

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-FIVE

—  
H.P. 1332 - L.D. 1985

**An Act to Implement the Recommendations of the Maine Abandoned and  
Discontinued Roads Commission**

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

**Sec. 1. 14 MRSA §159-E** is enacted to read:

**§159-E. Limited liability for repairs and maintenance of public easement**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Public easement" has the same meaning as in Title 23, section 3021, subsection 2 and as described in Title 23, section 3022.

B. "Repairs and maintenance" includes, but is not limited to, snowplowing, snow removal, sanding and ice control; grading and adding gravel and surface material; installing reclaimed asphalt or grinding existing pavement for reuse; installing, cleaning and replacing culverts; creating and maintaining ditches, drains and other storm water management infrastructure; creating and maintaining sight distances on curves and at intersections; and cutting brush, trees and vegetation in the right-of-way.

**2. Limitation of liability; repairs and maintenance of public easement.** Except as otherwise provided in this section, an owner, lessee or occupant of property abutting a public easement or a portion of a public easement, including, but not limited to, a road association formed under Title 23, Part 3, chapter 305, subchapter 2 and a member of that road association, or an agent of such persons, is not liable for personal injury, property damage or death caused by:

A. Repairs and maintenance conducted on that public easement by the owner, lessee or occupant, or the agent of such persons, if the repairs and maintenance were conducted in order for the owner, lessee or occupant to access the owner's, lessee's or occupant's property over the public easement from a public way; or

B. Public access or public use of the public easement.

**3. Exception; dangerous conditions.** The limitations in subsection 2 do not limit any liability that may otherwise exist for a willful or malicious creation of, or failure to guard

or warn against, a dangerous condition on a public easement that is reasonably known to an owner, lessee or occupant of property abutting the public easement.

**4. Duty not created.** This section does not create a duty of care for an owner, lessee or occupant of property abutting a public easement to keep, or grounds for liability for injury to a person or property for failure to keep, a public easement safe for public access or public use for persons entering the public easement for such purposes.

**5. Landowner liability for environmental damage by others.** In accordance with this section, an owner, lessee or occupant of property abutting a public easement, including, but not limited to, a road association formed under Title 23, Part 3, chapter 305, subchapter 2 and a member of that road association, or an agent of such persons, that conducts repairs and maintenance on the public easement or suffers the public access or use of the public easement:

A. In accordance with Title 12, section 685-C, subsection 11 and Title 38, section 347-A, subsection 7, is not subject to criminal sanctions or civil penalties or forfeitures for a violation of laws or rules enforced by the Maine Land Use Planning Commission or the Department of Environmental Protection, as applicable, if the owner, lessee or occupant provides substantial credible evidence to the Maine Land Use Planning Commission or the Department of Environmental Protection, as applicable, that the violation was committed by a person other than the owner, lessee or occupant or a contractor, employee or agent of the owner, lessee or occupant; and

B. Notwithstanding Title 12, section 685-C, subsection 11 and Title 38, section 347-A, subsection 7, if the owner, lessee or occupant provides the substantial credible evidence described in paragraph A, the owner, lessee or occupant may not be held responsible for remediating or abating the environmental damage caused by the violation or for the costs of such remediation or abatement.

**6. Legal costs; attorney's fees.** If an owner, lessee or occupant of property abutting a public easement or a portion of a public easement, including, but not limited to, a road association formed under Title 23, Part 3, chapter 305, subchapter 2 and a member of that road association, or an agent of such persons, that conducts repairs and maintenance on the public easement or suffers the public access or use of the public easement is found not liable for personal injury, property damage or death pursuant to this section, the court shall award the owner, lessee or occupant any direct legal costs, including reasonable attorney's fees.

**Sec. 2. 23 MRSA §3105-A**, as amended by PL 2023, c. 642, §2, is further amended to read:

**§3105-A. Use of town equipment**

The legislative body of any town or village corporation at a legal town or village corporation meeting may authorize the municipal officers of the town or assessors of the village corporation to use the town's or village corporation's highway equipment on ~~private ways~~ public easements within such town or village corporation to plow, maintain or repair those ~~private ways~~ public easements to the extent directed by the legislative body and whenever such municipal officers or assessors consider it advisable in the best interest of the town or village corporation for fire and police protection. As used in this section,

"public easement" has the same meaning as in section 3021, subsection 2 and as described in section 3022.

**1. Repairs and maintenance of public easements.** The municipal officers of a town or the assessors of a village corporation, on their own initiative or upon written petition pursuant to Title 30-A, section 2521 of the owners, lessees or occupants of property used as year-round primary residences that are located along or only accessible over one or more public easements, may request the legislative body of the town or village corporation to vote to provide a minimum level of year-round repairs and maintenance for the public easement or easements. The minimum level of year-round repairs and maintenance for a public easement or easements that may be provided by a town or village corporation under this subsection:

A. May be provided up to the driveway of the last year-round primary residence that is located along or only accessible over the public easement and that is furthest from the nearest public way;

B. Must be lower than the standard for maintenance of highways, town ways and streets under section 3651;

C. May include annual grading, repair, maintenance, snowplowing and replacement of drains and culverts as required to keep the public easement reasonably passable for residential access as determined by the town or village corporation; and

D. If approved by a vote of the legislative body of the town or village corporation, must continue to be provided until the legislative body votes to discontinue providing year-round repairs and maintenance.

**2. Required signage.** A town or village corporation that votes to provide a minimum level of year-round repairs and maintenance of a public easement pursuant to subsection 1 shall, at each intersection of such public easement with a public way or private road, install and maintain a sign reasonably visible to drivers at the entrance to the public easement that reads: "Minimum Maintenance Road - Travel at Your Own Risk." The sign required under this subsection must conform to the requirements of the most recent Manual on Uniform Traffic Control Devices for Streets and Highways published by the United States Department of Transportation, Federal Highway Administration, including, but not limited to, the requirement that the sign be a minimum 24-inch-by-24-inch diamond shape with black lettering at least 3 inches high on a yellow retroreflective background.

**3. Liability.** A town or village corporation that votes to provide a minimum level of year-round repairs and maintenance of a public easement pursuant to subsection 1 is immune from liability relating to that repairs and maintenance under the Maine Tort Claims Act and under Title 23, chapter 313.

**Sec. 3. 29-A MRSA §2395, sub-§4,** as amended by PL 2017, c. 25, §1, is further amended to read:

**4. Designation by counties and municipalities.** County commissioners and municipal officers may designate public ways, other than those in subsection 3, and public easements, regardless of whether the county or municipality maintains or repairs the public easement, and impose restrictions within their respective jurisdictions similar to those made by the Department of Transportation under subsection 3. Any vehicle delivering home heating fuel or organic animal bedding material and operating in accordance with a permit

issued by the Department of Transportation pursuant to this section may travel over any county or town way or public easement without a specific municipal or county permit. A municipality may impose additional restrictions for a vehicle delivering home heating fuel or organic animal bedding material to operate on public ways and public easements within that municipality but may not require a permit to operate according to those restrictions. As used in this subsection, "public easement" has the same meaning as in Title 23, section 3021, subsection 2 and as described in Title 23, section 3022.

**Sec. 4. Appropriations and allocations.** The following appropriations and allocations are made.

**ATTORNEY GENERAL, DEPARTMENT OF THE**

**Road Commission Fund Z353**

Initiative: Provides ongoing appropriations of \$6,500 to the Road Commission Fund program to provide expense reimbursement for members and to support the work of the Maine Abandoned and Discontinued Roads Commission.

<b>GENERAL FUND</b>	<b>2025-26</b>	<b>2026-27</b>
All Other	\$6,500	\$6,500
<b>GENERAL FUND TOTAL</b>	\$6,500	\$6,500