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An Act To Enhance Public Safety, Facilitate the Coordination of Traffic Control Signal Systems and Promote More Equitable Use of Public Highway Rights-of-way

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation is designed to enhance public safety and facilitate the coordination of traffic control signal systems; and

Whereas, it is critically important that this legislation take effect immediately; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 23 MRSA §54, as amended by PL 1997, c. 393, Pt. A, §24, is further amended to read:

§ 54. Highway openings

Wherever highways maintained by the State are affected, whether the highways are situated in cities, towns or plantations, the department has all and the same rights, powers and duties in connection therewith as are granted to cities in city streets by sections 3351 to 3359, and to cities and towns by Title 35-A, sections ~~2306~~2507 and ~~2310~~2508. Whenever the opening fee provided by section 3354 or by Title 35-A, section 2510, has been paid to the department and a permit for digging up and opening a highway maintained by the State has been issued by the department, the holder of the permit is entitled to make the opening described ~~therein~~ in the permit without the payment of fees to the city or town or village corporation in which the street, road or highway to be opened is situated.

Sec. 2. 23 MRSA §1351, as amended by PL 1985, c. 506, Pt. B, §19, is further amended to read:

§ 1351. Installation of signals, devices and signs

The department may make rules and shall enforce rules and regulations relating to traffic control and the installation and maintenance of traffic control signals, devices, signs and markings on all state, state aid and federal aid highways. The department may be consulted by and shall without charge advise municipal officers and road commissioners on the subject of traffic control.

~~The department shall have authority to install and maintain traffic control signals, warning, regulatory, directional and informational signs and markings, on all state and state aid highways and highways constructed under its direction with federal funds, when, in its opinion, such signs, signals and markings are necessary for public safety and convenience.~~

The department may install and maintain traffic control signal systems and warning, regulatory, directional and informational signs and markings on all state and state aid highways, highways constructed under its direction with federal funds and town ways, when, in its opinion, such signs, signal systems and markings are necessary for public safety and convenience. Owners of utility facilities located within or along a public right-of-way must accommodate such traffic control signal systems and their appurtenances in, on or upon their facilities without charge to the public if those systems and appurtenances are used solely for the communication of information and data necessary for the proper operation of traffic signals and related devices.

On all designated state and state aid highways, the location, form and character of informational, directional, regulatory and warning signs and traffic control signals and devices, erected by towns, shall ~~bear~~ be subject to approval of the department.

On any highway or street constructed with federal aid in any town, the location, form and character of informational, directional, regulatory and warning signs, curb and pavement or other markings, and traffic signals, installed or placed by any public authority or other agency, shall ~~bear~~ be subject to the approval of the department with the concurrence of the Federal Highway Administration.

Any rule ~~or regulation~~ relating to traffic control or the installation or maintenance of traffic control signals, devices or signs adopted pursuant to this section shall ~~be~~ be exempt from the rule-making provisions of the Maine Administrative Procedure Act, ~~Title 5, chapter 375.~~

The department is authorized and directed to establish a system of numbering all classes of highways ~~which~~ when, in its opinion, it is necessary for public convenience; and to publish maps from time to time showing the highways so numbered.

On all designated state and state aid highways, the department may prohibit other than one-way traffic when, in its opinion, such prohibition is necessary for public safety.

~~Nothing contained in this~~ This section shall ~~may not~~ be construed to apply to the installation or maintenance of signals, devices, signs, lights or warnings at approaches to railroad crossings.

The issuance of any order or rule ~~and regulation~~ may be proved by submitting a copy thereof signed by the commissioner and duly notarized.

Whoever violates any order or rule ~~and regulation~~ of the department issued under authority of this section shall ~~be punished by~~ be subject to a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both.

Upon the expiration of 30 days after notice by certified mail, any owner of utility facilities who refuses to accommodate the location of public traffic control signal systems in or upon its facilities without charge pursuant to this section is subject to a fine of not more than \$500 per day for each traffic signal in the system for which location in or upon such facilities is sought, to be assessed in an action that may be brought for that purpose in the Superior Court for Kennebec County.

Sec. 3. 35-A MRSA §2503, sub-§5, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

5. Permits. The location permit shall must specify the approximate location of the facility and the minimum depth of any pipes or conduits below, or the minimum height of any wires or cables above, the earth's surface. The licensing authority may specify in the permit other requirements determined necessary in the best interests of the public safety and use of the right-of-way so as not to obstruct use for public travel, including requirements for the accommodation of public safety and traffic control facilities in, on or upon facilities permitted under this chapter.

Sec. 4. 35-A MRS §2503, sub-§16, as amended by PL 1993, c. 540, §1, is further amended to read:

16. Rules. The Department of Transportation may adopt reasonable rules to administer this section. These rules may include guidelines for the accommodation of public safety and traffic control facilities in, on or upon existing and proposed utility facilities permitted or deemed legal structures under this chapter and procedures for regarding application for and issuance of permits and the conduct of hearings.

The department may adopt rules authorizing public utilities to install facilities on or over the surface of public ways for which the department is the licensing authority. The rules must set forth the following:

- A. General terms and conditions regarding the location of the facilities; and
- B. Reasonable requirements determined necessary to protect public safety and to permit unobstructed public travel along the affected public way.

Utilities installing facilities in accordance with these rules are not required to receive a separate written location permit as required by section 2501, subsection 2. Facilities installed in accordance with the rules are legal structures and are deemed installed pursuant to a written location permit.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill corrects some outdated statutory references, clarifies that owners of utility facilities located in, on or upon a public right-of-way must accommodate the attachment of traffic control signal systems and their appurtenances without charge to the public, as long as the systems and their appurtenances are used solely for the communication of information and data necessary for the proper operation of the traffic control signal systems, and clarifies that the Department of Transportation may incorporate in its rules guidelines for the accommodation of such traffic control signal systems in, on or upon utility facilities.