



# HOUSE OF REPRESENTATIVES

2 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0002  
(207) 287-1440  
TTY: (207) 287-4469

## Mathew McIntyre

78 Tannery Road  
Lowell, ME 04493  
(207) 680-0678

[Mathew.McIntyre@legislature.maine.gov](mailto:Mathew.McIntyre@legislature.maine.gov)

Senator Nangle, Representative Crafts and Esteemed Members of the Joint Standing Committee on Transportation, I am Mathew McIntyre and I humbly serve as the Representative for Maine's House District 18 comprising 16 towns and four Unorganized Territories spanning portions of Penobscot, Hancock and Washington counties. Today I offer testimony as the sponsor of **LD1562**, "An Act Regarding Municipal Road Standards".

As I begin, I offer my presentation today is a direct result of engaging with Town Boards and County Commissioners throughout District 18, and I serve proudly in carrying their voices here for your respectful consideration.

Per Maine Revised Statutes Title 23, Part 3, Chapter 313, Subsection 3651 (**Failure to provide safety and convenience**), "*Highways, town ways and streets legally established shall be open and kept in repair so as to be safe and convenient for travelers with motor vehicles...*". If we were to ask 100 different roadway travelers to define "*safe and convenient*", I suggest we would likely receive just as many interpretations, especially when we account for Maine's infamous fifth season... "Mud Season". This broad and enigmatic language alone represents a problem that multiple Town Boards across District 18, and in fact the State regularly grapple with.

The first objective of this proposed Act is intended to inject a bit of our State's notable common-sense into Subsection 3651, by granting those municipal authorities responsible for road maintenance of Town ways a measure of reasonable latitude in their response plans dependent upon (1) the type of roadway (paved versus gravel) and (2) the time of the year. Additionally, a desired objective is to ensure that municipal authorities have access to codified statutory language which correctly identifies the Maine State Department of Transportation (MDOT) as the rightful and logical authority of associated subject matter expertise for defining and potentially adjudicating "*safe and convenient*". This is clearly supported by the existence of two paid staff positions within MDOT that not many outside of this committee are likely familiar with; the Maine State "Road Ranger" and "Bridge Ranger". Additionally, I draw your attention to the defined function of the Maine Local Roads Center, as published on the MDOT website; "*The Maine Local Roads Center provides training, technical assistance, and information to those municipal and county personnel who are responsible for constructing, maintaining, and managing local roads and bridges in Maine*".

Before I continue, I feel it is equally important that I affirm what this Act is NOT designed to achieve. This Act is not intended to alleviate Towns from their responsibility to address identified “defects” on the roadways they are legally required to maintain, nor is it intended to deny a pathway for a citizen to register a complaint. It is very important to me that we ensure roadway travelers are always guaranteed due-process to allow for defects to be reported, acknowledged, evaluated by subject matter experts and ultimately addressed in a fashion which complies with defined standards.

To now speak to the second component of this proposed Act, the suggested repeal of Subsections 3652, 3653 and 3654. Through research conducted by our Law Library, it has been determined at least one of these subsections was originally enacted in 1849 during the 58<sup>th</sup> Legislature, predating the 1972 establishment of the Department of Transportation by approximately 123 years. Of interesting note, subsection 3652 (“Notice of defect; hearing on petition”) was indeed amended once, in 1949 by the 94<sup>th</sup> Legislature, to inject language pertaining to the then modern marvel of “motor vehicles”. Prior to that, the subsection revolved around “horses, teams and carriages”.

Given the proposed clarifying language to be added to subsection 3651, and in the interest of improving petition process efficiency by eliminating unnecessary bureaucracy directly resulting from what is clearly an extremely outdated law, it is suggested that subsections 3652 through 3654 be repealed in full and replaced by simple MDOT policy. The Maine Department of Transportation is the State’s recognized subject matter expert for road standards, not County Commissioners and not Town Councils or Boards of Select.

With your support of these common-sense updates, we have an opportunity to solve several existing process-related problems at one time, while ensuring that constituents rightfully maintain a pathway for redress of their concerns.

I thank you for your time today, and look forward to contributing to the conversation during future work sessions, should the committee feel additional input is warranted. I will be glad to address any questions you may now have.

**§3652. Notice of defect; hearing on petition**

When a town liable to maintain a way unreasonably neglects to keep it in repair as provided in section 3651, after one of the municipal officers has had 5 days' actual notice or knowledge of the defective condition, any 3 or more responsible persons may petition the county commissioners for the county, setting forth such facts, who, if satisfied that such petitioners are responsible for the costs of the proceedings, shall fix a time and place near such defective way for a hearing on such petition and cause such notice thereof to be given to the town and petitioners as they may prescribe. At the time appointed, the commissioners shall view the way alleged to be out of repair and hear the parties interested, and if they adjudge the way to be unsafe and inconvenient for travelers, motor vehicles, horses, teams and carriages, they shall prescribe what repairs shall be made, fix the time in which the town shall make them, give notice thereof to the municipal officers and award the costs of the proceedings against the town. If they adjudge the way to be safe and convenient, they shall dismiss the petition and award the costs against the petitioners. If they find that the way was defective at the time of presentation of the petition, but has been repaired before the hearing, they may award the costs against the town, if in their judgment justice requires it.

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 131st Maine Legislature and is current through January 1, 2025. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

**§3653. Manner of presenting petition**

The petition provided for in section 3652 may be presented to the county commissioners at any of their sessions, or in vacation to their chairman, who shall procure the concurrence of his associates in fixing the time and place in the order of notice and cause the petition to be entered at their next session. They shall make full return of their proceedings on the petition and cause the same to be recorded as of their next regular term after the proceedings are closed.

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 131st Maine Legislature and is current through January 1, 2025. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.
--

**§3654. Failure to comply with commissioners' order; warrant of distress**

If the town neglects to make the repairs prescribed by the commissioners under section 3652, within the time fixed therefor in such notice to the town, they may cause it to be done by an agent, not one of themselves. Such agent shall cause the repairs to be made forthwith and shall render to the commissioners his account of disbursements and services in making the same. His account shall not be allowed without such notice to the town as the commissioners deem reasonable. When the account is allowed, the town becomes liable therefor, with the agent's expenses in procuring the allowance of his account and interest after such allowance, and said commissioners shall render judgment therefor against the town in favor of the agent. If a town neglects to pay such judgment for 30 days after demand, a warrant of distress shall be issued by the commissioners to collect the same.

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 131st Maine Legislature and is current through January 1, 2025. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.