

Sen. Nangle, Rep. Crafts, members of the Transportation Committee,

My name is Roberta Manter and I live in Fayette. I am the founder of Maine ROADWays, which is an acronym for Residents & Owners on Abandoned & Discontinued Ways. I am also a Board member of MARA, the Maine Alliance for Road Associations. I apologize for the short notice of my testimony in opposition to this bill - somehow I missed the hearing for it; however that does give me the opportunity to respond to some of the other testimony that was submitted.

First of all, section 3651 does not apply either to discontinued roads or to private roads. So why would I have an interest in it? The fact is, I have seen section 3651 and the several sections that follow it (which this bill would repeal) used to advantage several times. (Details below.)

In response to the concern that it could require too much from small towns with limited finances, or at times of the year when repairs are impossible, I believe the vague "safe and convenient" standard has given towns flexibility and allowed County Commissioners to exercise discretion in its enforcement under sections 3652 et seq. Tying it to DOT standards would make it more rigid. Also, if a town cannot immediately repair a defect, I believe the town can protect itself from liability by posting warning signs, cone markers, barriers, or what ever else is appropriate to warn travelers to use caution and avoid the defect.

The first time I saw section 3651 used to advantage was when our town raised the grade of one road, making entry from the side road on which I live so steep that it was hard to get traction after stopping in winter unless one pulled up onto the road before stopping. Worse yet, I literally could not see oncoming traffic. One day I stopped, looked both ways, and not seeing anything, I almost drove into the side of a pickup truck that was completely hidden by the hood of my car. We complained to the town, but they refused to do anything about it. We appealed to the County Commissioners who came out, viewed the situation, determined that the entry to the side road was in fact within the right-of-way bounds of the town way, and ordered the town provide a level "landing" where traffic entering from the side road could safely stop and see oncoming traffic.

In another instance, a town had re-paved a town way without properly connecting it to the pavement where it intersected a private road. In a short time, a large pot hole developed where the two met, requiring vehicles exiting the road to cross to the left lane to avoid the hole. But the intersection was in a blind spot, so that traffic entering the side road from the main road would be unable to see that there was a car sitting in that lane waiting to exit. Residents on the side road complained repeatedly to the town about near-misses caused by the defect, but their complaints were ignored and the hole continued to grow. When I told them about section 3651, they wrote a letter to the town, and the hole was repaired within 24 hours!

But the law does not always work against the town. In the case of *Lamb v New Sharon*, a resident complained about the condition of a road, and then appealed to the County Commissioners. The County did in fact order the town to repair the road, but the town did nothing, although it also did not appeal the County's decision. The County took no further action, and the town ultimately won a claim of abandonment under section 3028. As I said, the law allows the Commissioners to exercise discretion.

One other way I have seen section 3651 used to advantage is when a town has refused to declare the legal status of a long-neglected road so that residents and landowners can have clarity. Petitioning the town under this section and then appealing to the Commissioners under section 3652 can force the town to declare the road abandoned. While this may not be the outcome the petitioners were hoping for, at least it is better than being left in limbo.

In short, my testimony is, "If it ain't broke, don't fix it." Please leave sections 3651 through 3654 in place as currently worded.