a fine of not more than \$100 and costs, and shall be further liable for double the amount of the actual damage, to be recovered in a civil action by the municipality, or, in behalf of any unorganized place, by the county where the offense is committed. All fines recovered under this section, except in cases where the way involved was maintained by the State, shall be paid to the treasurer of the municipality,

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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. In all prosecutions under this section, the District Court shall have, upon complaint, jurisdiction concurrent with the Superior Court.

R.S.1954, c. 96, § 79; 1961, c. 317, § 266; 1963, c. 402, § 120.

**§ 3254.      Complaints**

Every municipal officer of a municipality or, for an unorganized place, every county commissioner, when his attention is directed to any violation of section 3252, within his jurisdiction, shall enter complaint against the offender and prosecute the same to final judgment.

R.S.1954, c. 96, § 80.

**§ 3255.      Watercourses not to injure property; remedy**

No road commissioner, without written permission from the municipal officers, shall cause a watercourse to be so constructed by the side of a way as to incommode any person's house or other building or to obstruct anyone in the prosecution of his business. Any person so aggrieved may complain to the municipal officers, who shall view the watercourse and may cause it to be altered as they direct.

R.S.1954, c. 96, § 77.