

# CHAPTER 238

## HIGHWAY CONSTRUCTION AND MAINTENANCE

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## **PART I**

### **BOUNDARIES**

Sec. 13a-36. Milestones to be reset. The commissioner shall reset any milestone found in the course of the construction by him of any highway which follows approximately the route of an ancient turnpike or highway.

(1949 Rev., S. 2249; 1958 Rev., S. 13-136; 1963, P.A. 226, S. 37.)

History: 1963 act replaced previous provisions: See title history.

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Sec. 13a-37. Determination of boundaries. If, in the opinion of the commissioner, the boundary lines or limits of any state highway have become lost or uncertain, he may cause a map or maps of such highway to be made and may reestablish such boundary lines or limits as, in his opinion, they were originally established. Said commissioner shall, by written notice to the selectmen of the town in which any such highway is situated and to each known adjoining proprietor on any such highway, by registered or certified mail to the last-known address, give a description of such boundaries or limits as reestablished and file with the town clerk of such town a copy of such map or maps which shall clearly define the lines of such highway and the bounds thereof. The lines, boundaries and limits so defined shall be the lines, boundaries and limits of such highway, unless any person or town claiming to be aggrieved thereby has taken an appeal to the Superior Court within sixty days from the filing of such map or maps, and said court has, after full hearing, found and determined new lines for such highway and rendered judgment defining the same. If said commissioner is unable to prove the location of any such

boundaries or limits, he may purchase or condemn such right-of-way over land adjoining the traveled portion of the highway as is, in his opinion, necessary for highway purposes under the provisions of part IV of this chapter, or may make written agreements with the owners thereof concerning such lines, such agreements to be executed in the manner required for deeds and recorded in the office of the town clerk in which such land is located by the commissioner. Said commissioner shall mark such boundaries or limits by a uniform and distinctive type of marker. The expenses, costs and fees of the commissioner for legal, engineering or other services, land damage or other damages in reestablishing or locating such boundary lines shall be paid from the funds received from the Commissioner of Motor Vehicles.

(1949 Rev., S. 2230; 1958 Rev., S. 13-110; 1961, P.A. 162; 1963, P.A. 226, S. 38; 1971, P.A. 870, S. 102; P.A. 76-436, S. 328, 681.)

History: 1961 act provided agreements between commissioner and owners be written, executed in manner of deeds and recorded in town clerk's office; 1963 act replaced previous provisions: See title history; 1971 act substituted court of common pleas for superior court, effective September 1, 1971, except that courts with cases pending retain jurisdiction unless pending cases deemed transferable; P.A. 76-436 substituted superior court for court of common pleas, effective July 1, 1978.

See Sec. 13a-39 re selectmen's authority to define bounds of highways.

Necessary width of highway for tree planting discussed. 6 CS 5. Burden on commissioner to prove true location of lost boundary line. 7 CS 135. Cited. Id., 436. "Appeal" from reestablishment of lost boundaries. Id., 516. "Adjoining proprietors" does not include estate administrator; compared with Sec. 13a-73(b) (formerly Sec. 13-145). 11 CS 39. Cited. 27 CS 472.

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Sec. 13a-38. Entry on private property to determine boundary. The commissioner or his agent may enter upon private property for the purpose of surveying or examining such property for the determination of the boundary line of any highway under his control. He shall use care so that no unnecessary damage shall result, and the state shall be liable to the owner of any property for any damage he causes such owner.

(1949 Rev., S. 2194; 1958 Rev., S. 13-79; 1961, P.A. 137, S. 1; 1963, P.A. 226, S. 39.)

History: 1961 act removed provision re commissioner's power to lay out, alter, construct, reconstruct, etc. highways whenever "interest of the state so requires"; 1963 act replaced previous provisions: See title history.

See Sec. 13a-60 re entry upon private property necessitated by alteration of highways.

Cited. 125 C. 413; 129 C. 83. Does not imply consent on the part of the state to be sued. 146 C. 316.

Cited. 6 CS 5. Complaint alleging that highway commissioner unnecessarily discharged surface water onto plaintiff's land is good against demurrer. Id., 485. Commissioner not authorized by section to condemn property or to enter into contracts. 18 CS 264. Requires allegation that damage complained of was unnecessary. 20 CS 142.

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Sec. 13a-39. Selectmen to define bounds of highway. Whenever the boundaries of any highway have been lost or become uncertain, the selectmen of any town in which such highway is located, upon the written application of any of the proprietors of land adjoining such highway, may cause to be made a map of such highway, showing the fences and bounds as actually existing, and the bounds as claimed by adjoining proprietors, and shall also cause to be placed on such map such lines as in their judgment coincide with the lines of the highway as

originally laid down. Such selectmen shall cause a notice to be printed for at least two days in a daily paper having a general circulation in the town in which such highway is located, and shall send a written or printed notice to each known adjoining proprietor on such highway, setting forth the name or location of the highway, a description of the portions to be reestablished, the place and time where such map may be seen, and the time, not less than two weeks from the date of the issue of such notice, when and place where all parties interested may be heard under oath in regard to such reestablishment. Such selectmen may adjourn such hearing from time to time and, upon reaching a decision, shall cause the same to be published as aforesaid and a notice of the same to be sent to all known adjoining proprietors. Such decision shall specifically define the line of such highway and the bounds thereof and shall be recorded in the records of the town in which such highway is located, and the lines and bounds so defined and established shall be the bounds of such highway unless changed by the Superior Court upon appeal from such decision of the selectmen.

(1949 Rev., S. 2166; 1958 Rev., S. 13-49; 1963, P.A. 226, S. 40; P.A. 76-436, S. 329, 681.)

History: 1963 act replaced previous provisions: See title history; P.A. 76-436 substituted superior court for court of common pleas, effective July 1, 1978.

See Sec. 13a-37 re determination of boundaries by Transportation Commissioner.

As to former acts. 73 C. 575. Scope of act; procedure before selectmen. 83 C. 101. All steps provided to be strictly followed; various points considered. 84 C. 646. Legislature intended board of selectmen to determine the width and length of the highway under section. 309 C. 608. Prior judicial determination of a highway's public status is not a jurisdictional condition precedent to a proceeding under section and various mistakes made by board of selectmen during proceeding were not jurisdictional because they did not implicate notice to the public, thus allowing any defect to be cured by trial de novo under Sec. 13a-40. 328 C. 615.

Cited. 14 CA 521. Town's board of selectmen exceeded its authority when it determined that a highway existed on plaintiff's property where a highway did not previously exist. 131 CA 24; judgment reversed, see 309 C. 608. Recourse to section presupposes a prior determination that the road in question has been deemed a public highway. 137 CA 1.

Cited. 11 CS 429. Selectmen have no discretion; their duty is precise. 15 CS 404. Cited. 27 CS 472.

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Sec. 13a-40. Appeal. Any person aggrieved by such decision may appeal to the superior court for the judicial district where such highway is situated within ten days after notice of such decision has been given, which appeal shall be in writing, containing a brief statement of the facts and reasons of appeal and a citation to such selectmen and all adjoining proprietors on such highway to appear before said court, and said court, or any judge thereof, may direct the time of appearance and the manner of service. Said court may review the doings of such selectmen, examine the questions in issue by itself or by a committee, confirm, change or set aside the doings of such selectmen, and make such orders in the premises, including orders as to costs, as it finds to be equitable. The clerk of said court shall cause a certified copy of the final decree of said court to be recorded in the records of the town in which such highway is located, and, if such decree changes the bounds defined and established by the decision of such selectmen, the bounds defined and established by such decree shall be the bounds of such highway.

(1949 Rev., S. 2167; 1958 Rev., S. 13-50; 1963, P.A. 226, S. 41; P.A. 76-436, S. 330, 681; P.A. 78-280, S. 1, 127.)

History: 1963 act replaced previous provisions: See title history; P.A. 76-436 substituted superior court for court of common pleas and added reference to judicial districts, effective July 1, 1978; P.A. 78-280 deleted reference to counties.

Cited. 14 CA 521, 523. Superior Court, in its review of a determination by town's board of selectmen, may conduct a trial de novo. 131 CA 24; judgment affirmed, see 309 C. 608.

Cited. 11 CS 429; 27 CS 472.

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Sec. 13a-41. Bounds of new highways to be marked and recorded. Whenever a new highway has been laid out by authority of any town or city, such highway shall be marked or defined in the following manner: At the beginning and termination by stone, steel or iron bounds on each side, and a stone, steel or iron bound at each angle or deflection between the beginning and termination. Stone bounds shall be not less than four inches square by two feet in length, with a mark on the top. Steel or iron bounds shall be not less than one inch in diameter if round, or not less than one inch square, and shall be two and one-half feet in length. No new highway shall be deemed legally located, or a legal highway, until so marked or defined. The authorities of towns or cities making the layout shall at least once in five years personally examine such bounds and renew all lost or misplaced ones. Any person owning land bounded in part or wholly by a highway may make application in writing to the authorities of the town or city in which such land is located for bounds to be placed on such described land. Such authorities shall thereupon place on the lines of the highway on such described lands bounds as hereinbefore described, provided the cost of procuring and the estimated cost of placing the same shall be first paid to such authorities by the applicant. The authorities of towns and cities making such layout shall have an adequate description of such bounds recorded in towns in the town clerk's office and in cities in the office in which records of streets or highways are made.

(1949 Rev., S. 2168; 1958 Rev., S. 13-51; 1963, P.A. 226, S. 42.)

History: 1963 act replaced previous provisions: See title history.

Where committee cannot find original street lines, city may make new layout of street according to charter. 69 C. 558. Section does not empower municipality to fix disputed boundaries, but only permanently to mark undisputed lines. 73 C. 575.

When roadway leading to cemetery deemed dedicated to public use. 11 CS 429. When monuments are required. 13 CS 70.

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## **PART II**

### **ACCEPTANCE AND ABANDONMENT OF HIGHWAYS**

Sec. 13a-42. Taking of roads into state system. The commissioner may take into the state highway system any highway, section of highway or appurtenances thereto when said commissioner finds that it is in the best interest of the state to do so, and such highway, section of highway or appurtenances thereto conform to the definitions set out in section 13a-14. Any town may petition the commissioner to take a road of such town into such state system whenever it considers such road as conforming to the definitions set out in section 13a-14. Said commissioner shall act upon the petition within three months after receipt thereof. Any town aggrieved by the action of the commissioner may elect to submit the matter to arbitration in the manner provided in section 13a-17.

(1961, P.A. 603, S. 6; 1963, P.A. 226, S. 43; 1967, P.A. 236.)

History: 1963 act replaced previous provisions: See title history; 1967 act added provisions re town's petition for commissioner to take town road into state system.

See Sec. 13a-45 re effective date of transfers or abandonments.

See Sec. 13a-46 re transfer of rights in lands as part of transfer of roads.

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Sec. 13a-43. Abandonment of state highway. The commissioner may, in connection with a new highway constructed in a town, abandon any highway, or section or appurtenance thereof, in the state highway system no longer conforming with the definitions set out in section 13a-14 or no longer serving the best interest of the state as a part of the state highway system, upon notice to the board of selectmen of the town wherein such highway, or section or appurtenance thereof, is located, and such highway, or section or appurtenance thereof, shall revert to the town unless legally abandoned by it. Before abandonment of any part of the state highway system, the commissioner shall put the same in reasonably good condition, except where the same is no longer useful or necessary for highway purposes. Any town aggrieved by the abandonment of any part of any road, or section or appurtenance thereof, may elect to submit the matter to arbitration as provided in section 13a-17.

(1949 Rev., S. 2231; 1953, S. 1198d; 1958 Rev., S. 13-111; 1961, P.A. 603, S. 7; 1963, P.A. 226, S. 44; 1967, P.A. 235, S. 2.)

History: 1961 act made certain technical changes to conform to creation of the state highway system and allowed abandonment of part of highway system without putting road “in reasonable good condition” when road is “no longer useful or necessary for highway purposes”; 1963 act replaced previous provisions: See title history; 1967 act linked abandonment with new highway construction, replacing provision allowing abandonment with town's consent and provision re town submitting grievance to arbitration.

See Sec. 13a-45 re effective date of transfers and abandonments.

See Sec. 13b-205 re railroad company's authority to take land in discontinued highways.

Cited. 129 C. 83.

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Sec. 13a-44. Transfer of state highway to town. The commissioner may transfer any highway, or section or appurtenance thereof, in the state highway system to the town or towns through which such highway, or section or appurtenance thereof, runs when it does not conform with the definitions set out in section 13a-14 or no longer serves the best interest of the state as a part of the state highway system, provided the commissioner shall put the same in reasonably good condition. Any town aggrieved by the transfer of any highway, or section or appurtenance thereof, may elect to submit the matter to arbitration as provided in section 13a-17.

(1949 Rev., S. 2234; 1958 Rev., S. 13-116; 1961, P.A. 603, S. 8; 1963, P.A. 226, S. 45; 1967, P.A. 235, S. 3.)

History: 1961 act removed provision for state to accept part of town highway system as state road on transfers of state highways to towns, made technical changes to conform to the creation of the state highway system and added proviso re putting roads to be transferred “in reasonably good condition”; 1963 act replaced previous provisions: See title history; 1967 act deleted requirement that towns consent to transfer of roads but added provision for aggrieved town's submission of a transfer decision to arbitration.

See Sec. 13a-45 re effective date of transfers and abandonments.

See Sec. 13a-46 re transfer of rights in lands as part of transfer of roads.

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Sec. 13a-45. Effective date of transfers and abandonments. Transfers or abandonments under section 13a-42, 13a-43 or 13a-44 shall be effective sixty days after notice thereof has been given by the commissioner to the selectmen of the town involved, provided notice of any such transfer or abandonment and a description of the highway, or portion or appurtenance thereof, so transferred or abandoned have been filed in the office of the town clerk of the town within which such highway, or portion or appurtenance thereof, lies within such sixty days.

(1961, P.A. 603, S. 9; 1963, P.A. 226, S. 46.)

History: 1963 act replaced previous provisions: See title history.

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Sec. 13a-46. Transfers of rights in lands on transfer of roads. The commissioner shall transfer all right, title and interest vested in the state with the transfer of any highway, or portion or appurtenance thereof, to a town and shall assume all right, title and interest in or to lands previously vested in such town upon accepting any highway, or portion or appurtenance thereof, as part of the state highway system. Upon any such transfer or acceptance of a highway, or portion or appurtenance thereof, by the commissioner or the town, the commissioner or the town, as the case may be, shall assume full responsibility, authority, liability and jurisdiction over such highway, or portion or appurtenance thereof, as of the effective date of such transfer or acceptance.

(1961, P.A. 603, S. 12; 1963, P.A. 226, S. 47.)

History: 1963 act replaced previous provisions: See title history.

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Sec. 13a-47. Powers of commissioner unaffected. Nothing in sections 13a-42 to 13a-46, inclusive, shall be construed to limit, restrict or derogate from any power, right or authority of the commissioner contained in any other statute.

(1961, P.A. 603, S. 11; 1963, P.A. 226, S. 47a.)

History: 1963 act replaced previous provisions: See title history.

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Sec. 13a-48. Acceptance of highways by municipalities. Any municipality whose duty it is to maintain the highways within its limits may, at any annual or special meeting held for that purpose, accept as a public highway any proposed highway situated in such municipality, provided any municipality in which a town meeting is the legislative body may by ordinance or resolution delegate the power to accept public highways to the board of selectmen in accordance with such procedures as the municipality may establish in the ordinance or resolution, and any municipality may, by charter, provide an alternative means for the acceptance of public highways.

(1949 Rev., S. 2118; 1958 Rev., S. 13-3; 1963, P.A. 226, S. 48; P.A. 91-181, S. 1, 3.)

History: 1963 act replaced previous provisions: See title history; P.A. 91-181 added provision concerning acceptance of highways by boards of selectmen and establishment of alternative means for acceptance.

Acceptance by user by the public. 131 C. 84. When municipality in conformity with statutory requirements expressly accepts street as public highway, no further action on part of general public is required to constitute street a public highway. 146 C. 474. Sec. 13a-71 does not limit width of street that can be accepted. 151 C. 372. A town meeting may accept any street as a public highway irrespective of whether it has received prior approval by selectmen. 159 C. 107. Cited. 165 C. 624. Acceptance of highways is an exercise of legislative discretion that may not be delegated; whole action of town meeting a nullity, not just the illegal delegation; acceptance subject to approval not considered acceptance. 177 C. 527. Neither the public's actual use of the property nor the town's actions constituted an express or implied acceptance of a proposed street. 180 C. 274. Acceptance by municipality may be accomplished through formal proceedings under section or by implication through its conduct. Id., 435. Cited. 226 C. 684.

Cited. 14 CA 521; 17 CA 111; 23 CA 281. In 1730, highways were established by actual use by the general public under the common-law doctrine of dedication and acceptance, and section, which was enacted in 1927, does not allow municipalities to accept such highways. 137 CA 1.

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Sec. 13a-49. Discontinuance of highways or private ways. (a)(1) The selectmen of any town may, subject to approval by a majority vote at any regular or special town meeting, as applicable, by a writing signed by them, discontinue any highway or private way, or land dedicated as such, in its entirety, or may discontinue any part thereof or any property right of the town or public therein, except when laid out by a court or the General Assembly, and except where such highway is within a city, or within a borough having control of highways within its limits.

(2) Whenever the selectmen of a town meet to take final action on the discontinuance or partial discontinuance of a highway or private way, or land dedicated as such, the selectmen shall provide written notice of their meeting to each owner of property that bounds such highway or private way, or land dedicated as such. If, in the opinion of the selectmen, the boundary lines or limits of such highway or private way, or land dedicated as such, have become lost or uncertain, the selectmen shall make reasonable efforts to identify the boundary lines or limits of such highway or private way, or land dedicated as such, and shall give notice of such meeting to each owner of property that bounds such identified boundary line or limit in accordance with this subdivision. Such reasonable efforts need not include an examination of title, or abstracts thereof, or a land survey. The notice required pursuant to this subdivision shall not be required if the selectmen make a finding on the record, supported by articulated fact, that (A) such owner's property does not bound a part of such highway or private way, or land dedicated as such, or identified boundary line or limit of such highway or private way, or land dedicated as such, that is being discontinued, (B) such notice is not necessary, and (C) such property would not lose its sole access to a highway or private way, or land dedicated as such, because of such discontinuance or partial discontinuance. Such notice shall be provided by mailing a notice of the date, time, place and subject of such meeting of the selectmen to such owner at such owner's address, as shown on the last-completed grand list of the town, by first class mail postmarked not less than thirty days prior to the date of such meeting. Thirty days prior to the date of such meeting, the town shall post a sign conspicuously on both ends of such highway or private way, or land dedicated as such, or part thereof, which shall include the date, time, place and subject of such meeting, except that such sign shall only be required on one end of such highway or private way, or land dedicated as such, if the selectmen make a finding on the record, supported by articulated fact, that such sign is only necessary on one end of such highway or private way, or land dedicated as such.

(3) If the town discontinues any highway or private way, or land dedicated as such, or discontinues any part thereof or any property right of the town or public therein in accordance with subdivision (1) of subsection (a) of this section, the selectmen shall (A) provide written notice by certified mail, return receipt requested, of such discontinuance or partial discontinuance to the same persons to whom notice was sent pursuant to subdivision

(2) of this section, and (B) after such written notice is sent, cause to be recorded on the land records of the town a notice of such discontinuance or partial discontinuance, which notice shall include (i) a listing of each parcel of property for which notice was required to be sent pursuant to subdivision (2) of this subsection, (ii) the name of the owner of each such parcel of property as shown in the last-completed grand list of the town, and (iii) the current assessor's map, block and lot number for each such parcel.

(4) (A) Except as provided in subparagraph (B) of this subdivision, any person aggrieved by a discontinuance or partial discontinuance under this subsection may, not later than one hundred twenty days after notice of discontinuance or partial discontinuance is recorded on the land records of the town pursuant to subdivision (3) of this subsection, apply to the superior court for the judicial district in which such town is located, in the manner prescribed in section 13a-62.

(B) Any owner of property who is aggrieved by the failure to receive the meeting notice required under subdivision (2) of this subsection may apply to the superior court for the judicial district in which such town is located not later than one hundred twenty days after notice of discontinuance or partial discontinuance is recorded on the land records of the town pursuant to subdivision (3) of this subsection. No discontinuance or partial discontinuance shall be invalidated by such court on the basis of the selectmen's failure to provide the meeting notice required under subdivision (2) of this subsection to an owner of property if the town establishes that (i) a meeting notice that meets the requirements of subdivision (2) of this subsection was mailed in accordance with subdivision (2) of this subsection to such owner's address, as shown in the applicable last-completed grand list of the town, or (ii) the selectmen made a good faith effort to identify the parcels of property that bound the highway or private way, or land dedicated as such, or such identified boundary line or limit, in accordance with subdivision (2) of this subsection, and mailed notice in accordance with subdivision (2) of this subsection to each owner of such identified parcels of property, as shown in the applicable last-completed grand list of the town.

(b) Whenever a petition has been presented to the selectmen for such discontinuance or partial discontinuance of any land dedicated as a highway or private way but which has not been actually used, worked or accepted as a highway by the town, and such discontinuance or partial discontinuance has not been made by the selectmen and approved by the town within twelve months after such presentation, any person aggrieved may apply to the superior court for the judicial district in which such town is located, in the manner prescribed in section 13a-62.

(1949 Rev., S. 2147; 1957, P.A. 13, S. 72; 1958 Rev., S. 13-31; 1963, P.A. 226, S. 49; P.A. 76-436, S. 331, 681; P.A. 90-310, S. 2; P.A. 15-147, S. 1.)

History: 1963 act replaced previous provisions: See title history; P.A. 76-436 substituted superior court for court of common pleas, effective July 1, 1978; P.A. 90-310 added provision allowing for the discontinuance of any portion of any highway or property right of the town; P.A. 15-147 designated existing provision re authority of selectmen to discontinue highway or private way as Subsec. (a)(1), existing provision re application to Superior Court as Subsec. (a)(4)(A) and existing provision re petition as Subsec. (b), amended Subsec. (a) by adding Subdiv. (2) re meeting notice to property owners and Subdiv. (3) re notice and recording of discontinuance of highway or private way, adding provision re 120-day appeal period and court location in Subdiv. (4)(A), and adding Subdiv. (4)(B) re appeal process for failure to receive meeting notice, and made technical and conforming changes, effective October 1, 2015, and applicable to discontinuances or partial discontinuances proposed to take effect on or after that date.

See Sec. 13b-205 re railroad company's taking land in discontinued highways.

Nonuse of highway prima facie evidence of abandonment. 7 C. 125; 83 C. 101; 89 C. 598. Where discontinuance by selectmen, approved by town, was acquiesced in by public over 20 years, highway presumed one which selectmen could discontinue, although no record of layout or evidence of dedication shown. 22 C. 107. Selectmen cannot discontinue town highway, originally turnpike. 30 C. 286. A town has no power to agree, for a valuable consideration, to discontinue a highway. 50 C. 470. On removal of highway, canal or railroad, adjoining owner's fee freed from encumbrance. 52 C. 250. Committee's only duty to decide question of common convenience and necessity. 55 C. 409. Approbation of town may precede or follow selectmen's action. 61 C. 397;

85 C. 595. Highway laid out under order of railroad commissioners is within exception. 76 C. 69. All steps provided must be taken; action by selectmen necessary. 80 C. 280; 85 C. 595. Presumed that road as to which selectmen have acted is not within exception. 81 C. 595. Approbation would be a matter of public record. 132 C. 446. Appeal to Supreme Court dismissed for lack of final judgment as committee appointed under Sec. 13a-62 (formerly Sec. 13-23) had not yet determined basic question of common convenience and necessity. 148 C. 109. Discontinuance of road by town where no other access to highway remains for plaintiff held compensable. 158 C. 276. Cited. 184 C. 483; 188 C. 336; 226 C. 684; 242 C. 727.

Where statutory method of discontinuance was strictly followed, use of word “abandon” did not invalidate the action taken. 5 CA 448. Cited. 14 CA 521; 26 CA 785; 35 CA 398.

Statutory method must be strictly followed; approbation of town must be of precise act of discontinuance by selectmen. 17 CS 77.

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Sec. 13a-50. Discontinuance of highway by Superior Court. The Superior Court, on the application of any person, may discontinue any highway in the judicial district where it is held, which cannot be discontinued by the selectmen; but all questions arising as to the convenience or necessity of such highway shall, unless the parties agree, be decided by a committee to be appointed by the court; and any person may appear and be heard in relation to such application and may remonstrate against the acceptance of the report of the committee for any irregularity or impropriety in the performance of its duty. All such applications shall be served as other civil process upon the towns in which such highway is located. The officer making such service shall also place upon one or more of the signposts in such town, if any, or at some other exterior place near the office of the town clerk, a certified copy of such application and citation, at least twelve days before the session of the court to which the same is returnable, and further notice shall be given by publishing an advertisement in some newspaper, published in such judicial district, describing such highway, at least three weeks before the session of said court.

(1949 Rev., S. 2162; 1958 Rev., S. 13-35; 1963, P.A. 226, S. 50; P.A. 78-280, S. 2, 127; P.A. 84-146, S. 10.)

History: 1963 act replaced previous provisions: See title history; P.A. 78-280 substituted “judicial district” for “county”; P.A. 84-146 included a reference to posting of a copy of the service on a place other than a signpost.

Highway, once established, discontinuable only for new matter. 21 C. 468; 31 C. 601. Public hearing by committee is not limited to the parties and cannot entirely exclude participation by the public; statute does not limit the right to challenge a committee's report to aggrieved persons. 184 C. 483.

Cited. 35 CA 398.

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Sec. 13a-51. Discontinued turnpikes remain highways. All discontinued turnpikes and parts of turnpikes shall remain public highways in the town or towns where situated; but any town may discontinue the whole or any portion of such road within such town in the manner provided in section 13a-49.

(1949 Rev., S. 2150; 1958 Rev., S. 13-34; 1963, P.A. 226, S. 51.)

History: 1963 act replaced previous provisions: See title history.

A highway, which is a public right of passage over another man's land, must be defined with reasonable certainty. 117 C. 402.

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Sec. 13a-52. No assessed damages collected if unopened highway discontinued. When any highway duly laid out is legally discontinued before being opened and worked, no action shall be brought to recover damages assessed therefor, but the owner of the lands over which it is laid out may recover of the town, city or borough his actual damages from its layout.

(1949 Rev., S. 2163; 1958 Rev., S. 13-36; 1963, P.A. 226, S. 52.)

History: 1963 act replaced previous provisions: See title history.

But for section, damages assessed could be recovered, though highway was discontinued before it was opened and worked. 39 C. 113. Abandonment of uncompleted proceedings to lay out street gives no right to damages, unless there be inexcusable delay. 48 C. 68. Cited. 158 C. 280.

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Sec. 13a-53. Discontinuance of highway crossing railroad. That part of any highway which crosses a railroad, the use of which crossing has been abandoned for a period of at least fifteen years, shall be deemed discontinued.

(1949 Rev., S. 2165; 1958 Rev., S. 13-48; 1963, P.A. 226, S. 53.)

History: 1963 act replaced previous provisions: See title history.

See Sec. 13b-205 re railroad company's taking land in discontinued highways.

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Sec. 13a-54. Abandonment of highway for construction of dam. Any person or corporation engaged in constructing, raising or operating a dam for milling, manufacturing or power purposes, which dam will flood or cause to be flooded any highway, may abandon so much of such highway as may be advisable or necessary, upon such terms and conditions as are agreed upon by such person or corporation and the party or parties liable to maintain the same, which agreement shall be in writing and shall be recorded in the town clerk's office in the town or towns where such highway or any portion thereof so to be abandoned is situated, and shall be sufficient authority for the person or corporation constructing, raising or operating such dam to continue the construction, raising or operation thereof and to flood such highway so to be abandoned. If the above parties fail to agree upon the abandonment of any such highway or any portion thereof, the person or corporation constructing, raising or operating such dam may prefer a complaint against such other party or parties to the superior court of any judicial district wherein any portion of such highway is located or to any judge of the superior court for permission to continue to construct, raise or operate such dam and for the abandonment of such highway or any portion thereof. Said court or such judge may grant such person or corporation such permission and order the abandonment of such highway or any portion thereof, upon payment to the party or parties liable to maintain such highway of such damages as said court or such judge may adjudge or when such person or corporation complies with such other terms as said court or such judge may order. When such person or corporation pays such damages or gives bond with surety to the satisfaction of said court or such judge that such person or corporation will comply with such terms, the flooding of such highway by means of such dam shall not be deemed a common nuisance.

(1949 Rev., S. 2135; 1958 Rev., S. 13-19; 1963, P.A. 226, S. 54; P.A. 78-280, S. 2, 127.)

History: 1963 act replaced previous provisions: See title history; P.A. 78-280 substituted “judicial district” for “county”.

See Sec. 13a-72 re alteration or relocation of highway for dam construction.

See Sec. 52-446 re procedures for flowage petitions.

Statute is constitutional. 95 C. 95. Cited. 158 C. 280.

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Sec. 13a-55. Right-of-way of property owners bounding a discontinued or abandoned highway or a highway any portion of which is discontinued or abandoned. Property owners bounding a discontinued or abandoned highway, or a highway any portion of which has been discontinued or abandoned, shall have a right-of-way for all purposes for which a public highway may be now or hereafter used over such discontinued or abandoned highway to the nearest or most accessible highway, provided such right-of-way has not been acquired in conjunction with a limited access highway.

(1959, P.A. 674, S. 3; 1963, P.A. 226, S. 55; P.A. 85-227; P.A. 90-142, S. 1, 2.)

History: 1963 act replaced previous provisions: See title history; P.A. 85-227 granted a right-of-way to owners of property which bounds a highway, any portion of which is abandoned or discontinued, over such discontinued or abandoned highway to the nearest or most accessible highway; P.A. 90-142 after “right-of-way” added “for all purposes for which a public highway may be now or hereafter used”.

Constitutionality of statute upheld; access rights of owners of property abutting discontinued or abandoned highways discussed. 188 C. 336. Cited. 192 C. 663; 218 C. 65. Plaintiffs' request for injunction requiring removal of a traffic gate erected by defendant, town of Berlin, to control access to and from an abandoned public road was denied because continued use of the gate did not cause plaintiffs irreparable harm; plaintiffs' use of road was minimal and therefore outweighed by defendant's need to provide a safe environment for its residents. 259 C. 83.

Cited. 17 CA 476. Statute not applied retroactively. 22 CA 285. Cited. 26 CA 785; 35 CA 398. Section alters common law consequences of discontinuance of a public highway; prior to statute, discontinuance extinguished both public easement of travel and private easement of access, but after statute, public easement ceases but private easement of abutting owners continues. 127 CA 16.

Cited. 44 CS 189. After enactment of statute, public easement over discontinued or abandoned highways ceases, but private easement remains. 47 CS 418.

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## **PART III**

### **LAYOUT AND ALTERATION**

Sec. 13a-56. Relocation to straighten or remove dangerous location. The commissioner may relocate any section of any state highway for the purpose of straightening or removing any dangerous location thereon.

(1949 Rev., S. 2231; 1953, S. 1198d; 1958 Rev., S. 13-111; 1961, P.A. 603, S. 7; 1963, P.A. 226, S. 56.)

History: 1961 act made technical changes in language; 1963 act replaced previous provisions: See title history.

Cited. 129 C. 83.

Empowers highway commissioner to construct a continuous highway comprised of a series of relocations of sections of a state highway for the purpose of removing dangerous locations. 18 CS 270.

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Sec. 13a-57. Layout of state highway. The commissioner may lay out any road as a state highway either by using existing highways or by acquiring by purchase or condemnation new rights-of-way. The layout shall be made in the following manner: The commissioner shall develop a map or maps of the layout of a state highway by ground survey or aerial photogrammetric methods. Such map or maps shall show the limits of the right-of-way, all existing roads, buildings and fences and other topographic features which will clearly establish the location of the highway. The commissioner shall file in the town clerk's office in each town in which such layout or portion thereof is established a map showing such portions of such layout within the limits of any such town in which such map is filed. When such maps of any section or sections of such highway have been so filed, the commissioner shall cause a notice to be inserted in a newspaper having a general circulation within each of such towns describing the action of the commissioner concerning the layout of such highway. When such maps have been placed on file and such notice given, such portion or section shall be deemed to have been legally laid out as a state highway and all provisions of the general statutes relating to state highways shall apply to such layout or highway. This section shall not affect the authority of the commissioner to relocate any section of any state highway as provided in section 13a-56.

(1953, 1955, S. 1199d; 1958 Rev., S. 13-112; 1963, P.A. 226, S. 57; P.A. 03-115, S. 27; P.A. 04-143, S. 10.)

History: 1963 act replaced previous provisions: See title history; P.A. 03-115 made technical changes; P.A. 04-143 made a technical change, effective May 21, 2004.

Unreasonable delay by highway commissioner in filing certificate of taking after filing provided for in section may subject him to additional damages after June 21, 1967, the effective date of Sec. 13a-76a. 158 C. 452. Filing of map under section provides date plaintiff's property was taken in a constitutional sense. 167 C. 334. Cited. 176 C. 264; 214 C. 225.

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Sec. 13a-57a. Consultation with municipal officers in planning of highway within municipality. Whenever the Commissioner of Transportation is engaged in the planning of any limited access highway, interchange or connector to be located within the limits of any town, city or borough or consolidated town and city or consolidated town and borough he shall consult, to the fullest extent possible, with the chief executive officer and the planning commission, if any, of such town, city or borough or consolidated town and city or consolidated town and borough so as to conserve, preserve and, if possible, enhance the environment by insuring through such consultations that the proposed works will have the least adverse impact on the environment.

(1971, P.A. 469.)

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Sec. 13a-57b. Areas for bicycles and pedestrians. The Commissioner of Transportation shall, whenever possible, encourage the inclusion of areas for bicycles and pedestrians when (1) creating a layout of a state highway, in accordance with section 13a-57, or (2) relocating a state highway, in accordance with section 13a-56.

(P.A. 98-91, S. 7.)

See Sec. 13a-141 et seq. for related provisions re bridle paths, pedestrian walks and bicycle paths and trails.

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Sec. 13a-57c. Model pollinator habitat along state highways. Identification of opportunities for replacement of turf grasses. Report. The Department of Transportation shall identify opportunities in the state for the replacement of nonnative, cool-season turf grasses installed along state highways with native plant communities that include model pollinator habitat, as described in section 22-90b. In identifying such opportunities, the department may consider, but shall not be limited to, the availability of partnerships with private entities to assist in the funding of such replacement costs. Not later than January 1, 2017, the Commissioner of Transportation shall submit a report to the joint standing committees of the General Assembly having cognizance of matters relating to the environment and transportation on such identified areas. Such report shall include, but not be limited to, information concerning any proposed timetable for any such replacements or proposed replacements, the location and dimensions for any identified areas, information concerning any partnership with a private entity to allay the costs of any such replacement or proposed replacements, the availability of federal funds for any such replacement, a description of the anticipated costs associated with any such replacement or proposed replacement and a comparison of such costs with the operational expenditures made to otherwise maintain such areas.

(P.A. 16-17, S. 12.)

History: P.A. 16-17 effective May 6, 2016.

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Sec. 13a-57d. Model pollinator habitat in deforested areas of state highways. Authority. The Commissioner of Transportation may, to the extent federal funds are available for such purpose, plant vegetation that includes pollinator habitat, including, but not limited to, flowering vegetation, in areas that have been deforested along state highway rights of way.

(P.A. 16-17, S. 14.)

History: P.A. 16-17 effective May 6, 2016.

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Sec. 13a-58. Public hearing on proposed layout. When the Commissioner of Transportation proposes to build any new state highway over any land within the state, if the land to be taken is not along an existing highway, said commissioner shall hold a public hearing at which time he shall set forth the route and any alternative routes along which such highway is proposed, giving notice of the time and place of such hearing by publication in a newspaper having a substantial circulation in each town, city or borough affected, at least twice, at intervals of not less than two days, the first not more than fifteen days nor less than ten days and the second not less than two days before such hearing. A copy of the map showing the proposed layout and any alternative layouts of such highway shall be delivered to the town clerk who shall display such map for public inspection, at least ten days before such hearing, in the office of the clerk of each town, city or borough in which the highway is located. Such public hearing shall be held in some town or city to be selected by the commissioner wherein the majority in area of the land to be taken is located. At such hearing the commissioner shall show the proposed layout and any alternative layouts and state the reason for the selection of such route, and any persons who are opposed to such layout or route shall be heard and may state their reasons therefor. All expenses of such hearing shall be borne by the Department of Transportation. Upon the completion of such hearing, a consideration of all the evidence relevant to the selection of such route and the objections thereto shall be made, and said commissioner

may make such changes as he deems to be in the public interest. If five years elapses from the date of such hearing and none of the land proposed to be used for such highway has been taken by the state, the commissioner shall hold a new public hearing in the manner provided for in this section.

(1957, P.A. 513; 1958 Rev., S. 13-113; 1963, P.A. 226, S. 58; 1967, P.A. 44, S. 1; 1969, P.A. 768, S. 78; 1971, P.A. 601; P.A. 78-2.)

History: 1963 act replaced previous provisions: See title history; 1967 act clarified provision re filing of maps for public inspection by specifying that maps be delivered to town clerk and that he display them; 1969 act substituted commissioner and department of transportation for state highway department; 1971 act added requirement that new public hearing be held if five years elapse without state's taking action; P.A. 78-2 included alternative routes and alternative layouts in provisions of section.

Unreasonable delay by highway commissioner in taking after filing of a map subjects him to additional damages resulting therefrom after the effective date of Sec. 13a-76a. 158 C. 452.

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Sec. 13a-58a. Change of zone of property within limits of laid-out highway prohibited. Notwithstanding any provisions of the general statutes or any special act to the contrary, no zoning commission or combined planning and zoning commission shall change the zoning of any property situated wholly or partially within the limits of a state highway laid out by the Commissioner of Transportation pursuant to section 13a-57 after said commissioner has selected the route for such highway following the public hearing required by section 13a-58 and has notified the clerk of the town, city or borough in which the proposed highway is to be located, of such selection, for a period of two years from the date of such notification.

(1971, P.A. 563, S. 1.)

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Sec. 13a-59. Transferred to Chapter 248, Sec. 14-238a.

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Sec. 13a-60. Entry upon private property in altering of highways. The commissioner or his agent may enter upon private property for the purpose of conducting surveys, inspections or geological investigations for the location, relocation, construction or reconstruction of any proposed or existing highway. After giving reasonable notice to the property owner or owners affected, he or his agent may also enter private property for the purpose of performing borings, soundings or other tests required to accomplish any of the foregoing objectives with respect to such highways. He shall use care so that no unnecessary damage shall result, and the state shall pay damages to the owner of any property from appropriations made to the Department of Transportation for any damage or injury he causes such owner by such entrance and use. If entry to any property for the purpose of performing borings, soundings or other tests is refused to the commissioner or his agent after he has given reasonable notice to the owner or owners thereof, the commissioner shall assess damages in the manner provided by statute for the taking of land for highway purposes, and, at any time after such assessment has been made by said commissioner, may enter said property for the purpose of performing borings, soundings or other tests. If the owner accepts such assessment of damages, he shall notify the commissioner in writing, and said commissioner shall pay such sum to said owner within thirty days or, after the expiration of said thirty days, shall pay such sum with interest at six per cent. If the owner is aggrieved by such assessment, he shall notify the commissioner in writing and may appeal to any court within its jurisdiction for a reassessment of such damages within six months

from the date said commissioner forwarded such assessment to such owner. This section shall not limit or modify rights of entry upon property otherwise provided for by law.

(1949 Rev., S. 2194; 1958 Rev., S. 13-79; 1961, P.A. 137, S. 1; 1963, P.A. 226, S. 60; 502; February, 1965, P.A. 520, S. 1; 1969, P.A. 768, S. 80.)

History: 1961 act deleted provision re commissioner's power to lay out, alter, construct, reconstruct, etc. highways when "interest of the state so requires"; 1963 acts added provisions re entry on private property to perform borings, soundings or other tests and restated previous provisions: See title history; 1965 act added provisions re payment of damages out of appropriations and assessment and appeal procedures, and deleted requirement commissioner apply to superior court for permission to enter where owner refuses entry; 1969 act substituted department of transportation for highway department.

See Sec. 13a-38 re commissioner's authority to enter on private property to determine highway boundaries.

Cited. 125 C. 413; 129 C. 83. Does not imply consent on part of state to be sued. 146 C. 316.

Cited. 6 CS 5. Complaint alleging that highway commissioner unnecessarily discharged surface water onto plaintiff's land is good against demurrer. Id., 485. Commissioner not authorized by section to condemn property or to enter into contracts. 18 CS 264. Requires allegation that damage complained of was unnecessary. 20 CS 142.

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Sec. 13a-60a. Entry to repair or relocate private driveway. (a) Whenever a driveway requires repairing, reconstructing or relocating as a result of state highway relocation, repair, construction or reconstruction, and there is no taking of private property involved, the Commissioner of Transportation may enter upon such private property for the purpose of repairing, relocating or reconstructing such driveway. He shall use care that no unnecessary damage shall result and the cost of such repair, relocation or reconstruction and of any damage or injury caused to such property shall be paid from appropriations made to the commissioner.

(b) Whenever a driveway requires repairing, reconstructing or relocating as a result of any municipal highway relocation, repair, construction or reconstruction, and there is no taking of private property involved, an official of the municipality where such driveway is located who is charged with highway construction or maintenance duties may enter upon such private property for the purpose of repairing, relocating or reconstructing such driveway. He shall use care that no unnecessary damage shall result and the cost of such repair, relocation or reconstruction and of any damage or injury caused to such property shall be paid by the municipality.

(1967, P.A. 147, S. 1; 1969, P.A. 768, S. 81; P.A. 91-181, S. 2.)

History: 1969 act substituted commissioner of transportation for highway commissioner; P.A. 91-181 designated existing language Subsec. (a) and added new Subsec. (b) concerning entry upon private property by municipal officials for repair, relocation or reconstruction of a highway.

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Sec. 13a-61. Layout of highways by selectmen. The selectmen of each town may lay out necessary highways therein, not being within a city or within a borough having, by virtue of its charter or by statute, control of and liability for the highways within its limits, first giving reasonable notice in writing to the owners of the land through which the same are to be laid out or leaving copies of such notices at their places of abode, if in this state, to be present at the laying out of any such highway; and the damage done to such owners by such laying out shall be paid by the town. A written survey, signed by the selectmen, particularly describing such highway, with a description of each piece or parcel of land taken from or annexed to the lands of adjoining proprietors,

being accepted by the town and recorded in its land records, and satisfaction being made to the persons injured, or the money deposited in the town treasury for their use, according to the agreement or estimate made as hereinafter provided, such highway shall be and remain for the use for which it was laid out.

(1949 Rev., S. 2138; 1958 Rev., S. 13-22; 1963, P.A. 226, S. 61; 570, S. 1.)

History: 1963 acts deleted provision delaying occupation of highway for 12 months where person declared himself aggrieved and restated previous provisions: See title history.

Forty years' use evidence of existence of highway. 2 R. 173. Fee of land in highway belongs to adjoining proprietors. 1 C. 103; 5 C. 310; 11 C. 60; 13 C. 26; 74 C. 485; 78 C. 120; 79 C. 353; 80 C. 288; 82 C. 397; Id., 567; 85 C. 404. Various points relating to ancient highways. 3 C. 90; 5 C. 305. Survey stating no width inadmissible to prove existence of highway. 7 C. 127. Nonuser of highway prima facie evidence of abandonment. Id.; 83 C. 101; 89 C. 598. Notice to owner resident out of state to be present at layout of highway, if necessary, may be by mail. 12 C. 464. Deed of land, bounded on highway, presumably conveys fee to center of road. 13 C. 26. Law as to ways of necessity not changed by statute. 15 C. 43; 107 C. 39. Various points as to laying out of private ways. 15 C. 83. Highways may be established by dedication and public acceptance; latter generally proved by public use. 19 C. 169; Id., 264; 29 C. 157; 35 C. 314; 37 C. 392; 39 C. 509; 40 C. 13; 46 C. 257; 73 C. 578; 74 C. 360; 76 C. 295; 77 C. 444; 78 C. 64; Id., 156; 79 C. 353; 81 C. 408. "Layout" includes initiatory act of selectmen and consummating act of town. 19 C. 600. Agreement by parties interested in layout of highway to pay expense thereof, not void as against public policy. 20 C. 7. Long public use of highway, how far evidence of original layout by selectmen. 22 C. 116. Acceptance of dedicated highway is by the public in using, not by the town in repairing. 29 C. 157. Railroad company can dedicate land for highway. 39 C. 509. City's right to assess for construction of street same whether street laid out, or land dedicated or otherwise procured. 46 C. 286. History of law as to layout of highways. 69 C. 164. Selectmen as agents of law. 73 C. 502; 85 C. 502. Public convenience and necessity involved in every layout. 78 C. 64. In early days, highway might be pent. 80 C. 280. Provisions of law to be strictly followed. 84 C. 121. Bridge and its approaches as part of highway; 86 C. 658; so ferry. 87 C. 229. Cited. 150 C. 374.

Cited. 4 CS 474; 6 CS 5. The power of selectmen to lay out highways does not include the power to alter them; construed with Sec. 13a-84, town meeting action is necessary to alter highways. 27 CS 469.

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Sec. 13a-62. Application to Superior Court for relief. Any person aggrieved by the doings of the selectmen in laying out a highway may, within one hundred twenty days after the survey thereof has been accepted by the town, apply to the superior court for the judicial district in which such town is located for relief, causing such selectmen to be cited to show cause why such relief should not be granted. Such application shall be heard and determined by a committee of three disinterested persons to be appointed by the court. If such committee finds that such highway is not of common convenience and necessity, said court shall set aside such layout, and, if said court sets aside such layout, the costs shall be paid by the town; but, if such committee finds that such highway is of common convenience and necessity, the application shall be dismissed with costs. The report of such committee may be set aside by the court for any irregularity or improper conduct on its part. Proceedings under this section shall not prevent or delay the opening or occupation of such highway.

(1949 Rev., S. 2139; 1958 Rev., S. 13-23; 1963, P.A. 226, S. 62; 570, S. 2; P.A. 76-436, S. 332, 681; P.A. 78-280, S. 1, 127; P.A. 15-147, S. 2.)

History: 1963 acts provided that proceedings under section "shall not prevent or delay the opening or occupation" of a highway and restated previous provisions: See title history; P.A. 76-436 substituted superior court for court of common pleas and added reference to judicial districts, effective July 1, 1978; P.A. 78-280 deleted reference to counties; P.A. 15-147 changed appeal period from 8 months to 120 days.

Procedure under section. 25 C. 597. In fixing width of highway, existing public use of adjoining land may be considered. 38 C. 526. History of section. 73 C. 504. Court should determine issues other than public convenience and necessity before submission to committee. 93 C. 377. Discontinuance of highway does not become final until time for appeal has elapsed. Id., 379. Town may rescind vote to discontinue during this period. Id., 380. Regularity of proceedings affecting layout presumed after 40 years. 95 C. 326. Appeal to supreme court of errors dismissed for lack of final judgment as committee had not yet determined basic question of common convenience and necessity. 148 C. 109. Cited. 150 C. 374; 158 C. 277; 188 C. 336.

Cited. 27 CS 469.

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Sec. 13a-63. Refusal of selectmen to lay out or alter highway. When the selectmen of any town refuse to lay out any necessary highway or to make any necessary alterations in any existing highway, unless such refusal is based on a designation of the existing highway as a scenic road pursuant to section 7-149a, any person may prefer an application therefor to the superior court for the judicial district in which such town is located, accompanied by a summons, signed by proper authority, to be served in the same manner as civil process on one of such selectmen, to appear and be heard thereon; and, unless the parties agree as to the judgment to be rendered, such application shall be heard and decided by a committee of three disinterested persons to be appointed by the court, at such time and place and with such reasonable notice to those interested therein as said court orders. If such committee finds that such highway or alteration will be of common convenience and necessity, it shall survey and lay out the same and estimate the damages sustained by or the special benefits accruing to each person by the layout of a new or the alteration of an existing highway, and report in writing its doings to said court.

(1949 Rev., S. 2154; 1958 Rev., S. 13-40; 1963, P.A. 226, S. 63; 1971, P.A. 870, S. 29; P.A. 76-436, S. 333, 681; P.A. 81-401, S. 2, 4; 81-472, S. 103, 159.)

History: 1963 act replaced previous provisions: See title history; 1971 act substituted court of common pleas for superior court, effective September 1, 1971, except that courts with cases pending retain jurisdiction unless pending matters deemed transferable; P.A. 76-436 substituted superior court for court of common pleas and added reference to judicial districts, effective July 1, 1978; P.A. 81-401 amended the section by prohibiting appeal from a town's refusal to lay out a highway based on the highway's designation as a scenic road; P.A. 81-472 made technical changes.

Necessary allegations. 4 D. 407; 1 C. 279; 8 C. 162, 243; 9 C. 252; 11 C. 383, 576; 17 C. 197. Points as to notice and report of committee. 1 C. 279. Survey must give width as well as line of highway. 7 C. 127. Cases where report contained sufficient evidence that committee were sworn. 11 C. 387; 12 C. 146. Town the proper defendant, though service made on selectmen. 11 C. 579; 25 C. 602; 30 C. 35. Service by leaving copy at usual place of abode of selectmen, good. 12 C. 93. Court must establish or reject whole highway as laid out by committee. Id., 94. Findings of trial court conclusive as to notice to town and refusal of selectmen. Id., 150. Refusal of selectmen may be found by court after report by committee. 13 C. 373. Reference to committee implies that parties did not agree as to judgment. 19 C. 527. Question of convenience and necessity belongs to committee; committee to decide on necessity and place of highway. Id.; 20 C. 225; 48 C. 290. Court has jurisdiction where town refuses to accept selectmen's survey. 19 C. 600. Highways may be laid out by county commissioners over small creek in which tide ebbs and flows. 22 C. 182. Petitioners may withdraw before report is presented. 25 C. 136. Various points about committee's action and report. Id., 180; 43 C. 437; 50 C. 247; 51 C. 547. Persons interested. 27 C. 414. Requisites of committee's finding; requisite points in finding need not be precisely stated. 29 C. 493. Waiver of committee's disqualification. 35 C. 33. Irregular and improper conduct of committee. Id., 35. Denial of petition is a bar to another by other parties for same highway. Id., 532. Assessment of benefits an exercise of taxing powers. 36 C. 255. Section authorizes construction of a drawbridge. 38 C. 222; 50 C. 247. Highway running from one county into another may be laid out in part by Superior Court in each county. 39 C. 233. Evidence admissible before committee. 42 C. 321; 50 C. 247. Selectmen, or committee, must lay out same, or part of same, road applied for; if substantially the same, it is identical in law. 47 C. 334.

Acceptance of service; points in procedure. 48 C. 272. Expense to be considered in determining question of convenience and necessity. 50 C. 593. Status of committee on one member leaving the state. 59 C. 205. Under former statute relating to approval by judge of layout near railroad, judge should consider danger rather than expense. 64 C. 256. Party failing to appeal from judgment cannot afterward obtain injunction. 69 C. 36. Constitutionality. 95 C. 95. Cited. 158 C. 280.

Cited. 12 CA 153; 29 CA 18.

Cited. 6 CS 5; 9 CS 458.

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Sec. 13a-64. Remonstrance. Reestimate of damages and benefits by jury. All persons interested in laying out or altering such highway may appear before said court and remonstrate against the acceptance of such report for any irregularity or improper conduct on the part of the committee, and for such a cause the court may set aside such report; but if it is of the opinion that it ought to be accepted, and if, before its acceptance, a jury is moved for to reestimate the damages and benefits or either, said court shall order a jury of six to be drawn from the boxes, in the custody of the clerk of the superior court of the judicial district, of such towns in the county, in which such judicial district is located, where the application is made as the court directs, and to be summoned and attended by a state marshal as the court directs. Such jury shall be sworn and a certificate of that fact shall be annexed to its report; and its powers shall be confined to granting relief to the person or persons making such application. The parties to this proceeding may challenge any of such jurors as in a civil action; and when, by reason of any such challenge, the panel is reduced to less than six, the clerk shall return such number of disinterested electors from any of the towns in the judicial district, except that in which such highway is located or in which the owner of the land resides, as is necessary to fill such panel; and such clerk shall, within forty-eight hours thereafter, return the names of such persons so challenged into the boxes from which they were drawn.

(1949 Rev., S. 2155; 1958 Rev., S. 13-41; 1963, P.A. 226, S. 64; 1971, P.A. 870, S. 30; P.A. 76-436, S. 481, 681; P.A. 78-280, S. 23, 127; P.A. 00-99, S. 43, 154.)

History: 1963 act replaced previous provisions: See title history; 1971 act substituted court of common pleas for superior court, effective September 1, 1971, except that courts with cases pending retain jurisdiction unless pending matters deemed transferable; P.A. 76-436 substituted superior court for court of common pleas and added reference to judicial districts, effective July 1, 1978; P.A. 78-280 deleted references to counties except when used in connection with "sheriff"; P.A. 00-99 replaced reference to sheriff and deputy sheriff with state marshal, effective December 1, 2000.

See Sec. 51-247 re compensation of jurors.

Court may recommit report for correction of clerical error at adjourned term. 9 C. 257. Court cannot establish part and reject part of highway laid out entire by committee. 12 C. 94. After reversal of judgment of county court establishing part of highway laid out entire by committee, cause remanded to be proceeded with according to law, without specific directions as to further proceedings. Id., 100. On remand of cause, after reversal of judgment establishing only part of the entire highway, county court properly established entire road. 13 C. 132. Layout of highway across cove, when not void as obstructing navigation. 20 C. 227; 22 C. 182. Damages must be for direct and immediate injury, and confined to owners of land through which highway is laid out. 21 C. 320. Layout by committee of highway already laid out under borough charter improper. 24 C. 202. Grounds of remonstrance; irregular conduct of committee. 27 C. 414, 567; 35 C. 32; 39 C. 265; 43 C. 437; 45 C. 237; 49 C. 229; 51 C. 556. Local and special benefits to be set off against damages. 32 C. 478. Damages awarded to one not owner, a ground of remonstrance. 51 C. 560. Only property owner entitled to move for jury. 85 C. 243. Party has peremptory challenge of jurors under statute regarding all civil actions. 28 C. 566. Party may waive absence of a juror. 36 C. 307.

Cited. 9 CS 458; 11 CS 429.

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Sec. 13a-65. When jury's doings conclusive. New jury. The court to which the doings of such jury are returned may set the same aside if, upon exception taken, it appears to said court that such jury has been improperly summoned or has conducted improperly; otherwise such doings shall be conclusive. If the court sets aside the report of the jury, it shall order another jury to reestimate such damages and benefits in the manner aforesaid; and, if the clerk finds, after he has drawn the names of such jurors from the boxes, that any of them is disqualified, he shall release such as are disqualified and return their names into the box whence they were drawn and summon others, who are indifferent, to supply their places.

(1949 Rev., S. 2156; 1958 Rev., S. 13-42; 1963, P.A. 226, S. 65.)

History: 1963 act replaced previous provisions: See title history.

Doings of jury never conclusive when they exceed their jurisdiction. 21 C. 319.

Cited. 9 CS 458.

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Sec. 13a-66. Costs on application for jury. If the report of the jury, when accepted, does not increase the damages allowed or diminish the assessment of benefits to the applicant by the committee, the court shall order the applicant for the jury to pay the costs of the application. If such jury, in the reassessment of damages or benefits, increases such damages or diminishes such assessment of benefits, the damages so assessed shall be allowed, with the costs of the application, and paid by the town; and the amount assessed for benefits, less the amount of costs of the application, shall be paid to the town by the person upon whom they were assessed.

(1949 Rev., S. 2157; 1958 Rev., S. 13-43; 1963, P.A. 226, S. 66.)

History: 1963 act replaced previous provisions: See title history.

Cited. 9 CS 458.

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Sec. 13a-67. Committee's accepted report to be recorded. Judgment. When the report of the committee finds that such highway or alteration will be of common convenience and necessity and such report has been accepted, it shall be recorded, and such road shall be a public highway; and judgment shall be rendered for the payment of the damages and benefits respectively assessed by or to the defendant town, to be paid at such time as the court directs, and that the town pay the costs. In all other cases the costs shall be paid by the petitioners, but witness fees shall not be taxed against either party.

(1949 Rev., S. 2158; 1958 Rev., S. 13-44; 1963, P.A. 226, S. 67.)

History: 1963 act replaced previous provisions: See title history.

Damages may be assessed to others than actual owners. 1 C. 284, but see 21 C. 327. Damages become a debt against the town. 4 C. 188. Recording of committee's report not essential to existence of highway, or to right to collect damages and benefits. 69 C. 41.

Cited. 9 CS 458.

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Sec. 13a-68. Assessment of benefits limited. Collection. The benefits assessed for any particular layout or alteration, except in a city or borough, shall in no case exceed the damages assessed therefor, together with one-half the estimated costs of such layout or alteration; and all assessments of benefits may be collected in the same manner as town taxes.

(1949 Rev., S. 2159; 1958 Rev., S. 13-45; 1963, P.A. 226, S. 68.)

History: 1963 act replaced previous provisions: See title history.

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Sec. 13a-69. Proceedings when towns disobey court order. Section 13a-69 is repealed, effective October 1, 2019.

(1949 Rev., S. 2160; 1958 Rev., S. 13-46; 1963, P.A. 226, S. 69; 1971, P.A. 870, S. 31; P.A. 76-436, S. 334, 681; P.A. 19-132, S. 8.)

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Sec. 13a-70. Bond to construct highway when application pending in court. When an application is pending before the Superior Court for the laying out or alteration of any highway, any person interested therein may execute a penal bond with surety, payable to the defendant town or towns, conditioned that the obligors will, for a specified sum, make or alter such highway in a specified time and manner, constructed and graded to the satisfaction of the Commissioner of Transportation, or convey to such town or towns the right-of-way therefor; which bond shall be executed by persons owning real estate in fee simple, situated in this state, in value double the amount of the penal sum in such bond, and shall be binding upon the obligors therein to the full amount of such penal sum, as liquidated damages; and the committee may receive and hold it until it reports its doings to said court, and regard it as evidence in determining the expense of constructing or altering such highway; and, if it reports favorably upon such application, it shall deliver such bond to such town or towns, otherwise to the obligor as therein named. In an action on such a bond payable to several towns, they may join and the court shall determine the amount to be paid to each. When any highway has been so constructed in whole or in part, no money for labor thereon shall be paid, unless with the approval of the selectmen of the town, or unless such road has been constructed and graded to the satisfaction of the commissioner.

(1949 Rev., S. 2161; 1958 Rev., S. 13-47; 1961, P.A. 517, S. 75; 1963, P.A. 226, S. 70; 1969, P.A. 768, S. 82; 1971, P.A. 870, S. 32; P.A. 76-436, S. 335, 681.)

History: 1961 act substituted highway commissioner for county commissioners, latter office having been abolished in 1959; 1963 act replaced previous provisions: See title history; 1969 act substituted commissioner of transportation for highway commissioner; 1971 act substituted court of common pleas for superior court, effective September 1, 1971, except that courts with cases pending retain jurisdiction unless pending matters deemed transferable; P.A. 76-436 substituted superior court for court of common pleas, effective July 1, 1978.

Giving of bond not sufficient to support new petition for road once rejected. 35 C. 526. Bond may be amended. 45 C. 237. Form of bond. 48 C. 288. Bond may be given where highway includes drawbridge. 50 C. 250.

Cited. 11 CS 429.

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Sec. 13a-71. Layout by individuals. (a) No person, company or corporation, except the state or municipal corporations, shall lay out any highway in this state less than fifty feet in width unless with the prior written approval of a majority of the selectmen of the town, or of the burgesses of the borough, or of the common council of the city, wherein such highway is located, except that, where there exists a planning commission in such town, borough or city operating under the general statutes or special act, which commission has adopted subdivision regulations, such written approval shall be obtained from such planning commission.

(b) No highway except a state highway shall be opened to the public until the grade, layout, location, width and improvements of such highway have received the written approval of the majority of the selectmen of the town or of the common council of the city or of the warden and burgesses of the borough wherein such highway is located, except that, where there exists a planning commission in such town, city or borough operating under the general statutes or special act, which commission has adopted subdivision regulations, such approval shall be obtained from such planning commission, nor until such approval has been filed in the office of the clerk of such town, city or borough, as the case may be. No such clerk shall receive or place on file any map of any such new highway or highways, or any map of land showing such new highways, until he has received a certificate, signed by a majority of the selectmen of the town or of the planning commission, or, if such layout is within a city or borough, a certificate signed by the mayor of such city or the warden of such borough or by a majority of the planning commission, as the case may be, that such new layout has been approved by such selectmen or common council or warden and burgesses or planning commission as herein provided.

(c) If any highway has been laid out in violation of the provisions of this section, such highway shall be immediately closed by the first selectman of the town or, in the case of a city or borough, by the officer having charge of the highways in such city or borough, and shall be kept closed until such time as the grade, layout, location, width and improvement of such highway have received the approval herein provided for. The first selectman of a town, or officer having in charge the highways in a city or borough, who fails to comply with the requirements of this section concerning the closing of such new highways as have not been approved as herein provided shall be fined not more than twenty-five dollars.

(1949 Rev., S. 2141; 1958 Rev., S. 13-25; 1959, P.A. 329; 1963, P.A. 226, S. 71.)

History: 1959 act made minimum width of highway in Subsec. (a) 50 feet instead of three rods and added requirement that approval of planning commission be obtained where one exists; 1963 act replaced previous provisions: See title history.

Constitutionality. 95 C. 365. Requirements must be complied with; bond given to secure performance of agreement not made in accordance with terms of statute unenforceable. 106 C. 40. Fact that original owner of tract may have violated statute in layout and map of proposed street does not destroy right of grantee to use street referred to in deed. 112 C. 557. Cited. 120 C. 210. Approval of selectmen under section does not constitute an acceptance of such street as a public highway. 146 C. 474. History of section; not possible to circumvent requirements by claim of common law dedication. 159 C. 107.

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Sec. 13a-72. Alteration or relocation of highway for dam construction. Any person or corporation engaged in constructing, raising or operating a dam for milling, manufacturing or power purposes, which dam will flood or cause to be flooded any highway, may alter or relocate so much of such highway as may be advisable or necessary, upon such terms and conditions as are agreed upon by such person or corporation and the party or parties liable to maintain the same, which agreement shall be in writing and shall be recorded in the town clerk's office in the town or towns where such highway or any portion thereof so to be altered or relocated is situated, and shall be sufficient authority for the person or corporation constructing, raising or operating such dam to

continue the construction, raising or operation thereof and to flood such highway so to be altered or relocated. If the above parties fail to agree upon the alteration or relocation of any such highway or any portion thereof, the person or corporation constructing, raising or operating such dam may prefer a complaint against such other party or parties to the superior court for any judicial district wherein any portion of such highway is located or to any judge of the Superior Court for permission to continue to construct, raise or operate such dam and for the alteration or relocation of such highway or any portion thereof. Said court or such judge may grant such person or corporation such permission and order the alteration or relocation of such highway or any portion thereof, upon payment to the party or parties liable to maintain such highway of such damages as said court or such judge may adjudge or on such person or corporation complying with such other terms as said court or such judge may order. On such person or corporation paying such damages or giving bond with surety to the satisfaction of said court or such judge that such person or corporation will comply with such terms, the flooding of such highway by means of such dam shall not be deemed a common nuisance.

(1949 Rev., S. 2135; 1958 Rev., S. 13-19; 1963, P.A. 226, S. 72; 1971, P.A. 870, S. 33; P.A. 76-436, S. 336, 681; P.A. 78-280, S. 1, 127.)

History: 1963 act replaced previous provisions: See title history; 1971 act substituted court of common pleas for superior court, effective September 1, 1971, except that courts with cases pending retain jurisdiction unless pending matters deemed transferable; P.A. 76-436 substituted superior court for court of common pleas and added reference to judicial districts, effective July 1, 1978; P.A. 78-280 deleted reference to counties.

See Sec. 13a-54 re abandonment of highway for construction of dam.

See Sec. 52-446 re procedure for flowage petitions.

Statute is constitutional. 95 C. 95.

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## **PART IV\***

### **LAND ACQUISITION AND DISPOSAL**

\*Cited. 211 C. 382.

Sec. 13a-73. Acquisition of real property. Condemnation of land for: State highway, highway maintenance storage area or garage; military purposes; highway drainage or preservation of historical monument; rights of access and egress. State owned property. Review and approval of State Properties Review Board. Exception. (a) For the purpose of this section, "real property" means land and buildings and any estate, interest or right in land.

(b) The commissioner may take any land the commissioner finds necessary for the layout, alteration, extension, widening, change of grade or other improvement of any state highway or for a highway maintenance storage area or garage and the owner of such land shall be paid by the state for all damages, and the state shall receive from such owner the amount or value of all benefits resulting from such taking, layout, alteration, extension, widening, change of grade or other improvement. The use of any site acquired for highway maintenance storage area or garage purposes by condemnation shall conform to any zoning ordinance or development plan in effect for the area in which such site is located, provided the commissioner may be granted any variance or special exception as may be made pursuant to the zoning ordinances and regulations of the town in which any such site is to be acquired. The assessment of such damages and of such benefits shall be made by the commissioner and filed by the commissioner with the clerk of the superior court for the judicial district in which the land affected is located. The commissioner shall give notice of such assessment to each person having an interest of record therein, or such person's designated agent for service of process, by mailing to such person a copy of the same, postage prepaid, and, at any time after such assessment has been made by the commissioner, the physical

construction of such layout, alteration, extension, widening, maintenance storage area or garage, change of grade or other improvement may be made. If notice cannot be given to any person entitled thereto because such person's whereabouts or existence is unknown, notice may be given by publishing a notice at least twice in a newspaper published in the judicial district and having a daily or weekly circulation in the town in which the property affected is located. Any such published notice shall state that it is a notice to the last owner of record or such owner's surviving spouse, heirs, administrators, assigns, representatives or creditors if he or she is deceased, and shall contain a brief description of the property taken. Notice shall also be given by mailing to such person at his or her last-known address, by registered or certified mail, a copy of such notice. If, after a search of the land and probate records, the address of any interested party cannot be found, an affidavit stating such facts and reciting the steps taken to establish the address of any such person shall be filed with the clerk of the court and accepted in lieu of service of such notice by mailing the same to the last-known address of such person. Upon filing an assessment with the clerk of the court, the commissioner shall forthwith sign and file for record with the town clerk of the town in which such real property is located a certificate setting forth the fact of such taking, a description of the real property so taken and the names and residences of the owners from whom it was taken. Upon the filing of such certificate, title to such real property in fee simple shall vest in the state of Connecticut, except that, if it is so specified in such certificate, a lesser estate, interest or right shall vest in the state. The commissioner shall permit the last owner of record of such real property upon which an owner-occupied residence or owner-operated business is situated to remain in such residence or operate such business, rent free, for a period of ninety days after the filing of such certificate.

(c) The commissioner may purchase any land and take a deed thereof in the name of the state when such land is needed in connection with the layout, construction, repair, reconstruction or maintenance of any state highway or bridge, and any land or buildings or both, necessary, in the commissioner's opinion, for the efficient accomplishment of the foregoing purpose, and may further, when the commissioner determines that it is in the best interests of the state, purchase, lease or otherwise arrange for the acquisition or exchange of land or buildings or both for such purpose. The commissioner, with the advice and consent of the Attorney General, may settle and compromise any claim by any person, firm or corporation claiming to be aggrieved by such layout, construction, reconstruction, repair or maintenance by the payment of money, the transfer of other land acquired for or in connection with highway purposes, or otherwise. The commissioner shall permit the last owner of record of such real property upon which an owner-occupied residence or owner-operated business is situated to remain in such residence or operate such business, rent free, for a period of ninety days from the filing of such deed.

(d) The commissioner may purchase or take in the name of the state any land, buildings, interest in land, easements or other rights he finds necessary for the layout, construction, maintenance or use of roads or bridges authorized by section 13a-5, under the provisions of this title relating to the purchase and taking of land for state highways. Any person aggrieved by any such action of the commissioner shall have the same rights of appeal as provided in this title in relation to the taking of land by the commissioner for highway purposes.

(e) The commissioner may take any land (1) which is necessary for the construction of any ditch, drain, gutter or other structure which is required for the purpose of draining any state highway; or (2) which is required for the purpose of preserving any historical monument or memorial, the removal of which is made necessary by the construction or reconstruction of a state highway. The commissioner may assess benefits and damages caused by any such construction and for the taking of any such land under the provisions of subsection (b) of this section and sections 13a-74, 13a-76, 13a-77 and 13a-78 and any person aggrieved by the assessment of any such benefits or damages shall be entitled to the relief provided for in said sections.

(f) The commissioner may take or purchase rights of access to and egress from land abutting any highway or land taken or purchased as right-of-way therefor, or any other highway for the purpose of protecting the functional characteristics of any state highway or state highway appurtenances or safety of the traveling public to and from any state highway or state highway appurtenances when in his judgment such limitation of access is necessary to permit the convenient, safe and expeditious flow of traffic. Such taking or purchase shall be in the same manner and with like powers as authorized and exercised by said commissioner in taking or purchasing real property for state highway purposes.

(g) When the Commissioner of Transportation finds it necessary that real property, the title to which is in the state of Connecticut and which is under the custody and control of any state department, commission or institution, be taken for the purpose of drainage, construction, alteration, reconstruction, improvement, relocation, widening and change of grade of any highway to be constructed under his supervision, he shall petition the Secretary of the Office of Policy and Management that custody of such real property be transferred to him as Commissioner of Transportation. Such petition shall set forth the necessity for such transfer and control. The Secretary of the Office of Policy and Management shall present such petition to the department, commission or institution having custody and control of such real property, and, upon the recommendation of, and subject to such consideration as may be required by, such department, commission or institution and with the approval of the Secretary of the Office of Policy and Management, such department, commission or institution shall transfer the custody and control of such real property to the Commissioner of Transportation for the purposes required.

(h) All sales or exchanges of surplus property by the Department of Transportation and matters dealing with the initial acquisition of any existing mass transit system or the purchase or sale of real properties acquired in connection with any state highway system or mass transit system shall be subject to review and approval of the State Properties Review Board except that those acquisitions and administrative settlements relating to such properties which involve sums not in excess of ten thousand dollars shall be reported to the board by the Commissioner of Transportation but shall not be subject to such review and approval. The Secretary of the Office of Policy and Management shall be informed for inventory purposes of any transfer effectuated in connection with this section. The State Properties Review Board shall not grant such approval if the Department of Transportation has failed to comply with any applicable statutes in connection with the proposed action.

(1949 Rev., S. 2204, 2224, 2226–2228, 2239, 2264, 2266; November, 1955, S. N155; 1958 Rev., S. 13-52(e), 13-90, 13-104, 13-105, 13-107, 13-108, 13-120, 13-145, 13-149; 1963, P.A. 226, S. 73; February, 1965, P.A. 309, S. 1; 310, S. 1; 1967, P.A. 507, S. 1; 610, S. 1; 1969, P.A. 613, S. 1; 614, S. 1; 762, S. 1; 768, S. 83; 1971, P.A. 122, S. 1; P.A. 75-425, S. 11, 57; P.A. 76-253, S. 3, 6; P.A. 77-614, S. 19, 73, 610; P.A. 78-280, S. 2, 127; P.A. 81-421, S. 6, 9; P.A. 83-570, S. 3, 17; P.A. 86-228, S. 1; P.A. 87-496, S. 69, 110; P.A. 88-283, S. 2, 3; P.A. 97-304, S. 4, 31; P.A. 01-105, S. 3; May 9 Sp. Sess. P.A. 02-5, S. 24; P.A. 04-127, S. 1; 04-143, S. 1; P.A. 11-51, S. 67; June Sp. Sess. P.A. 15-5, S. 158; P.A. 16-151, S. 5; P.A. 18-62, S. 1; P.A. 21-175, S. 1.)

History: 1963 act replaced previous provisions: See title history; 1965 acts added provisions in Subsec. (b) re certificate required to be filed with town clerk in connection with taking of land and provision re egress to Subsec. (f); 1967 acts included provisions re taking of land for highway maintenance storage area or garage in Subsec. (b) and clarified Subsec. (f); 1969 acts added proviso re variances or special exceptions granted commissioner with regard to use of land taken, required notice to persons having interest in land rather than to owners only and added provisions re published notice in Subsec. (b), amended Subsec. (f) to allow taking of access and egress rights to protect “functional characteristics” of state highways or to protect the traveling public, amended Subsec. (f) by moving provision re historical monuments and memorials and substituted commissioner of transportation for highway commissioner in Subsec. (g); 1971 act amended Subsec. (c) to increase amount of maximum purchase allowed without referee's approval from \$3,000 to \$15,000; P.A. 75-425 added Subsec. (h) re acquisition of real property for offices of transportation department; P.A. 76-253 clarified Subsec. (h); P.A. 77-614 substituted secretary of the office of policy and management for commissioner of finance and control and commissioner of administrative services for public works commissioner; P.A. 78-280 substituted “judicial district” for “county” in Subsec. (b); P.A. 81-421 amended Subsec. (h) by deleting certain references to the role of the commissioner of administrative services; P.A. 83-570 added exemption to Subsec. (h) for acquisitions and settlements involving sums of \$1,000 or less; P.A. 86-228 added requirement that properties review board not grant approval if department fails to comply with applicable statutes in connection with proposed action in Subsec. (h); P.A. 87-496 substituted public works commissioner for administrative services commissioner in Subsec. (h); P.A. 88-283 amended Subsec. (b) to require commissioner to permit the last owner of record of residential real property to remain in such residence, rent free, for 120 days after filing of certificate of taking; P.A. 97-304 amended Subsec. (c) to substitute \$100,000 for \$15,000 in the proviso, effective July 1, 1997; P.A. 01-105 amended Subsec. (c) by making a technical change for the purposes of gender neutrality; May 9 Sp. Sess. P.A. 02-5 amended Subsec. (c) to add a provision allowing acquisition of land

or buildings for a highway maintenance garage or storage area, effective August 15, 2002; P.A. 04-127 amended Subsec. (b) by providing for notice of assessment to persons having interest of record to be given by commissioner rather than court clerk and by making technical changes; P.A. 04-143 amended Subsec. (h) re exception for acquisitions and administrative settlements not subject to review and approval by State Properties Review Board to increase maximum sum from \$1,000 to \$5,000, effective July 1, 2004; P.A. 11-51 amended Subsec. (h) to replace "Commissioner of Public Works" with "Secretary of the Office of Policy and Management" re the inventory, effective July 1, 2011; June Sp. Sess. P.A. 15-5 amended Subsec. (b) to replace provision re the last owner of a residence with provision re the last owner of an owner-occupied residence or owner-operated business and to permit such owner to remain in residence or operate the business for a period of 90 days, rather than 120 days, amended Subsec. (c) to delete provision re acquisition or exchange of land or buildings for use as a highway maintenance storage area or garage and to add provision allowing owner to remain in residence or operate a business for 90 days, and made technical changes, effective June 30, 2015; P.A. 16-151 amended Subsecs. (a) and (h) by making technical changes and amended Subsec. (c) by deleting provision re approval by a state referee of purchase of land or land and buildings in excess of \$100,000, effective June 7, 2016; P.A. 18-62 amended Subsec. (b) by adding " , or such person's designated agent for service of process," re commissioner's duty to give notice of assessment to each person having interest of record therein and making conforming changes; P.A. 21-175 amended Subsec. (h) re exception for acquisitions and administrative settlements not subject to review and approval by State Properties Review Board to increase maximum sum from \$5,000 to \$10,000, effective July 12, 2021.

See Sec. 13a-6 re reimbursement of state by federal government for costs incurred in constructing roads and bridges for military purposes.

See Sec. 13a-25 re appointment of additional referees for land acquisition proceedings.

See Sec. 13a-58 re public hearing on proposed layout of new highway.

See Secs. 13a-76 and 13a-77 re appeals from decisions of commissioner.

See Sec. 13a-80 re sale or lease of land by commissioner.

See Sec. 13a-80b re order of priorities in disposition of interests in state rights-of-way.

Cited. 113 C. 653; 117 C. 139. Assessment is "made" when filing with clerk takes place. 113 C. 657; 129 C. 251. Description of land taken must be filed. 113 C. 656. Measure of damages is difference in market values before and after. 113 C. 657; 125 C. 418, 419. That prices are generally depressed is not sufficient reason for departing from rule that fair market value at time of taking governs. 117 C. 142. Former statute cited. 124 C. 34. In executing award of damages and benefits, commissioner may rely on advice of department engineers. 125 C. 417. Elements to be considered in making award; where portion of tract taken, damage for change in grade may be taken into account. 127 C. 455. When municipality is entitled to compensation for land taken by state. 129 C. 106. Taking is only of easement; if fee is acquired subsequently, lesser estate is merged. *Id.*, 248. Where condemnation proceeding was taken under statute, subsequent warranty deed amounted to purchase and commissioner had right to stand on deed as giving the greater estate. *Id.*, 250. Where laying of roadway and change of grade were accomplished within limits of old highway, abutting owner is not entitled to award based upon reduction of market value of property occasioned thereby. *Id.*, 262. Rule as to "consequential" damages based on depreciation by reason of construction not only on land taken but also on adjoining land. *Id.*, 475. Nature of easement. 130 C. 595. Fact that land contains valuable deposits may be considered in determining value. 131 C. 523. Even if court does not apply the before and after rule, if results give plaintiff all the damages to which he is entitled, he cannot claim error. 132 C. 583. Taking is complete when assessment is filed with clerk, even though there is no physical taking; interest runs from that time. 134 C. 226. Necessity of moving factory machinery affected the value of the property; this element must be considered as evidence tending to prove fair market value of land. 135 C. 686. Referee's use of testimony of expert on some points does not preclude its rejection on others. 139 C. 159. Former statute cited. 147 C. 685; 148 C. 731. In determination of damages, referee could consider existence of going business of lessee on land as support for conclusion as to best use of premises but could not consider expense of moving equipment of, or net income of lessee from, such

business. 149 C. 206. Fair intent of section read with Sec. 48-11 is that landowner is not entitled to interest on any sum of money which has been deposited with court and is available to him; deposit has effect of tender and stops running of interest on amount available. *Id.*, 214. The entire reasonable cost of moving the equipment should be included in determining the fair market value of the property taken. 150 C. 32. Cited. *Id.*, 524. Where plaintiff alleged the taking of land by highway commissioner was in excess of the power conferred on him, commissioner is not protected from suit by sovereign immunity. 152 C. 590. Cited. 154 C. 683. Language broad enough to embrace land held by public or private owner and whether devoted to public or private use. *Id.*, 685. Rule that general grant of power of eminent domain does not authorize taking of land already devoted to public use inapplicable where sovereign is condemner taking property on its own behalf for its own sovereign purposes. *Id.*, 688. Adjustment of real property taxes by method locally used not binding on commissioner in absence of agreement to so apportion taxes. 155 C. 335. Where plaintiff was not owner of personalty removed from condemned property, referee's report was properly amended and judgment entered for plaintiff for land value only. *Id.*, 570. Rule of damages in eminent domain is to award fair market value of real property condemned; fact that business is in operation on it may enhance that market value but it was error for court to allow compensation for value of business and fixtures of appellant supermarket. *Id.*, 580. Reasonable probability of zone change to be made in near future may be considered in determination of fair value of property taken by condemnation. 156 C. 83. Once taking is complete, condemner cannot unilaterally discontinue condemnation proceedings. *Id.*, 131. Appraiser employed by the state may be required to testify by subpoena of condemnee as to his expert opinion of value of condemned property. *Id.*, 166. Just compensation means the full equivalent in money for property taken and landowner is entitled to interest to date of payment of judgment by the state. *Id.*, 416. Provision for additional compensation when there has been a delay in taking under Sec. 13a-76a is not retroactive. 158 C. 452. On appeal from an assessment, the question before the referee is not what defendant offered to plaintiffs nor what plaintiffs claimed was due them, but rather the actual fair value of the property as determined at the hearing. 159 C. 443, 448. Cited. 161 C. 59. Elements considered in determining market value upon condemnation. 163 C. 205. Cited. 165 C. 768; 176 C. 391; 203 C. 364; 209 C. 480; 214 C. 225; 218 C. 628.

Upon filing certificate with clerk of Superior Court, land is taken and owner may be excluded from use; "all damage" includes interest from date of the taking. 4 CS 474. Cited. 6 CS 393. Recovery for injury to right of access. *Id.*, 337. Cited. 8 CS 450. Does not determine rights of persons who may claim reverter interests. 9 CS 497. Constitutionality of provision allowing commissioner to take immediate possession. 11 CS 39. Cited. 17 CS 47. When legislature designates a new highway as trunk line, commissioner may purchase or condemn land and call for bids for construction. 18 CS 261. Cited. *Id.*, 262. Condemnation proceedings not a civil action when related to civil process but is a civil action within meaning of Secs. 167 and 168 of Practice Book. 27 CS 242. Cited. *Id.*, 287; *Id.*, 469. Commissioner of Transportation has authority to purchase land by deed or take by eminent domain, but both methods may not be pursued at the same time. 47 CS 418.

The state can recover from the condemnee the reasonable value of the occupancy of the condemned premises for the period she continued to occupy same after the date specified to condemnee to vacate. 5 Conn. Cir. Ct. 107. Re former Secs. 13-145 and 13-149, a condemnee cannot retain and enjoy possession of condemned property without cost, as long after the taking date as he can continue to remain in actual possession. 6 Conn. Cir. Ct. 96.

Subsec. (b):

Cited. 167 C. 334; 172 C. 427; 176 C. 264; 178 C. 710; 179 C. 293. Certificate construed to have condemned right-of-way where description does not expressly reserve an essential right-of-way in the condemnee. 180 C. 11. Cited. 215 C. 437. Re properties on opposite sides of a river intended for use as bridge abutments, trial court's findings re properties' highest and best use was not adequately supported by the record since it was only speculative that an entity other than the state would use the land for such purpose. 255 C. 529.

Cited. 5 CA 678. Damages limited to sale price agreed to under breached contract. 11 CA 439. Cited. 35 CA 9; 36 CA 49.

Cited. 40 CS 202.

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Sec. 13a-74. Payment of damages. After the assessment of damages and benefits provided for in subsection (b) of section 13a-73 has been filed with the clerk of the Superior Court, the property owner affected may file with said clerk the property owner's written acceptance thereof. Said clerk shall thereupon notify the Comptroller and the commissioner of such acceptance. If the amount to be paid by the state for such land, after deducting any benefits which have been assessed, does not exceed one hundred thousand dollars, said clerk shall send a certified copy of the assessment and the acceptance thereof to the commissioner and the Comptroller, and the Comptroller shall, upon receipt thereof, draw an order on the Treasurer in favor of such property owner for the amount due the property owner under such assessment. If the amount of such assessment, after deducting any such benefits, exceeds one hundred thousand dollars, said clerk shall not certify the same to the Comptroller until the assessment has been approved as reasonable in amount by a judge of the Superior Court or a judge trial referee. If such judge or judge trial referee approves such assessment, said clerk shall thereupon send a certified copy of the assessment and the acceptance thereof and a certificate that the same has been so approved to the commissioner and to the Comptroller, and the Comptroller shall, upon receipt thereof, draw an order on the Treasurer in favor of such property owner for the amount due the property owner on such assessment. If such judge or judge trial referee does not approve such assessment, said clerk shall notify the Attorney General and the commissioner and the latter may file an amended assessment.

(1949 Rev., S. 2265; November, 1955, S. N158; 1957, P.A. 383, S. 1; 1958 Rev., S. 13-146; 1963, P.A. 226, S. 74; P.A. 01-105, S. 7; 01-186, S. 13; P.A. 02-132, S. 71.)

History: 1963 act replaced previous provisions: See title history; P.A. 01-105 and 01-186 both increased amount of assessment from \$15,000 to \$100,000 and made technical changes for purposes of gender neutrality (Revisor's note: In merging the gender-neutral technical changes contained in public acts 01-105 and 01-186, the Revisors gave precedence to certain changes contained in public act 01-105); P.A. 02-132 replaced references to state referee with references to judge or judge trial referee.

See Sec. 13a-25 re appointment of additional referees for land acquisition proceedings.

Annotations to former statute:

Cited. 113 C. 653; 125 C. 417; 127 C. 464; 129 C. 250; 149 C. 213.

Cited. 8 CS 397. Does not determine relative rights of interested persons who may claim reverter interests. 9 CS 497. Cited. 11 CS 39; 17 CS 47.

Annotations to present section:

Cited. 163 C. 22; 176 C. 391.

Cited. 28 CS 69.

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Sec. 13a-75. Determination of value of flood-damaged land. Whenever the commissioner takes any land he may find necessary for the layout, alteration, extension, widening, change of grade or improvement of any state highway, pursuant to the provisions of subsection (b) of section 13a-73 and sections 13a-74 and 13a-78, the state shall pay the owner just compensation therefor. In determining the amount of all benefits received by the owner resulting from taking such land and the amount of damages for taking such land as suffered loss due to flood or any other natural disaster occurring from August 18 to October 31, 1955, due consideration shall be given to the real and potential value of the land based upon its use and location, that is, the value which the property would have were it deemed to be restored to the productive uses it had prior to August 18, 1955, and in arriving at such

value there shall be used a sum not less than the full valuation of the real property by the assessors of the town in which the property is located for the last-completed grand list of such town less the amount of any payment received by the owner from any public or private agency for damage to such real property. Any grantee who took title to any such real property between August 18, 1955, and December 23, 1955, shall receive benefits in accordance with this section for the flood-damaged property and the record owner as of August 17, 1955, shall be entitled to such benefits for the improvements on such real property as of August 18, 1955; provided no compensation has been received therefor by any other person from the state. This section shall be effective only as to any land determined to be taken by the Highway Commissioner before July 1, 1963.

(November, 1955, S. N160; 1957, P.A. 629, S. 1, 2; 1958 Rev., S. 13-148; 1959, P.A. 556; 1963, P.A. 226, S. 75.)

History: 1959 act changed cutoff date in last sentence from July 1, 1959; 1963 act replaced previous provisions: See title history.

See Sec. 13a-25 re appointment of additional referees for land acquisition proceedings.

Cited. 17 CS 47.

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Sec. 13a-76. Reassessment of damages or benefits by judge trial referee or court. Any person claiming to be aggrieved by the assessment of such special damages or such special benefits by the commissioner may, at any time within six months after the same has been so filed, apply to the superior court for the judicial district within which such land is situated for a reassessment of such damages or such benefits so far as the same affect such applicant. The court, after causing notice of the pendency of such application to be given to the commissioner, may appoint a judge trial referee to make such reassessment of such damages or such benefits. The court or such judge trial referee, after giving at least ten days' notice to the parties interested of the time and place of hearing, shall hear the applicant and the commissioner, may view the land, and shall take such testimony as the court or such judge trial referee deems material and shall thereupon reassess such damages and benefits so far as they affect such applicant. The reassessment by the court or such judge trial referee shall take into account any evidence relevant to the fair market value of the property, including evidence of required environmental remediation by the Department of Transportation. The court or such judge trial referee shall make a separate finding for remediation costs, and the property owner shall be entitled to a set-off of such costs in any pending or subsequent legal action to recover remediation costs for the property. If the amount of the reassessment of such damages awarded to any such property owner exceeds the amount of the assessment of such damages by the commissioner for such land, the court or such judge trial referee shall award to such property owner such appraisal fees as the court or such judge trial referee determines to be reasonable. If no appeal to the Appellate Court is filed within the time allowed by law, or if one is filed and the proceedings have terminated in a final judgment finding the amount due the landowner, the clerk shall send a certified copy of the assessment of the commissioner and of the judgment to the Comptroller, who shall, upon receipt thereof, draw an order upon the Treasurer in favor of the landowner for the amount due the landowner as damages. The pendency of any such application for reassessment shall not prevent or delay the layout, extension, alteration, widening, change of grade or other improvement of any such highway.

(1949 Rev., S. 2267; 1957, P.A. 632, S. 2; 1958 Rev., S. 13-150; 1963, P.A. 226, S. 76; P.A. 78-280, S. 2, 127; June Sp. Sess. P.A. 83-29, S. 24, 82; P.A. 86-274; P.A. 96-37, S. 3; P.A. 01-75, S. 1, 3; 01-186, S. 2; P.A. 02-132, S. 72.)

History: 1963 act replaced previous provisions: See title history; P.A. 78-280 substituted "judicial district" for "county"; June Sp. Sess. P.A. 83-29 deleted reference to supreme court and substituted appellate court in lieu thereof; P.A. 86-274 specified that the referee appointed to reassess damages and benefits shall be a "trial" referee, provided that the trial referee rather than the court or judge award appraisal fees determined to be reasonable, deleted provisions which required the referee to submit a report of his reassessment to the court for acceptance or rejection by the court and the appointment by the court of another referee if it rejected the report,

and added provision defining trial referee; P.A. 96-37 changed state trial referee to judge trial referee; P.A. 01-75 added provisions requiring the reassessment of the trial referee to take into account the fair market value of the property, including environmental remediation by the Department of Transportation, requiring such referee to make a separate finding for remediation costs and requiring a set-off of such cost to the property owner in any pending or subsequent legal action and made technical changes for the purposes of gender neutrality, effective June 6, 2001; P.A. 01-186 changed "shall" appoint to "may" appoint a judge trial referee, deleted definition of trial referee for purposes of section, and made technical changes for purposes of gender neutrality (Revisor's note: In merging the gender-neutral technical changes contained in public acts 01-75 and 01-186, the Revisors gave precedence to the changes contained in public act 01-75); P.A. 02-132 added provisions re review by court, replaced provision re mandatory viewing of land with provision re discretionary viewing of land and made technical and conforming changes.

On appeal under section, no question of validity of assessment can be raised. 113 C. 660. Cited. 116 C. 124; 117 C. 139; 125 C. 417. Function of court goes no further than to determine amount due plaintiff. 127 C. 464; 129 C. 117. Cited. Id., 250; 134 C. 228; 137 C. 300. When report of referee reassessing damages may be overturned; correct procedure for attacking findings contained in such report. 147 C. 685. Cited. 148 C. 731. Existence of sand and gravel on property should be considered as factor in damages insofar as it affects marked value of land. Id., 736. Cited. 149 C. 210. The referee should include the entire reasonable cost of moving plaintiff's equipment in determining the fair market value of the property taken. 150 C. 32. Cited. Id., 524; 152 C. 353, 354; 153 C. 292. Referee should consider market value of renewal options in determining value of leasehold. Id., 377. Cited. Id., 718. Where there was credible evidence by experts of value of plaintiff's property to support referee's conclusion, court did not err in overruling plaintiff's exceptions to report of referee. 155 C. 602. Motion to reopen hearing by referee to introduce further evidence denied where there was no showing by plaintiff that evidence to be offered could not have been produced at hearing. 156 C. 70. State's appraiser may be required by condemnee to testify to his expert opinion concerning value of condemned property. Id., 166. Cited. 163 C. 204. Where portion of parcel is taken and remainder of land is not taken, either by right of statutory authority or in a constitutional sense, owner has no direct cause of action against condemnor but is left to recover any severance damage under section. 169 C. 195. Condemnation proceeding is limited to reassessment of damages caused by taking. 172 C. 182. Cited. Id., 234. Time limit for appeal from assessment extended to 6 months from date of Superior Court judgment. 173 C. 220. Cited. 174 C. 323. Where appeal based on determination of damages, only referee(s) may not assess benefits. 176 C. 391. Court correctly considered cost to cure expenditures in determining the after value of remaining land after taking. 177 C. 432. Cited. 178 C. 710; 180 C. 11. Denial of access was a foreseeable, necessary, natural and proximate result of the taking and the property owner was entitled to compensation. Id., 355, 356, 360. Although under statute the Superior Court clerk is required, following a final judgment in a condemnation proceeding, to send to the State Comptroller certified copies of both the assessment and the judgment, clerk's failure to send copy of assessment did not impair plaintiff's right to pursue its mandamus actions. 187 C. 171. Cited. 192 C. 377; 203 C. 364; 209 C. 480; 211 C. 173; Id., 382; 214 C. 225; 215 C. 437; 236 C. 710. 6-month limitation period for filing an application for reassessment is not subject matter jurisdictional but is analogous to a statute of limitations, requiring Commissioner of Transportation to raise in a timely manner property owner's failure to comply with such provision with failure to do so constituting a waiver of the defense; since commissioner failed to raise issue of property owner's failure to file her reassessment applications in a timely manner, commissioner's claim of untimely filing was waived; trial court has burden of "causing notice" of property owner's application for reassessment to be given commissioner; property owner was not required to initiate and serve notice of her application on commissioner, and there is no language in statute to support commissioner's construction allocating burden to property owner to initiate and serve notice on commissioner. 262 C. 257.

Because appeal under section is a trial de novo, motion for summary judgment available. 11 CA 439. Cited. 35 CA 9; 36 CA 49. Trial court's failure to award appraisal fees was clearly erroneous because it was presented with facts and evidence from which it could have determined a reasonable appraisal fee in the exercise of its discretion. 109 CA 16. There is no statutory authority for awarding a prevailing party title search fees as costs against state in a condemnation action taken pursuant to section; reassessment of damages under section did not affect title to defendant's properties because proceeding did not have influence on or bring about a change in ownership of properties. 121 CA 13. Issue of reimbursement expenses for business relocation falls under

purview of Secs. 8-268 and 8-278, is outside scope of compensation for the taking of real property and is not an essential term of settlement agreement pursuant to this section. 189 CA 828.

Cited. 4 CS 474; 6 CS 335. An injunction will not lie in condemnation if there is an adequate remedy at law. Id., 393. Does not determine relative rights of interested persons who claim reverter interests. 9 CS 497. Section affords no review of validity of the condemnation. 11 CS 39. If all means of access to property are taken, measure of damages is value of the property. 14 CS 138. Cited. 17 CS 47. Court in awarding appraisal fees is not bound by Sec. 52-257; elements to be considered by court in determining what is a reasonable appraisal fee. 21 CS 343. Cited. 24 CS 391. Appeal from a condemnation proceeding is limited in scope to a reassessment of damages. 27 CS 23. Cited. Id., 287. Referee directed to file a report when case had been heard before enactment of Sec. 51-50f. Id., 494. State referee's report rejected and matter referred to another referee when the conclusion that the building on the condemned property was of no value was not sustained by the findings of fact. 28 CS 68. Cited. 34 CS 194, 195. Statutory condition subsequent for an appeal to be taken in a condemnation proceeding under section discussed; court lacks jurisdiction to hear appeal by owner for reassessment of damages under section where commissioner was not served with notice of the appeal and return of service ordered by the court was never filed. 46 CS 623.

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Sec. 13a-76a. Additional damages for unreasonable delay in taking. Whenever a referee, in determining the amount of damages for the taking of land under this part, finds that there has been unreasonable delay between the filing of a map under the provisions of section 13a-57 and the filing of a certificate of taking under section 13a-73, he may award such additional damages as he may find resulting therefrom.

(1967, P.A. 597, S. 1.)

Statute not retroactive in effect as it is substantive in nature imposing a new liability on the highway commissioner. 158 C. 452. Cited. 172 C. 234; 176 C. 264.

Damages are appropriate under section. 46 CS 355.

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Sec. 13a-77. Costs in appeals from awards in highway cases. In any appeal to the Superior Court taken under and by virtue of the provisions of this part, when the appellant obtains an award from the court greater than that awarded by the commissioner, costs of court shall be awarded the appellant and taxed against said commissioner in addition to the amount fixed by the judgment.

(1949 Rev., S. 2268; 1958 Rev., S. 13-151; 1963, P.A. 226, S. 77.)

History: 1963 act replaced previous provisions: See title history.

Cited. 129 C. 117.

The trial court's statement that there would be no "further payment of interest, appraisal fees and costs as well as court costs," precluded proper application of statute by preventing landowner from taxing costs in addition to amount awarded for damages. 109 CA 16. Title search fees are not recoverable costs against state for prevailing party in a reassessment proceeding. 121 CA 13.

Cited. 17 CS 47.

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Sec. 13a-78. Lien for assessed benefits. The amount of benefits assessed by the commissioner under the provisions of subsection (b) of section 13a-73 or reassessed by the court shall constitute a lien upon the land against which such benefits were assessed from the date such assessment was filed with the clerk of the Superior Court until the amount thereof has been paid by the owner of such land to the state, with interest at six per cent per annum, which interest shall commence to accrue from the date of the filing of such assessment. No such lien shall continue against such land unless notice of the same is filed by the commissioner in the town clerk's office in the town in which such land is located, within sixty days after the filing of such assessment or after the acceptance by the court of such reassessment. The provisions of this section, subsection (b) of section 13a-73 and sections 13a-74 and 13a-76 shall not apply in the case of any layout, extension, alteration, widening, change of grade or other improvement for which any town, city, borough or corporation is liable to pay to the owner any damages or to receive from the owner any benefits except as provided in this part.

(1949 Rev., S. 2265; November, 1955, S. N158; 1957, P.A. 383, S. 1; 1958 Rev., S. 13-146; 1963, P.A. 226, S. 78.)

History: 1963 act replaced previous provisions: See title history.

Cited. 113 C. 653; 125 C. 417; 127 C. 464; 129 C. 250; 149 C. 213. Determination of benefits, if any, to be made specifically by the commissioner in the first instance. 176 C. 391.

Cited. 8 CS 397; 11 CS 39; 17 CS 47.

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Sec. 13a-79. Interest payable ninety days after acceptance of agreement. When the commissioner desires to take property for highway purposes and has entered into an agreement to purchase at a stipulated amount any real estate or any interest therein which appears of record with the owner or owners thereof and the amount agreed to be paid for such property or interest is not paid within ninety days from the date when the owner or owners of such property file with the commissioner a notice in writing of acceptance of such agreement, interest at eight per cent per annum shall be paid on such amount by the state unless the property owner fails to furnish clear title within such ninety days. Such interest shall commence to accrue at the end of such ninety-day period, whether or not an assessment has been filed as provided in subsection (b) of section 13a-73. Whenever the state enters into possession of property being condemned prior to the date of execution of such an agreement, such interest shall commence to accrue from the date of actual taking of possession by the state.

(November, 1955, S. N159; 1957, P.A. 632, S. 1; 1958 Rev. S. 13-147; 1963, P.A. 226, S. 79; P.A. 83-54.)

History: 1963 act replaced previous provisions: See title history; P.A. 83-54 required interest to be payable by state after 90 days, instead of 60 days, following agreement and increased interest rate from 6% to 8%.

Cited. 17 CS 47.

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Secs. 13a-79a and 13a-79b. Right-of-way revolving fund; payment of taxes on and lease of property acquired prior to highway construction. Establishment of long-range highway plan. Sections 13a-79a and 13a-79b are repealed.

(February, 1965, P.A. 325, S. 6, 7; 1967, P.A. 410; 1969, P.A. 768, S. 84, 85; 1972, P.A. 135, S. 1; P.A. 73-451, S. 1, 3; 73-675, S. 10, 44; P.A. 76-213, S. 1, 3.)

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Sec. 13a-79c. Federal assistance for early acquisition of rights-of-way. The Commissioner of Transportation is authorized to request the United States Secretary of Transportation to advance funds, without interest, to the state for early acquisition of property when the need for such early acquisition meets the rules and regulations prescribed by said Secretary of Transportation and may use such funds for the acquisition of rights-of-way, including the net cost to the state of property management, if any, and related moving and relocation payments authorized by state or federal statute or regulation.

(1969, P.A. 106, S. 1; P.A. 85-613, S. 108, 154.)

History: P.A. 85-613 made technical changes, deleting reference to “criteria set forth in section 13a-79”.

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Sec. 13a-80. Sale or lease of land by commissioner. Auctions. Appraisals. Offer to agencies and abutting landowners. (a) The Commissioner of Transportation, with the advice and consent of the Secretary of the Office of Policy and Management and the State Properties Review Board may sell, lease and convey, in the name of the state, or otherwise dispose of, or enter into agreements concerning, any land and buildings owned by the state and obtained for or in connection with highway purposes or for the efficient accomplishment of the foregoing purposes or formerly used for highway purposes, which real property is not necessary for such purposes. The commissioner shall notify the state representative and the state senator representing the municipality in which said property is located within one year of the date a determination is made that the property is not necessary for highway purposes and that the department intends to dispose of the property.

(b) The Department of Transportation shall obtain a full appraisal on excess property prior to its sale and shall hold a public bid or auction for all properties determined to be legal lots of record. If the department does not receive any bids at the initial public bid or auction, the department may continue to market the property and accept offers for sale or hold another bid or auction. Transfers to other state agencies and municipalities for purposes specified by the department shall be exempt from the appraisal requirement. The department shall offer parcels that are legal lots of record to other state agencies prior to a public bid or auction and shall offer parcels that are not legal lots of record to abutting landowners in accordance with department regulations. If the sale or transfer of property pursuant to this section results in the existing property of an abutting landowner becoming a nonconforming use, pursuant to local zoning requirements, the commissioner may sell or transfer the property to such abutting landowner without public bid or auction. The department shall obtain a second appraisal if the value of such property is more than two hundred fifty thousand dollars and is to be sold to an abutting landowner or in accordance with the provisions of subsection (c) of this section. Any appraisals shall be obtained prior to the determination of a sale price of the excess property.

(c) Notwithstanding the provisions of sections 3-14b and 4b-21, no residential property upon which a single-family dwelling is situated at the time it is obtained by the department for highway purposes may be sold or transferred pursuant to this section within twenty-five years of the date of its acquisition without the department's first offering the owner or owners of the property at the time of its acquisition a right of first refusal to purchase the property at the amount of its appraised value as determined in accordance with the provisions of subsection (b) of this section. Notice of such offer shall be sent to each such owner by registered or certified mail, return receipt requested, within one year of the date a determination is made that such property is not necessary for highway purposes. Any such offer shall be terminated by the department if it has not received written notice of the owner's acceptance of the offer within sixty days of the date it was mailed. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, establishing procedures for the disposition of excess property pursuant to the provisions of this subsection in the event such property is owned by more than one person.

(d) Where the department has in good faith and with reasonable diligence attempted to ascertain the identity of persons entitled to notice under subsection (c) of this section and mailed notice to the last-known address of

record of those ascertained, the failure to in fact notify those persons entitled thereto shall not invalidate any subsequent disposition of property pursuant to this section.

(1949 Rev., S. 2226; 1958 Rev., S. 13-105; 1963, P.A. 226, S. 80; P.A. 75-425, S. 48, 57; P.A. 76-253, S. 5, 6; P.A. 77-614, S. 19, 610; P.A. 86-228, S. 2; P.A. 88-283, S. 1, 3; P.A. 03-115, S. 28; P.A. 06-133, S. 3; P.A. 07-232, S. 1; P.A. 13-277, S. 1; P.A. 17-230, S. 6.)

History: 1963 act replaced previous provisions: See title history; P.A. 75-425 required consent of public works commissioner and properties review board in addition to that of commissioner of finance and control for disposal of land or buildings or agreements concerning land or buildings; P.A. 76-253 deleted reference to public works commissioner; P.A. 77-614 substituted secretary of the office of policy and management for commissioner of finance and control; P.A. 86-228 editorially added Subsec. (b) concerning appraisal requirements for sale of certain excess property and requiring department to offer parcels meeting local zoning requirements to other state agencies and to offer parcels which do not meet such requirements to all abutting landowners; P.A. 88-283 amended Subsec. (b) to require department to obtain full appraisal on all excess property, regardless of value and to make necessary technical changes, and added Subsec. (c), requiring department to offer owner of residential property obtained for highway purposes a right of first refusal to purchase the property at amount of its appraised value, and requiring commissioner to adopt regulations, and Subsec. (d) re notification of owner; P.A. 03-115 amended Subsec. (a) to require commissioner to notify the state representative and senator representing the municipality in which property is located within one year of the date of the determination that property is not necessary for highway purposes and that department intends to dispose of it; P.A. 06-133 amended Subsec. (c) to make technical changes and to allow department to offer to sell or transfer land without public bid or auction to an abutting landowner who would otherwise be left with property that is nonconforming as to local zoning, effective June 6, 2006; P.A. 07-232 made a technical change in Subsec. (c), effective July 11, 2007; P.A. 13-277 amended Subsec. (a) to make a technical change, amended Subsec. (b) to require department to obtain a second appraisal only for properties valued over \$250,000 that are to be sold to an abutting landowner pursuant to Subsec. (c) and to add provisions re auctions for properties determined to be legal lots of record, the marketing of property if no bids are received at auction, the offering of legal lots of record to other state agencies or municipalities, the offering of parcels that are not legal lots of record to abutting landowners and sales or transfers that result in a property becoming a nonconforming use, and amended Subsec. (c) to delete provisions re the offer of property to municipalities prior to July 1, 1988, and re procedures for the offering of property to state agencies or abutting landowners that was previously offered to owners of the property at the time such property was acquired by department; P.A. 17-230 amended Subsec. (b) by deleting provision re offer of parcels to municipality before holding public bid or auction and making a technical change.

Cited. 150 C. 526.

Cited. 9 CA 514.

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Sec. 13a-80a. Disposition of interests on, above or below state highway rights-of-way. (a) The Commissioner of Transportation, with the advice and consent of the Secretary of the Office of Policy and Management, may, in the name of the state, sell, lease and convey, or otherwise dispose of, or enter into agreements concerning, any interest the state may have on, above or below any state highway right-of-way. The Commissioner of Transportation may place such restrictions, conditions and qualifications on the use of any area as he determines to be necessary to provide for the safety and adequacy of highway facilities, and for the protection of abutting or adjacent land users. A committee composed of the Commissioner of Transportation, the Secretary of the Office of Policy and Management and the chief executive officer of the municipality in which the sale, lease or other disposition of any interest in land on, above or below any state highway right-of-way is proposed may also place such restrictions, conditions and qualifications on the use of any area which they determine to be necessary to provide for the efficient, economical and socially beneficial use of the area.

(b) The Commissioner of Transportation shall have the power to section off levels of space over or under the same location and sell or lease varying levels to different parties.

(c) Revenues from any transaction concerning the sale, lease or use of space or multiple use or joint development of state highway rights-of-way shall be deposited in the Special Transportation Fund.

(1969, P.A. 549, S. 1, 2, 7; P.A. 73-675, S. 11, 44; P.A. 75-568, S. 7, 45; P.A. 77-614, S. 19, 610; P.A. 84-254, S. 18, 62.)

History: P.A. 73-675 substituted transportation fund for state highway fund in Subsec. (c); P.A. 75-568 substituted general fund for transportation fund in Subsec. (c); P.A. 77-614 substituted secretary of the office of policy and management for commissioner of finance and control in Subsec. (a); P.A. 84-254 amended Subsec. (c) to require revenues from transactions to be deposited in special transportation fund instead of general fund.

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Sec. 13a-80b. Order of priorities. The Commissioner of Transportation shall give priority in the following order in the disposition or assignment of space or multiple use or joint development under sections 13a-80a to 13a-80f, inclusive, to the state, the municipality wherein the land is located, to the federal government and to the need for housing persons, businesses or other facilities displaced by state highway construction.

(1969, P.A. 549, S. 6.)

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Sec. 13a-80c. Limitation. The Commissioner of Transportation shall not exercise his authority under sections 13a-80a to 13a-80f, inclusive, if any loss of revenues granted or to be granted from any agency or department of the federal government for the state highway involved or any other state highway shall be incurred thereby.

(1969, P.A. 549, S. 8.)

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Sec. 13a-80d. Conformation with local zoning regulations and ordinances. The use of any space on, over or below any state highway right-of-way leased by the Commissioner of Transportation to a lessee shall conform with zoning regulations and ordinances of the local government in which the land is located or as modified by a variance pursuant to legal process.

(1969, P.A. 549, S. 4.)

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Sec. 13a-80e. Tax assessment. Any building, land or space sold, leased or used pursuant to any agreement under authority of sections 13a-80a to 13a-80f, inclusive, shall be set in the tax list of the town in which the land is located, provided no tax shall be assessed against any federal, state or municipal agency or eleemosynary institution usually exempt from taxation.

(1969, P.A. 549, S. 5.)

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Sec. 13a-80f. Acquisition of land or air space. The Commissioner of Transportation may acquire by purchase or condemnation, in the same manner and with like powers as authorized and exercised by said commissioner in acquiring real property for state highway purposes, such additional interests in land or air space, and may accept gifts of interests in land or air space, as he shall find necessary or appropriate to make feasible or enhance the multiple use and joint development of highway rights-of-way and space over or under state highways under his control.

(1969, P.A. 549, S. 3.)

See Sec. 13a-73 re acquisition of real property.

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Sec. 13a-80g. Disposition of interest in, above or below municipal highways. (a) Any municipality may sell, lease or otherwise transfer easements or other interests in, above or below any street, highway or other public right-of-way to the centerline thereof, other than the right-of-way of a state highway as defined in section 13a-1, in the same manner that it may dispose of any other interest in real property owned by such municipality; provided that adequate provision is made for the safe and convenient public use of the street, highway or other public right-of-way and for the protection of adjacent land users and that the transferee of said interest restores the street, highway or right-of-way to its condition existing prior to the transfer of said interest and provided further that any sale, lease or transfer of easements or other interests above any street, highway or other public right-of-way is made with the consent of the owner of the real property abutting the portion of the street, highway or other public right-of-way above which such easement or other interest is sold, leased or transferred. The sale, lease or transfer of easements or other interests in, above or below the portion of a street, highway or other public right-of-way lying to one side of the centerline thereof, shall not prevent the sale, lease or transfer of easements or other interests in, above or below the portion lying on the other side of such centerline, unless the terms of the initial sale, lease or transfer so provide.

(b) Nothing in this section shall be deemed to diminish or restrict in any way any authority concerning the sale, lease or transfer of any easements or other interests in, above or below any street, highway or other public right-of-way which any municipality or agency thereof may have by virtue of any special act or otherwise.

(1972, P.A. 94, S. 1; P.A. 99-181, S. 37, 40; P.A. 00-148, S. 4.)

History: P.A. 99-181 amended Subsec. (a) by requiring the transferee to restore the street, highway or right-of-way to its existing condition prior to the transfer of an easement or other interest and requiring the consent of the abutting real property owner for the sale, lease or transfer of certain easements or other interests, effective June 23, 1999; P.A. 00-148 amended Subsec. (a) by making technical changes.

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Sec. 13a-80h. Agreement setting forth responsibilities of municipality and Commissioner of Transportation re acquisition of real property required for certain bridge projects. At the request of any municipality which is undertaking a project to rehabilitate, replace or demolish a bridge which supports a municipal road using state or federal highway funds, the Commissioner of Transportation may enter into an agreement with such municipality which sets forth the responsibilities of the parties in connection with the acquisition of real property, as defined in subsection (a) of section 13a-73, or rights of ingress to and egress from land, which is required for such project. The commissioner shall exercise his authority pursuant to this section in the same manner as authorized

and exercised by the commissioner in acquiring real property for state highway purposes subject to the terms of the agreement between the commissioner and the municipality.

(P.A. 95-325, S. 2, 16.)

History: P.A. 95-325 effective July 13, 1995.

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Sec. 13a-80i. Mediation of purchase of state property not required for highway purposes. (a) As used in this section: (1) "Eligible owner" means an owner described in section 13a-80 who (A) retained residency on the property for a period of ten years or more following the date on which the state notified such owner that the property was to be obtained by the state for highway purposes, (B) was notified that such property is not needed by the Department of Transportation for highway purposes, and (C) failed to negotiate the purchase of property pursuant to section 13a-80, and (2) "property" means any land and buildings owned by the state and obtained for or in connection with highway purposes or for the efficient accomplishment of such purposes or formerly used for highway purposes, which real property is not required for such purposes, and is subject to the provisions of section 13a-80.

(b) On or before January 1, 2010, the Commissioner of Administrative Services, or said commissioner's designee, the Commissioner of Energy and Environmental Protection, or said commissioner's designee, and the Secretary of the Office of Policy and Management, or said secretary's designee, in conjunction with the State Properties Review Board, shall serve as mediators for the purpose of conducting mediations pursuant to this section. All persons serving as mediators shall have mediation training and experience in real estate transactions and real estate valuation.

(c) Notwithstanding the provisions of section 13a-80, if the Department of Transportation and an eligible owner are unable to negotiate the purchase of the property pursuant to said section 13a-80, the eligible owner or such owner's designee may, on or after January 1, 2010, submit a written request for mediation to the State Properties Review Board. Upon receipt by the board of such request, said board shall notify the Commissioner of Transportation, or said commissioner's designee, of such request and shall convene the individuals serving pursuant to subsection (b) of this section to mediate the purchase of property from the state by the eligible owner. The topics to be mediated shall be limited to the value of the property and the purchase price. The costs of the mediation shall be borne equally by the eligible owner and the state.

(d) Upon assignment by the State Properties Review Board to conduct mediation, a person assigned as mediator shall contact the eligible owner, or such owner's designee, and the Commissioner of Transportation, or said commissioner's designee, to schedule the mediation. Such mediation shall be scheduled and completed within ninety days following the State Properties Review Board's receipt of the request for mediation from the eligible owner.

(e) Within thirty days following completion of such mediation, the mediators shall submit to the legislative committees having cognizance of matters pertaining to transportation and government administration, for approval, a written summary of the agreement reached in the mediation. The committees shall approve or disapprove such agreement during a joint meeting conducted during a regular session of the General Assembly.

(f) If the agreement is approved, the eligible owner shall have fifteen days in which to sign a purchase agreement for the purchase of the property from the state. If the agreement is disapproved or if no purchase agreement is signed by the eligible owner within fifteen days following the expiration of the comment period, the state shall dispose of the property as provided in section 13a-80.

(P.A. 09-186, S. 9; P.A. 10-110, S. 53, 54; P.A. 11-51, S. 44; 11-80, S. 1.)

History: P.A. 09-186 effective July 20, 2009; P.A. 10-110 made technical changes in Subsecs. (b) and (f); pursuant to P.A. 11-51, “Commissioner of Public Works” was changed editorially by the Revisors to “Commissioner of Administrative Services” in Subsec. (b), effective July 1, 2011; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsec. (b), effective July 1, 2011.

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Sec. 13a-81. Relocation of persons, businesses and farms displaced by state highway construction. Section 13a-81 is repealed.

(1957, P.A. 601; September, 1957, P.A. 22; 1958 Rev., S. 13-114; 1963, P.A. 226, S. 81; 1967, P.A. 108, S. 1; 1969, P.A. 503, S. 13.)

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Secs. 13a-81a to 13a-81l. Highway relocation assistance. (a) Sections 13a-81a to 13a-81l, inclusive, are repealed except that any payment or matter, due or pending, pursuant to said sections 13a-81a to 13a-81l, inclusive, shall be paid or handled in accordance with said sections, or regulations or procedures promulgated pursuant thereto.

(b) All rights or liabilities now existing under sections 13a-81a to 13a-81l, inclusive, and under regulations or procedures pursuant thereto shall not be affected by the repeal of such sections or portions thereof under subsection (a) of this section.

(1969, P.A. 503, S. 1–12; 1971, P.A. 838, S. 17.)

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Sec. 13a-82. Damages or benefits by change of grade of municipal highway. Lien. When the owner of land adjoining a highway, or of any interest in such land, sustains special damage or receives special benefits to his property by reason of any change in the grade of such highway, or by reason of excavations in such highway, made in the process of repairing the same by the town, city or borough in which such highway is situated, or by any corporation, whether acting by authority or direction of the Public Utilities Regulatory Authority or otherwise, such town, city, borough or corporation shall be liable to pay to such owner the amount of such special damage and shall be entitled to receive from him the amount or value of such special benefits, to be ascertained in the manner provided for ascertaining damages and benefits occasioned by laying out or altering highways. Whenever special benefits are finally assessed and established concerning any lands or interests therein, under the foregoing provisions, such town, city, borough or corporation shall have a lien upon the lands concerning or upon which they are so assessed, to be established and enforced in the manner provided for establishing and enforcing liens for benefits occasioned by public works in the town, city or borough in which such highway is situated.

(1949 Rev., S. 2143; 1958 Rev., S. 13-27; 1963, P.A. 226, S. 82; P.A. 75-486, S. 31, 69; P.A. 77-614, S. 162, 610; P.A. 80-482, S. 27, 348; P.A. 11-80, S. 1.)

History: 1963 act replaced previous provisions: See title history; P.A. 75-486 substituted public utilities control authority for public utilities commission; P.A. 77-614 substituted division of public utility control within the department of business regulation for public utilities control authority, effective January 1, 1979; P.A. 80-482 made division an independent department and deleted reference to abolished department of business regulation; pursuant to P.A. 11-80, “Department of Public Utility Control” was changed editorially by the Revisors to “Public Utilities Regulatory Authority”, effective July 1, 2011.

Railroad company legally changing grade of street liable for actual damage to landowner. 22 C. 74. Damages paid by city for land taken for street include damages from grading. 44 C. 252; 47 C. 314. Municipality might (before statute) change grade of street without liability for necessary damage to adjoining owners. Id., 313. City liable by statute for damage from change of grade, and, neglecting to ascertain damage by statutory method, is liable to action at law. 49 C. 398. Adjoining owner acquires by use no right to basement steps in sidewalk, and recovers no damage for changed grade of sidewalk making them useless. 61 C. 522. Adjoining owner may recover value of sidewalk destroyed by change of grade. 62 C. 456; 63 C. 426. When town changes grade without notice, adjoining owner may have action at law. Id.; 104 C. 453. Selectmen may submit to arbitration damage to adjoining owner from change of grade. 64 C. 88. What is to be considered in fixing damage from change of grade. 66 C. 320, 413; 71 C. 652; 73 C. 359; 76 C. 278; 85 C. 255; 89 C. 343. What constitutes "grade" and "change of grade"; 66 C. 335; 71 C. 652; 76 C. 278; Id., 700; in part of highway. 89 C. 347. Adjoining landowner cannot maintain action at law for damage from change of grade until municipality has failed to perform duty to ascertain damage in statutory manner. 68 C. 72; 73 C. 348. Change of grade not a taking of land. 68 C. 72; 72 C. 275; 77 C. 438. Change of grade in sidewalk. 71 C. 652; 94 C. 154. Adjoining owner may recover damage from change of grade probable when he built. 71 C. 652. City liable for damages from change of grade made under order of railroad commissioners. 72 C. 283. Damages measured by diminution in value of party's land, regardless of the quantity of his interest. Id., 292. No liability at common law. 73 C. 37. Liability of town under Good Roads Act. 75 C. 192. Purchase of land after change ordered does not preclude right to damages. 76 C. 278. Determination of special benefits; what they are. Id.; 85 C. 255; 89 C. 343. Removal of grade crossing not change of grade. 77 C. 494. Change of grade of highway in 1896 does not prevent recovery for change of grade of sidewalk in 1914 to conform to street grade. 94 C. 154. Life tenant and remainderman each has separate interests and may sue separately or join as parties plaintiff. 104 C. 458. Except as modified by statute, there is no liability upon a municipality for changes in surface of land taken for highway purposes. 113 C. 659. Where grade changed, damages are recoverable for destruction of shade trees within highway limits; but not where no material change of grade. 115 C. 611. Property owner entitled to recover only excess of damages suffered above amount of special benefits actually received. Id., 629. Cited. 117 C. 501. The general rule that damages can be awarded for future changes in use of land taken for a highway is qualified so far as statute permits recovery for subsequent changes of grade when they are made. 127 C. 459.

Town, not state, liable for special damages resulting from change of grade. 8 CS 447; 11 CS 391. Cited. Id., 429.

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Sec. 13a-83. Assessment of benefits by municipalities. The proper authorities of any city or borough and the selectmen of any town, unless otherwise provided in its charter, may assess, or cause to be assessed, the benefits accruing to any person by the layout, grading or alteration of any highway therein, upon giving written notice to the parties to be benefited of the time and place of meeting therefor, and order such benefits to be paid by the parties assessed, respectively, to the town, city or borough, as the case may be, within such time as they appoint. Such benefits may be collected in the same manner as town taxes are collected.

(1949 Rev., S. 2145; 1958 Rev., S. 13-29; 1959, P.A. 674, S. 2; 1963, P.A. 226, S. 83.)

History: 1959 act added towns to the purview of this section; 1963 act replaced previous provisions: See title history.

Landowner's special and local benefits from public improvements to be deducted from his damages. 23 C. 189; 32 C. 475. Assessment for benefits must be joint or several as the landed interest assessed is joint or several. 60 C. 112. Does not apply to removal of grade crossing by order of railroad commissioners. 77 C. 500.

Cited. 11 CS 429.

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Sec. 13a-84. Ascertainment of damages or benefits. Remonstrance. If the selectmen of any town and any person interested in the layout, opening, grading or alteration of any highway or private way in such town cannot agree as to the damages sustained by, or the benefits accruing to, such person thereby, the selectmen shall apply to any judge of the Superior Court who, having caused reasonable notice to be given to the parties interested, shall appoint a committee of three disinterested electors to estimate and assess each person injured or benefited the damages sustained by or the benefits accruing to such person by such layout, opening, grading or alteration of such way. Such committee, having thereupon given at least ten days' notice to the parties interested of the time and place of its meeting, shall, under oath, make such estimate and assessment and immediately report its actions to the superior court in the judicial district in which the land is situated. Notice of the time and place of the meeting of such committee may be given to the parties interested, if they are residents of the state, personally, or by leaving written notices at their respective places of abode, or by depositing in the post office, postage paid, notices addressed to them respectively; or, if they are nonresidents, by like notice to the person having charge of the land. Any person interested in such estimate or assessment may appear before said court and remonstrate against the acceptance of such report for any irregularity or improper conduct; and thereupon the same proceedings shall be had by said court in accepting or rejecting such report, and in ordering a jury to reassess the damages and benefits, or either, as provided in the case of applications brought to said court against towns for the layout or alteration of highways; and such jury, and the court in acting upon the report of such jury, shall proceed as in the case of such applications.

(1949 Rev., S. 2146; 1958 Rev., S. 13-30; 1963, P.A. 226, S. 84; P.A. 78-280, S. 2, 127; P.A. 03-115, S. 29.)

History: 1963 act replaced previous provisions: See title history; P.A. 78-280 substituted "judicial district" for "county"; P.A. 03-115 made technical changes.

See Sec. 7-142 re appeal from municipal assessments.

See Sec. 13a-64 re jury's reestimate of damages and benefits entered in committee's report on laying out or altering of highway.

See Sec. 13a-68 re limitations on assessment of benefits.

State property not assessable for public improvement, unless by special legislative provision. 50 C. 89. Selectmen may submit to arbitration damage to adjoining owner from change of grade. 64 C. 88. Elements of damage to land from change of grade. 66 C. 320. Landowner cannot sue for damage from change of grade till he and selectmen have failed to agree, and latter have refused, or unreasonably neglected, to apply for committee. 73 C. 351, but see 94 C. 155; 104 C. 453. For rule of damages for layout of a highway through private lands, see 93 C. 88. Only property owner can apply for jury. 85 C. 1.

In action by selectmen, costs are taxed to applicant for jury only if the jury increases damages or diminishes the assessment benefits. 9 CS 458. Cited. 11 CS 429. Selectmen proceeding under section must have the authorization of the town meeting for the alteration of existing highways. 27 CS 469.

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Sec. 13a-85. Assessment on private property, when collectible. When any assessment has been laid by any town, city, borough or other municipal corporation upon private property benefited by any public work or improvement, for the expense of such public work or improvement, or for benefits accruing therefrom, and a certificate of lien upon such property has been lodged for record with the town clerk, neither the principal of such assessment nor any interest thereon shall be collectible by such municipality until such public work or improvement has been completed and the fact of such completion recorded on the record books of such municipality by order of the board or officers by whom such work or improvement was ordered.

(1949 Rev., S. 2144; 1958 Rev., S. 13-28; 1963, P.A. 226, S. 85.)

History: 1963 act replaced previous provisions: See title history.

See Sec. 7-140 re consideration of assessment as lien.

No interest collectible on assessments for benefits without special statutory authority; section gives none. 67 C. 162. Section does not apply to highways laid out by Superior Court. 69 C. 42. Effect as applied to city having special charter. 85 C. 555. Personal obligation for assessment cannot be enforced against one who purchased subsequent to date lien attached. 132 C. 556.

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Sec. 13a-85a. Acquisition of land adjacent to state highways for preservation and enhancement of scenic beauty and development of rest and recreation areas. The Commissioner of Transportation may acquire in the name of the state by purchase or condemnation, in the same manner and with like powers as authorized and exercised by said commissioner in acquiring real property for state highway purposes, and may accept gifts of interests in strips of land for the improvement of such strips of land necessary for the preservation, restoration and enhancement of scenic beauty adjacent to state highways, and may acquire land in the manner stated above to develop such controlled rest and recreation areas and sanitary and other facilities within or adjacent to state highway rights-of-way as are reasonably necessary to accommodate the traveling public. Said commissioner shall promulgate regulations to carry out the provisions of this section, which regulations shall not be less restrictive than the standards promulgated and from time to time amended by the Federal Highway Administrator in respect to federal aid highways.

(February, 1965, P.A. 445; 1967, P.A. 564, S. 1; 1969, P.A. 768, S. 86.)

History: 1967 act allowed land acquisition by condemnation, reversing previous provision, allowed land acquisition for development of rest and recreation areas, sanitary and other facilities to accommodate the traveling public and deleted provision prohibiting acquisition or regulations of land strips zoned for industrial or commercial use under local ordinances; 1969 act substituted commissioner of transportation for highway commissioner.

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Sec. 13a-85b. Acquisition of properties situated in right-of-way for limited access highway from Danbury to Norwalk. Should any properties situated within the existing right-of-way acquired for potential use as a limited access highway from Danbury to Norwalk which are not currently owned by the Department of Transportation be offered for sale to the state, the Commissioner of Transportation may, within available funds, acquire said properties upon terms and conditions which are equitable to both the property owner and the state. The commissioner may, within available funds, acquire any properties not currently owned by the Department of Transportation that are situated within such right-of-way when such properties come onto the market for sale and if such purchase would (1) alleviate particular hardship to a property owner, on his request, in contrast to others because of an inability to sell his property; or (2) prevent imminent development and increased costs of a parcel which would tend to limit the choice of highway alternatives.

(P.A. 93-307, S. 10, 34; P.A. 97-236, S. 22, 27; P.A. 09-186, S. 3.)

History: P.A. 93-307 effective June 29, 1993; P.A. 97-236 amended Subsec. (b) to replace provisions re transportation analysis for Route 11 corridor from Route 82 in Salem to I-95 in Waterford with provision prohibiting commissioner from selling or using in any manner incompatible with transportation purposes, any property currently under his control in Danbury adjacent to Route 7 and south of Wooster Heights Road; P.A. 09-186 deleted prohibition on sale or use of right-of-way acquired for potential use as Route 7 from Danbury to Norwalk, deleted former Subsec. (b) prohibiting sale or incompatible use of property under commissioner's

control in Danbury adjacent to Route 7 and south of Wooster Heights Road and made conforming changes, effective July 1, 2009.

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Sec. 13a-85c. Sale, lease, conveyance or other disposition of excess property obtained in connection with the Route 6 Expressway. Section 13a-85c is repealed, effective July 1, 2013.

(S.A. 07-11, S. 31; S.A. 08-8, S. 2; P.A. 13-277, S. 81.)

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## PART V

### CONSTRUCTION AND MAINTENANCE

Sec. 13a-86. Construction of bridges; cost; width. The commissioner may construct or reconstruct any bridge on any highway maintained by him when, in his opinion, public convenience and necessity so require. Any bridge constructed or reconstructed on any such highway with two or more lanes shall have a clear width of roadway of not less than twenty-eight feet exclusive of the width of any sidewalk, unless in the judgment of the commissioner a lesser width is warranted. The provisions of this section shall not apply to the construction or reconstruction of any bridge on any highway maintained by a municipality.

(1949 Rev., S. 2270; 1958 Rev., S. 13-125(b); 1963, P.A. 226, S. 86; P.A. 73-675, S. 12, 44; P.A. 75-568, S. 8, 45; P.A. 88-16; P.A. 96-222, S. 2.)

History: 1963 act replaced previous provisions: See title history; P.A. 73-675 substituted transportation fund for highway fund; P.A. 75-568 deleted provision that cost of work be paid from transportation fund; P.A. 88-16 amended section to apply to any bridge or highway with two or more lanes and provided the commissioner with the discretion to reduce the width of the constructed or reconstructed bridge; P.A. 96-222 made provisions of section inapplicable to construction or reconstruction of bridges on local highways.

See Sec. 13a-88 re load capacity of bridges.

See Sec. 13a-89 re appeals concerning posted weight restrictions.

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Sec. 13a-86a. Geometric design standards for bridges, exceptions. Factors re bridge rehabilitation or new construction. Development or construction of projects by municipal governments. Immunity from liability. (a) In the event site conditions, environmental factors, engineering factors or considerations of community standards and custom would reasonably allow for a departure from the standards for geometric design with respect to bridges established by the American Association of State Highway and Transportation Officials or by the Department of Transportation, the department may approve exceptions to such standards without waivers.

(b) In choosing between the rehabilitation of an existing bridge and the construction of a new bridge, whether on the existing location or on a new location, the department and any affected municipality shall weigh the following factors: (1) The functional classification of the highway; (2) the load capacity and geometric constraints of the bridge within its existing footprint and the availability of alternative routes; (3) the comparative long-term costs, risks and benefits of rehabilitation and new construction; (4) the requirements of state standards for geometric design; (5) disruption to homes and businesses; (6) environmental impacts; (7) the

potential effects on the local and state economies; (8) cost-effectiveness; (9) mobility; (10) safety, as determined by factors such as accident history for motorists, pedestrians and bicyclists; and (11) the impact on the historic, scenic and aesthetic values of the municipality in which the bridge is or may be located.

(c) The department shall implement policies and programs to allow municipal governments to develop projects or construct projects, or both, in consultation with the department, in accordance with federal laws and regulations if federal funds are used.

(d) The state or a municipality, any state or municipal agency or any employee thereof or any engineer retained in connection with a bridge project shall not be liable for any injury or damage to any person or property caused by the selection of design standards that enable an existing bridge, which was initially constructed not less than twenty-five years prior to October 1, 1997, to be repaired or rehabilitated in substantially the same configuration that existed before such repair or rehabilitation, provided nothing in this subsection shall be construed to relieve the state, any municipality or any person from liability under section 13a-144 or 13a-149 arising out of structural or design defects in any such bridge or negligence in the maintenance, repair or rehabilitation of any such bridge.

(P.A. 97-214, S. 1.)

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Sec. 13a-87. Maintenance of bridges by commissioner. The commissioner shall maintain each bridge on any highway maintained by him, except as otherwise specifically provided by law. Such maintenance shall include the preservation, restoration or replacement of any or all parts of the structure as may be necessary to permit it to be used with safety by the traveling public, subject to such restrictions as may be provided by law, and the use of electric current and the servicing and repair necessary to keep in operation any system of lighting installed on any bridge in accordance with the provisions of subsection (b) of section 13a-110.

(1949 Rev., S. 2269; 1958 Rev., S. 13-125(a); 1963, P.A. 226, S. 87; P.A. 73-675, S. 13, 44; P.A. 75-568, S. 9, 45.)

History: 1963 act replaced previous provisions: See title history; P.A. 73-675 substituted transportation fund for highway fund; P.A. 75-568 deleted provision that payment of maintenance cost be made from transportation fund.

Where state takes over existing highway, it assumes responsibility for its use and maintenance for all purposes incident to vehicular traffic, and it leaves undisturbed existing responsibility of municipalities for sidewalks. 136 C. 346.

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Sec. 13a-88. Load capacity. Each highway bridge existing on July 1, 1921, maintained in whole or in part by the state, shall be so maintained as to permit the safe passage of a two-axle vehicle having a gross weight of not less than eight tons, and each bridge constructed thereafter shall be so built and maintained as to permit the safe passage of a two-axle vehicle having a gross weight of not less than sixteen tons or a three-axle vehicle having a gross weight of not less than twenty tons, provided each bridge constructed by the commissioner on a state highway after July 1, 1955, shall be so built and maintained as to permit the safe passage of any vehicle or combination of vehicle and trailer or semitrailer or any other object not exceeding the weights specified in section 14-267a.

(1949 Rev., S. 2185; 1955, S. 1188d; 1958 Rev., S. 13-72; 1963, P.A. 226, S. 88; P.A. 79-188, S. 2, 10.)

History: 1963 act replaced previous provisions: See title history; P.A. 79-188 substituted reference to Sec. 14-267a for reference to repealed Sec. 14-268.

See Sec. 13a-121 re notice of load capacity and appeals concerning weight restrictions.

See Sec. 13a-151 re violations of bridge load capacity.

Cited. 121 C. 613.

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Sec. 13a-89. Appeal to commissioner from posted weight restriction. Any person may appeal to the commissioner from the restriction of the use of any bridge imposed by the posting of a maximum weight notice as provided in section 13a-121. Upon such appeal the commissioner shall inspect such bridge and may, after due notice thereof to all parties in interest and hearing thereon, order the authority having control of such bridge to increase its capacity to such extent as he finds public convenience and necessity require. If such authority fails to make such repairs or reconstruction as are necessary so to increase the capacity of such bridge within sixty days after receiving notice from the commissioner to do so, the commissioner may so repair or reconstruct such bridge and the authority having control of such bridge shall be liable for the cost of such repair or reconstruction.

(1949 Rev., S. 2187; 1958 Rev., S. 13-74; 1963, P.A. 226, S. 89.)

History: 1963 act replaced previous provisions: See title history.

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Sec. 13a-90. Bridge over artificial watercourse. Any bridge or passageway over any artificial watercourse, located on a highway which it is the duty of the commissioner to maintain, constructed before May 10, 1957, shall be maintained by the person owning or controlling such watercourse. If any highway which it is the duty of the commissioner to maintain is to be constructed, reconstructed or relocated, and a bridge or passageway over any artificial watercourse on such highway requires expansion, relocation or reconstruction, the cost of such expansion, relocation or reconstruction shall be borne by the state and thereafter such structure shall be maintained by the commissioner.

(1949 Rev., S. 2200; 1951, S. 1192d; 1957, P.A. 211, S. 2; 1958 Rev., S. 13-86; 1963, P.A. 226, S. 90.)

History: 1963 act replaced previous provisions: See title history.

See Sec. 13a-101 re bridges over artificial watercourses not maintained by Transportation Commissioner.

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Sec. 13a-91. Sidewalks on bridges. (a) The commissioner may cause to be constructed or reconstructed a sidewalk on any bridge or approaches to any bridge on any state highway when in his opinion public safety so requires. Except as provided in subsection (b), all sidewalks on bridges or approaches to bridges maintained by the commissioner shall be maintained by said commissioner, and such maintenance shall include responsibility for the removal of snow and ice from such sidewalks. As used herein, "approaches" includes the highway adjoining such bridge to the next side road or to a point where access may be attained by the adjoining property owner, whichever distance is less.

(b) In the case of any footpath or sidewalk constructed or reconstructed in accordance with section 2242 of the general statutes, revision of 1949, by agreement between the commissioner and the authorized official or officials of a town, city, borough, consolidated town and city or consolidated town and borough, which footpath or sidewalk is maintained by the commissioner, the removal of snow and ice therefrom shall be the responsibility of the town, city, borough, consolidated town and city or consolidated town and borough.

(1949 Rev., S. 2242; 1955, S. 1202d; 1958 Rev., S. 13-125 (a), (c); 1963, P.A. 226, S. 91; 548; P.A. 73-675, S. 14, 44; P.A. 75-568, S. 10, 45.)

History: 1963 acts added definition of approaches in Subsec. (a) and restated provisions: See title history; P.A. 73-675 substituted transportation fund for highway fund(s); P.A. 75-568 deleted references to payment of costs from transportation fund.

See Sec. 13a-144 re damages for injuries sustained on state highways or sidewalks.

Cited. 124 C. 677. Town not responsible for snow removal where state had not constructed walk on shoulders used by public as path. 130 C. 88. Cited. 135 C. 621.

Cited. 44 CA 651.

Cited. 8 CS 450. Complaint in action against highway commissioner for defective sidewalk demurrable where no allegation it was constructed entirely from trunk line funds. 19 CS 101. Cited. 44 CS 389.

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Sec. 13a-92. Sidewalks on bridges at Thompsonville and Warehouse Point. The sidewalks on the bridges across the Connecticut River at Thompsonville and Warehouse Point shall be maintained by the commissioner.

(1949 Rev., S. 2243; 1958 Rev., S. 13-126; 1963, P.A. 226, S. 92.)

History: 1963 act replaced previous provisions: See title history.

Cited. 44 CA 651.

Cited. 44 CS 389.

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Sec. 13a-93. Snow removal from state highways. The commissioner shall remove the snow from the traveled portions of any completed state highway when the accumulation thereof renders such highway unsafe for public travel.

(1949 Rev., S. 2262; 1958 Rev., S. 13-143; 1963, P.A. 226, S. 93; P.A. 85-246, S. 3.)

History: 1963 act replaced previous provisions: See title history; P.A. 85-246 deleted provision re street railway companies' responsibility for the removal of snow.

Cited. 130 C. 86; 162 C. 295.

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Sec. 13a-94. Construction over or adjacent to streams. (a) All structures to be built over, or structures or embankments to be built adjacent to, streams in connection with state highway projects shall conform (1) to the requirements of the Commissioner of Energy and Environmental Protection for sizes and location of waterways as determined by his policies for the establishment of river channel encroachment limits in accordance with sections 22a-342 to 22a-348, inclusive, (2) to any approved river corridor protection plan for a river corridor designated pursuant to section 25-205, and (3) any river corridor management plan approved pursuant to section 25-235.

(b) On any stream subject to flood control measures by the Commissioner of Energy and Environmental Protection over or adjacent to which such a highway may be constructed, the size of waterway for such bridges, structures or embankments shall be increased sufficiently beyond that required to comply with channel encroachment policies to avoid any reduction in the protection afforded by the flood control measures.

(c) Highway bridges in existence on June 21, 1961, crossing streams on which flood control projects are carried out shall be rebuilt or modified by the Commissioner of Transportation to meet the requirements of the flood control plan.

(d) In connection with highway improvement projects initiated by the commissioner, the entire cost of new or modified existing structures over, or structures or embankments adjacent to, streams designed to comply with river channel encroachment requirements as specified in subsection (a) of this section may be paid from regular highway construction appropriations, and any additional costs required to provide structures meeting the needs of flood control measures above that required to comply with river channel encroachment policies shall be paid from the other appropriations provided for such flood control purposes.

(1961, P.A. 531; 1963, P.A. 226, S. 94; February, 1965, P.A. 574, S. 13; 1969, P.A. 768, S. 87; 1971, P.A. 872, S. 445; P.A. 73-675, S. 15, 16, 44; P.A. 75-568, S. 11, 12, 45; P.A. 94-150, S. 11; P.A. 95-333, S. 10; P.A. 11-80, S. 1.)

History: 1963 act replaced previous provisions: See title history; 1965 act corrected obsolete statutory reference in Subsec. (a); 1969 act substituted commissioner of transportation for highway commissioner; 1971 act substituted commissioner of environmental protection for water resources commission; P.A. 73-675 substituted transportation fund for highway fund; P.A. 75-568 deleted reference to payment of costs from transportation fund in Subsec. (c) and in Subsec. (d) replaced reference to transportation fund with reference to “regular highway construction appropriations” and reference to general fund with reference to “other appropriations provided for such flood control purposes”; P.A. 94-150 amended Subsec. (a) to add provision requiring compliance with river corridor protection plans; P.A. 95-333 amended Subsec. (a) to require structures to conform to river corridor management plans approved under Sec. 25-235; (Revisor's Note: In 1999 a reference in Subsec. (a) to Sec. “23-235” was changed editorially by the Revisors to Sec. “25-235” to correct a clerical error); pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsecs. (a) and (b), effective July 1, 2011.

See Sec. 25-210 re compliance with river protection plans.

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Sec. 13a-95. Submission of bids on state highway construction. The commissioner may, at any time, call for bids to construct, alter, reconstruct, improve, relocate, widen or change the grade of sections of state highways or bridges. All bids shall be submitted on forms provided by the commissioner and shall comply with the rules and regulations provided in the bid specifications. The commissioner shall state the amount of the bond which shall accompany each bid and shall name the place where bids shall be received and the time and place for opening the same. Each bid shall be accompanied by a surety company bond satisfactory to the commissioner and in such sum as the commissioner determines, and shall be so conditioned that, if the contract is awarded to the bidder, such bidder shall, when required by the commissioner, execute an agreement in writing, to be prepared by said commissioner, with such bond as shall be acceptable to the commissioner, conditioned as provided in section 49-41. The commissioner may reject any and all bids if, in the commissioner's opinion, cause exists therefor; but otherwise the commissioner shall award the contract to the lowest bidder deemed to be responsible. The successful bidder shall give evidence satisfactory to said commissioner of such bidder's ability to perform the contract. When such contract is executed by the commissioner and the successful bidder, a copy of the contract, with an estimate of the cost of the work, shall be immediately filed with the commissioner.

(1949 Rev., S. 2229; March, 1958, P.A. 27, S. 37; 1958 Rev., S. 13-106; 1963, P.A. 226, S. 95; P.A. 03-115, S. 30.)

History: 1963 act replaced previous provisions: See title history; P.A. 03-115 made technical changes.

Statements made by director of engineering were within scope of his authority. 138 C. 334.

Cited. 8 CS 405; 18 CS 262. Where two alternate bids were submitted in accordance with advertised invitations to bid by highway commissioner, he could select lowest bid submitted on the alternate he chose, despite fact plaintiff submitted lowest bid of any received on the other alternate. 19 CS 491.

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Sec. 13a-95a. Award of contracts to certain small business concerns and minority business enterprises. The Commissioner of Transportation may, in the performance of his duties under this title and title 13b and notwithstanding the provisions of any general statute to the contrary, award contracts in a total amount not in excess of fifteen million dollars and not in excess of five million dollars per firm for any fiscal year, bidding for which shall be limited to (1) "small business concerns owned and controlled by socially and economically disadvantaged individuals" as defined in the federal Small Business Act, 94 Stat. 2321 (1980) 15 USC 637, and (2) minority business enterprises, as defined in section 4a-60g. The commissioner may expend an amount not in excess of three hundred thousand dollars in any fiscal year for the purpose of assisting such concerns in bidding on such contracts. Such assistance shall include, but not be limited to, advice concerning bonding, legal requirements of proper bidding, bid documents, accounting requirements and other matters that will enable such concerns to file a proper bid.

(P.A. 84-412, S. 1, 8; P.A. 93-322; 93-435, S. 86, 95.)

History: P.A. 93-322 increased the contract amount which the commissioner of transportation could award from an amount not in excess of \$5,000,000 per firm to a total amount not in excess of \$15,000,000 and not in excess of \$5,000,000 "per firm" for any fiscal year, and authorized bids by businesses having controlling interest owned by persons with disabilities and by minority business enterprises; P.A. 93-435 amended the section by deleting unnecessary language in Subdiv. (2), effective June 28, 1993; (Revisor's note: In 2003 a reference to "titles 13a and 13b" was changed editorially by the Revisors to "this title and title 13b").

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Sec. 13a-95b. Designation of projects using construction-manager-at-risk or design-build contracts. (a) The Commissioner of Transportation may, as an alternative to using a design-bid-build contract, designate specific projects to be completed using a (1) construction-manager-at-risk contract with a guaranteed maximum price, or (2) design-build contract.

(b) If the commissioner designates a project to use a construction-manager-at-risk contract with a guaranteed maximum price, the commissioner may have the project designed by department personnel or enter into a contract with an architect or engineer for the project design, and may also enter into a contract with a construction-manager-at-risk contractor who will provide input during the design process and may be responsible for the construction of the project. The commissioner may permit the contractor to self-perform a portion of the construction work if the commissioner determines that the construction manager general contractor can perform the work more cost-effectively than a subcontractor. All work not performed by the construction manager general contractor shall be performed by trade subcontractors selected by a process approved by the commissioner. The construction-manager-at-risk contract shall have an established guaranteed maximum price. In the event that a guaranteed maximum price cannot be agreed upon, the commissioner may elect to call for bids on the project as provided for pursuant to section 13a-95. The commissioner may select the architect, engineer or contractor from among the contractors selected and recommended by a selection panel. Any such contract for such project shall be based upon competitive proposals received by the commissioner, who shall give notice of the project, by advertising on the Department of Administrative Services State

Contracting Portal, or use other advertising methods likely to reach qualified construction manager general contractors. Award of any such contract shall be based upon the general conditions and staff costs plus qualitative criteria. The commissioner shall establish all criteria, requirements and conditions of such proposals and award and shall have sole responsibility for all other aspects of the project. Any contract shall clearly state the responsibilities of the contractor to deliver a completed and acceptable project on a date certain, the maximum cost of the project, and, if applicable, as a separate item, the cost of property acquisition.

(c) If the commissioner designates a project to use a design-build contract, the commissioner may enter into a single contract with the design-builder, who the commissioner may select from among the design-builders selected and recommended by a selection panel. The contract shall (1) include, but not be limited to, such project elements as site acquisition, permitting, engineering design and construction, and (2) be based on competitive proposals received by the commissioner, who shall give notice of the project and specifications for the project, by advertising on the Department of Administrative Services State Contracting Portal, and may use other advertising methods likely to reach qualified design-build contractors. Award of the design-build contract shall be based on a predetermined metric provided to proposers in advance of technical proposal development. This metric may be unique to each project, but shall consist of a combined score of qualifications and past performance of the proposer, technical merit of the proposal and cost. The commissioner shall establish a selection panel for each project to score the qualifications and past performance and technical portion of the proposal using the predefined scoring metric. The sealed cost portion of the proposal shall be opened in a public ceremony only after the qualifications and past performance and technical portions of the proposals have been scored. The commissioner shall determine all criteria, requirements and conditions for such proposals and award and shall have sole responsibility for all other aspects of the contract. Such contract shall state clearly the responsibilities of the design-builder to deliver a completed and acceptable project on a date certain, the maximum cost of the project, and, if applicable, as a separate item, the cost of property acquisition.

(P.A. 12-70, S. 1; P.A. 13-277, S. 14; June Sp. Sess. P.A. 15-5, S. 159; P.A. 17-230, S. 2.)

History: P.A. 12-70 effective June 6, 2012; P.A. 13-277 amended Subsec. (a) to delete “pursuant to this chapter”, effective July 1, 2013; June Sp. Sess. P.A. 15-5 amended Subsec. (b) to allow project to be designed by department personnel, to permit the contractor to self-perform a portion of the work and to allow for bids where a guaranteed maximum price cannot be agreed upon and amended Subsecs. (b) and (c) to allow notice of projects to be posted on Department of Administrative Services State Contracting Portal or through other advertising methods, effective June 30, 2015; P.A. 17-230 amended Subsecs. (b) and (c) by deleting provisions re notice of projects to be advertised in a newspaper.

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Sec. 13a-95c. Commissioner's duties re construction-manager-at-risk and design-build contracts. Use of department employees and consultants. (a) For any contract entered into pursuant to section 13a-95b, the Commissioner of Transportation shall: (1) Perform project development services. Such services may include, but need not be limited to, the size, type and desired design character of the project, performance specifications, quality of materials, equipment, workmanship, preliminary plans or any other information necessary for the department to issue a request for proposals, and (2) perform oversight of projects and provide inspection services, which shall include, but need not be limited to, inspection of construction, surveying, testing, monitoring of environmental compliance, quality control inspection and quality assurance audits.

(b) (1) After the first two projects performed with contracts authorized pursuant to section 13a-95b, the Commissioner of Transportation shall perform all development and inspection work, as described in subsection (a) of this section, using department employees. The commissioner may utilize consultants to perform the design of the project, if the commissioner determines, after conducting an assessment of project delivery schedule, staffing capacity and the technical expertise required, that the department lacks the capacity and technical expertise required to perform the design of a project designated to be constructed by a construction-manager-at-risk. For projects designated to be constructed using the design-build contracting method, the responsibility to

perform detailed design work shall remain with the contractor. The Commissioner of Administrative Services shall place the positions required for this work on continuous recruitment pursuant to the provisions of section 5-216. In addition, employees may be appointed to durational positions to reduce the need for inspection or development work to be performed by consultants. Such employees may be appointed as engineers if they have met the education, knowledge and training requirements required by the Department of Administrative Services job classification to durational positions without examination to reduce the need for inspection or development work to be performed by consultants. Any contract entered into with a consultant for the initial project bid in accordance with section 13a-95b shall contain a provision that provides for training the employees of the Department of Transportation in the process for bidding and managing projects entered into in accordance with section 13a-95b.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, the Commissioner of Transportation may authorize the continued use of consultants if necessary to complete contracts authorized pursuant to section 13a-95b. The commissioner shall make all reasonable efforts to perform development and inspection work as described in subsection (a) of this section using, where such employees are available, department employees and reducing, and where possible eliminating, the dependency on outside consultants. The commissioner shall establish a program to train department employees to support alternative project delivery methods. Such training program may be provided in projects utilizing consultants, as provided for in this section. The commissioner shall report, on or before October first annually, to the Governor of the progress made in training employees in alternative project delivery methods, improving the diversity of technical expertise of employees and building internal project delivery capacity.

(P.A. 12-70, S. 2; June Sp. Sess. P.A. 15-5, S. 160; P.A. 21-175, S. 6.)

History: P.A. 12-70 effective June 6, 2012; June Sp. Sess. P.A. 15-5 amended Subsec. (b)(1) to allow use of consultants for design in certain circumstances, amended Subsec. (b)(2) to require a program to train department employees to support alternative project delivery methods and change deadline for use of consultants from the earlier of the date the Governor certifies consultants are no longer needed or January 1, 2019, to January 1, 2022, unless the Governor certifies that the use of consultants is necessary, which shall extend the deadline to January 1, 2025, and made technical changes, effective June 30, 2015; P.A. 21-175 amended Subsec. (b)(2) to delete references to transition period and to delete provision re termination dates re continued use of consultants, effective July 12, 2021.

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Sec. 13a-96. Payment to contractor under highway contract. The commissioner shall pay any sum due any contractor under any contract awarded by him not later than sixty days after its completion and acceptance. After such sixty-day period, interest shall begin to run in favor of the contractor at the rate of six per cent per annum on the unpaid balance.

(1953, S. 1187d; 1958 Rev., S. 13-70; 1963, P.A. 226, S. 96.)

History: 1963 act replaced previous provisions: See title history.

Cited. 217 C. 281.

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Sec. 13a-97. Agreement for town maintenance of state highways. The commissioner and the selectmen of any town, or any other officer thereof having charge of the highways therein, may enter into an agreement, in writing, whereby a designated section of a state highway, other than a limited access highway, shall be maintained in whole or in part by such town, provided the parties may agree on an amount per mile which the

town shall be reimbursed by the commissioner for such maintenance. The agreement shall describe the sections to be so maintained, the type of maintenance and the basis for reimbursement agreed upon, and a copy thereof shall be recorded in the office of the town clerk of the town in which the road lies within twenty days after the date of execution of such agreement. Such agreement shall operate to transfer liability for failure to discharge any statutory duty of the commissioner.

(1961, P.A. 603, S. 10; 1963, P.A. 226, S. 97; 585.)

History: 1963 acts added provision re transfer of liability for failure to discharge statutory duty of commissioner via agreement and provisions re partial maintenance and reimbursement on a per mile rather than cost basis and restated provisions: See title history.

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Sec. 13a-97a. Improvement of state highways by towns in conjunction with redevelopment or utility improvements. The commissioner may enter into an agreement with any town to permit such town to improve a state highway or bridge in conjunction with a redevelopment project or a utility improvement, in conformance with the applicable geometric highway design standards as established by said commissioner, provided the expense occasioned thereby shall be paid by the town.

(February, 1965, P.A. 431.)

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Sec. 13a-97b. Adopt a highway program. Regulations. Not later than July 1, 1996, the Commissioner of Transportation shall adopt regulations in accordance with the provisions of chapter 54 to establish an “adopt a highway program” which will permit business organizations and nonprofit community organizations to participate in litter control and beautification activities on all state highways and to receive recognition for their participation in such activities.

(P.A. 95-241, S. 1, 2; P.A. 96-222, S. 33, 41.)

History: P.A. 95-241 effective July 6, 1995; P.A. 96-222 substituted July 1, 1996, for March 1, 1996, as deadline for adoption of regulations and expanded program to all state highways in lieu of those designated by the commissioner, effective June 4, 1996.

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Sec. 13a-97c. Contracts for repair, improvement and maintenance work on limited access highways or concerning adopt a highway programs. The Commissioner of Transportation may enter into contracts for repair, improvement and maintenance work on any limited access highway, or concerning any adopt a highway program, excluding the Merritt Parkway.

(P.A. 99-181, S. 24; P.A. 00-148, S. 21.)

History: (Revisor's note: In codifying public act 99-181 a reference to “Adopt-A-Highway Program” was changed editorially by the Revisors to “adopt a highway program” for consistency); P.A. 00-148 made a technical change.

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Sec. 13a-97d. Required provision on sewer and utility service grates in certain highway project bids and contracts. Notwithstanding any provision of the general statutes or any public or special act, charter or ordinance, the Commissioner of Transportation, or the chief executive officer of the municipality in the case of a municipal project, shall, on and after October 1, 2020:

(1) Require each bid requested for a project to pave, repave or repair a highway that is financed in whole or in part with state funds to include a provision that all sewer grates and utility service grates in such highway be made reasonably flush with the surface of such highway on completion of the project; and

(2) Require each contract entered into as a result of such request for bids to include such a provision.

(P.A. 20-1, S. 88.)

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Sec. 13a-97e. Annual report re certain highway project bids and contracts and installation of wrong-way signs. Not later than January 1, 2021, and annually thereafter, the Commissioner of Transportation shall submit a report on compliance with the bidding and contract provisions of section 13a-97d, and the installation of wrong-way signs, as described in subdivision (13) of subsection (a) of section 40 of public act 20-1\*, including the number of signs purchased, the location of their installation and any data regarding their effectiveness in reducing motor vehicle accidents, in accordance with the provisions of section 11-4a, to the (1) joint standing committees of the General Assembly having cognizance of matters relating to transportation and finance, revenue and bonding, and (2) transportation bonding subcommittee of the joint standing committee of the General Assembly having cognizance of matters relating to finance, revenue and bonding.

(P.A. 20-1, S. 89.)

\*Note: Section 40 of public act 20-1 is special in nature and therefore has not been codified but remains in full force and effect according to its terms.

History: P.A. 20-1 effective March 12, 2020.

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Sec. 13a-98. Authority for additional construction; reimbursement by party requesting. The commissioner shall have authority to build, or to enter into an agreement and issue a permit to build, if requested to do so, such additional section or part of a state highway or bridge as he may approve, provided the expense occasioned the state thereby shall be paid to the State Treasurer by the person requesting such additional construction on certification from the commissioner. If a permit is issued for such work, the permittee shall conform to such requirements and regulations as the commissioner may prescribe.

(1949 Rev., S. 2237; 1958 Rev., S. 13-118; 1963, P.A. 226, S. 98; 1967, P.A. 234.)

History: 1963 act replaced previous provisions: See title history; 1967 act added provision requiring permittee to conform to regulations prescribed by commissioner and reworded provisions for clarity and economy of expression.

Commissioner's agreement to construct new road sections to relieve traffic congestion upon completion by defendant of a special development district was sufficient evidence for town council to conclude traffic congestion would probably not result from such change in use. 159 C. 212.

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Sec. 13a-98a. Construction of frontage roads. When, in the judgment of the Commissioner of Transportation, a frontage road will assist in the proper operation of a limited access highway, said commissioner may agree with authorized officials of the town in which such frontage road is or is to be located to construct such frontage road from appropriations made to the Department of Transportation, provided the town shall agree to assume the maintenance, responsibility, authority, liability and jurisdiction over and accept title to such frontage road upon completion of its construction. "Frontage road" as used in this section means a road designed to furnish access to property which otherwise would be isolated as a result of the construction of a limited access highway, or to preserve local road circulation.

(February, 1965, P.A. 332, S. 1; 1969, P.A. 103, S. 1; 768, S. 88.)

History: 1969 acts redefined frontage road, required towns to accept title of frontage road upon its completion and substituted commissioner and department of transportation for highway commissioner and department.

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Sec. 13a-98b. Construction of urban arterial streets. For the purposes of this section, "urban arterial street" means a street which brings traffic to and from a limited access highway or serves major movements of traffic within or through a municipality not served by a limited access highway. When, in the judgment of the Commissioner of Transportation and in connection with the construction, reconstruction, improvement or widening of a limited access highway, an urban arterial street will assist in the proper operation and improvement of traffic service afforded by such limited access highway, said commissioner may agree with the authorized officials of the municipality in which such urban arterial street is located to construct, reconstruct, improve or widen such urban arterial street from appropriations made to the Department of Transportation, provided such municipality shall assume the maintenance, responsibility, authority, liability and jurisdiction over any new urban arterial street upon completion of its construction.

(1969, P.A. 709.)

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Secs. 13a-98c and 13a-98d. Extension of federal-aid primary and secondary systems into urban areas. Agreements with Secretary of Transportation and municipalities. Sections 13a-98c and 13a-98d are repealed.

(1969, P.A. 501, S. 1, 2, 4, 5; P.A. 73-425, S. 1, 2; P.A. 75-485, S. 7, 8.)

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Sec. 13a-98e. Acquisition of land and rights-of-way. The commissioner may acquire by purchase, gift or condemnation in the name of the state such real property or rights of access to and egress from land abutting any federal surface transportation urban program roadway or facility as is necessary to construct and maintain the improvements to any such roadway or facility in the same manner and with like powers as authorized and exercised by said commissioner in acquiring real property or rights of access to and egress from land abutting state highways for highway purposes.

(1969, P.A. 501, S. 6; 1971, P.A. 584, S. 5; P.A. 75-485, S. 5, 8; P.A. 94-188, S. 2, 30.)

History: 1971 act included rights of access and egress re federal-aid urban system; P.A. 75-485 deleted reference to extensions of federal-aid primary and secondary systems in urban areas; P.A. 94-188 replaced reference to "the federal-aid urban system" with reference to "any federal surface transportation urban program roadway or facility" and replaced reference to "extensions" with reference to "roadway or facility", effective June 2, 1994.

See Sec. 13a-98m for definition of “federal surface transportation urban program roadway or facility”.

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Sec. 13a-98f. Regulation of accommodation of utilities to federal surface transportation urban program roadways or facilities. Apportionment of cost of readjusting, relocating or removing facility necessitated by state highway project. The commissioner may adopt such regulations as are required by the United States Secretary of Transportation to regulate the satisfactory accommodation of utilities on a continuing basis to any federal surface transportation urban program roadway or facility. “Utility facilities or utilities” means and includes all privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, and other similar commodities, including fire and police signal systems and street lighting systems, which directly or indirectly serve the public or any part thereof. “Utility” means any person or private or public entity owning or operating utility facilities as defined in this section, including any wholly owned or controlled subsidiary. The municipality or the commissioner shall issue an appropriate order to any utility to readjust or relocate in or remove its utility facility at its own expense from any such federal surface transportation urban program roadway or facility as is deemed necessary by the municipality and by the commissioner, provided the cost of readjusting, relocating or removing any municipally-owned utility facility shall be apportioned on the same basis as the cost of constructing such roadway or facility, and provided further, the cost of readjusting, relocating or removing any other utility facility within, on, along, over or under any land comprising the right-of-way of a state highway or any other public highway when necessitated by the construction or reconstruction of a state highway shall be apportioned in accordance with the provisions of section 13a-126.

(1969, P.A. 501, S. 3; P.A. 74-118; P.A. 75-485, S. 6, 8; P.A. 77-203; 77-342, S. 2, 3; P.A. 78-331, S. 7, 58; P.A. 94-188, S. 3, 30.)

History: P.A. 74-118 substituted “utility facility owned or operated by a public entity” for “municipally-owned utility facility”; P.A. 75-485 substituted “federal-aid urban system” for “such extensions to the federal-aid primary and secondary systems”, substituted “shall” for “may” in provision re issuance of orders to relocate or remove utility facilities and restored reference to “municipally-owned” utility facilities; P.A. 77-203 allowed commissioner of transportation to issue order for relocation or removal of utility facility (also enacted by P.A. 77-342), included references to urban system in definition of “utility” and added provision re apportionment of cost of relocating or removing facilities other than municipally-owned facilities; P.A. 78-331 specified “United States Secretary of Transportation” to avoid any confusion with state transportation officials; P.A. 94-188 changed references to “commissioner of transportation” to “the commissioner”, changed “is authorized to promulgate” to “may adopt”, replaced references to “the federal-aid urban system” with references to “federal surface transportation urban program roadway or facility”, and inserted “cable television” after “communications”, effective June 2, 1994.

See Sec. 13a-98m for definition of “federal surface transportation urban program roadway or facility”.

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Secs. 13a-98g and 13a-98h. Federal aid urban system. Selection of routes to be included in system. Sections 13a-98g and 13a-98h are repealed.

(1971, P.A. 584, S. 1, 2; P.A. 75-485, S. 1, 2, 8; P.A. 94-188, S. 29.)

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Sec. 13a-98i. Agreements for acceptances and expenditure of funds. (a) The commissioner may enter into agreements for the acceptance and expenditure of funds concerning federal surface transportation urban program roadways or facilities and eligible federal surface transportation rural collector roadways or facilities with the United States Secretary of Transportation or local officials, or both, to develop plans and establish programs for, and construct improvements on or to such roadways or facilities using appropriations made to the Department of Transportation by the General Assembly and apportionments to the Department of Transportation by said Secretary of Transportation under the provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), all amendments thereto and all applicable federal regulations. Any municipality becoming a party to an agreement concerning such improvements on locally maintained roadways or facilities shall pay fifty per cent of that portion of the cost thereof, which is not paid by the federal government, including required studies, establishing programs, development of plans, engineering expenses, acquisition of rights-of-way, required municipally-owned utility work and construction activities, provided the municipality may pay up to the entire nonfederal government share on locally maintained roadways or facilities when the commissioner and municipality agree that this action is warranted, necessary and desirable in order to obtain federal funds. The state may pay fifty per cent of that portion of the cost thereof which is not paid by the federal government on locally maintained roadways or facilities and shall pay the entire portion not paid by the federal government on state maintained roadways or facilities.

(b) For locally maintained roadways or facilities, the commissioner and the municipality may agree upon alternate funding percentages.

(1971, P.A. 584, S. 3; P.A. 75-485, S. 3, 8; P.A. 77-342, S. 1, 3; P.A. 78-331, S. 8; P.A. 88-60, S. 1; P.A. 94-188, S. 4, 30; P.A. 99-181, S. 1, 40; P.A. 06-133, S. 10.)

History: P.A. 75-485 clarified provisions by replacing reference to acceptance and expenditures of funds as provided in Sec. 13a-98d with detailed provisions specifying sources of funds and apportionment of costs; P.A. 77-342 added proviso re municipality's payment of entire nonfederal share on locally-maintained routes; P.A. 78-331 specified U.S. Secretary of Transportation to avoid confusion with state transportation officials; P.A. 88-60 amended existing section to require municipalities to pay 50% of all municipally-owned utility work and construction activities on locally maintained routes and added Subsec. (b) to allow the commissioner to determine alternate funding percentages for project phases on locally-maintained routes; P.A. 94-188 replaced "said commissioner is authorized to" with "the commissioner may", replaced references to the "federal-aid urban system" with references to "federal surface transportation urban program roadways or facilities", replaced reference to federal Highway Act of 1973 with reference to Intermodal Surface Transportation Efficiency Act of 1991, replaced references to "routes" with references to "roadways or facilities", changed the language in Subsec. (b) to provide for agreement upon alternate funding percentages by the commissioner and the municipality rather than a determination of such percentages by the commissioner and the municipality, and to delete language concerning individual project phases and provision that the total cost to the municipality and state for all project phases combined would remain at the same percentage established pursuant to "this section", effective June 2, 1994; P.A. 99-181 amended Subsec. (a) by allowing the commissioner to enter into agreements for federal funding of rural collector roadways or facilities and by changing "Intermodal Surface Transportation Efficiency Act of 1991" to "Transportation Equity Act for the 21<sup>st</sup> Century", effective June 23, 1999; P.A. 06-133 amended Subsec. (a) to replace "Transportation Equity Act for the 21<sup>st</sup> Century" with "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)", effective June 6, 2006.

See Sec. 13a-98m for definition of "federal surface transportation urban program roadway or facility".

Cited. 198 C. 185.

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Sec. 13a-98j. Municipal and state responsibility for streets or roads in the urban program. The municipality shall continue to maintain any local street or road or portion thereof selected to be a federal surface transportation

urban program roadway. The state shall continue to maintain any state street or road or portion thereof selected to be a federal surface transportation urban program roadway. This maintenance responsibility shall not be construed to limit, restrict or derogate from any power, right or authority of the commissioner or the municipalities contained in any other statute.

(1971, P.A. 584, S. 4; P.A. 73-369; P.A. 75-485, S. 4, 8; P.A. 94-188, S. 5, 30.)

History: P.A. 73-369 added provision concerning state's continued maintenance of state streets and roads and clarified municipality's continued maintenance of "local" roads; P.A. 75-485 deleted provision re municipality's payments re federal-aid urban system project as provided in Sec. 13a-98d; P.A. 94-188 made the references to "streets or roads" singular and changed references to "the federal-aid urban system" to "federal surface transportation urban program roadway", effective June 2, 1994.

See Sec. 13a-98m for definition of "federal surface transportation urban program roadway or facility".

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Sec. 13a-98k. Use of program roadways or facilities by utility facilities or utilities. The use of federal surface transportation urban program roadways or facilities by "utility facilities or utilities", as defined in section 13a-98f, and any readjustment, relocation or removal thereof shall be subject to the provisions in said section 13a-98f.

(1971, P.A. 584, S. 6; P.A. 94-188, S. 6, 30.)

History: P.A. 94-188 deleted the reference to "the federal-aid urban system" and replaced it with a reference to "federal surface transportation urban program roadways or facilities", effective June 2, 1994.

See Sec. 13a-98m for definition of "federal surface transportation urban program roadway or facility".

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Sec. 13a-98l. Specifications to encourage use of recycled materials in projects. The Commissioner of Transportation shall revise the specifications for materials used for projects undertaken by the commissioner to encourage the use of recycled materials to the maximum extent possible consistent with public safety and economic feasibility.

(P.A. 89-386, S. 20, 24.)

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Sec. 13a-98m. Definition. As used in sections 13a-98e, 13a-98f and 13a-98i to 13a-98k, inclusive, "federal surface transportation urban program roadway or facility" means any state or locally maintained roadway or facility that is deemed eligible for surface transportation urban program funding in accordance with the Transportation Equity Act for the 21st Century, all amendments to said act and all applicable federal regulations.

(P.A. 94-188, S. 1, 30; P.A. 00-148, S. 5.)

History: P.A. 94-188 effective June 2, 1994; P.A. 00-148 replaced "Intermodal Surface Transportation Efficiency Act of 1991" with "Transportation Equity Act for the 21st Century" and made technical changes.

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Sec. 13a-98n. Local transportation capital program. (a) The Commissioner of Transportation shall establish a local transportation capital program to provide state funding, in lieu of specific federal funding available, to any municipality or local planning agency for transportation improvements to any state or locally maintained roadway or facility that is deemed eligible for federal surface transportation urban program funding.

(b) The commissioner may request the authorization of special tax obligation bonds of the state to establish such state funding. In the absence of state funding in any year, specific and eligible federal transportation funding shall remain available. Such bonds shall mature at such time or times not exceeding twenty years from their respective dates as may be provided in or pursuant to the resolution or resolutions of the State Bond Commission authorizing such bonds.

(c) The Department of Transportation shall accept applications for such state funding from any eligible recipient, based on project priorities, through the appropriate regional council of governments. Any such state funding shall be provided to the recipient through guidelines developed by the Department of Transportation.

(d) Any transportation improvement funded pursuant to the program established in this section will have a service life of approximately twenty years.

(e) Notwithstanding any other provision of the general statutes, this program, when improvements are on a locally owned roadway or facility, shall not be deemed to be a proposed state action, activity or critical activity for the purposes of sections 25-68b to 25-68h, inclusive.

(P.A. 13-239, S. 74; P.A. 14-139, S. 2.)

History: P.A. 13-239 effective November 1, 2013; P.A. 14-139 amended Subsec. (c) by replacing “regional planning agency” with “regional council of governments”, effective January 1, 2015.

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Sec. 13a-98o. Use of coal tar sealants on state and local highways. Prohibition. Enforcement. No person shall use or apply any sealant that is made from coal tar to any state or local highway. The Commissioner of Transportation, in conjunction with the Commissioner of Energy and Environmental Protection, may enforce the provisions of this section.

(P.A. 17-113, S. 1.)

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Sec. 13a-99. Towns to build and repair highways and bridges. Towns shall, within their respective limits, build and repair all necessary highways and bridges, and all highways to ferries as far as the low water mark of the waters over which the ferries pass, except when such duty belongs to some particular person. Any town, at its annual meeting, may provide for the repair of its highways for periods not exceeding five years and, if any town fails to so provide at such meeting, the selectmen may provide for such repairs for a period not exceeding one year.

(1949 Rev., S. 2117; 1958 Rev., S. 13-2; 1963, P.A. 226, S. 99.)

History: 1963 act replaced previous provisions: See title history.

When towns are liable to maintain bridges on turnpike roads. 4 D. 198; 1 C. 1. Town to maintain road in borough, formerly turnpike. 25 C. 86. Town and turnpike company not both liable to maintain same road. 27 C. 48. Herbage in a highway belongs to the landowner. 28 C. 165. Dedication of highway provable by public use. 29 C. 157; 31 C. 308. Towns have no duty or power to build bridges between this and adjoining states. 29 C.

356. City of Hartford liable for defective sidewalks. 30 C. 118. No municipal corporation obliged to lay out or maintain highways except by statute. 31 C. 213. Legislature may create highway district out of several towns. 170 U.S. 309. Admissibility of evidence that others safely crossed ice. 33 C. 57. Highway surveyor may widen roadway within highway limits. 36 C. 165. Municipalities may remove earth from one highway to another. 38 C. 50. Municipalities not liable for negligence in public duty to repair highways. *Id.*, 90; 71 C. 686. Dedication of a system of highways; loss of public rights by laches. 40 C. 410. Town cannot divert spring in highway for watering trough. 44 C. 521. Town liable for nuisance caused in doing lawful act. 45 C. 550; 47 C. 314. Town may change form of dedicated highway. 50 C. 259. Town voluntarily operating drawbridge liable for negligence. 63 C. 587. History of law; duty to repair applies to highways by dedication. 74 C. 360. Care of streets is a governmental duty; no liability except by statute. *Id.*, 573; 79 C. 94; 81 C. 392. Building new roadway several feet above old one not repairing. 75 C. 271. History of exception where duty belongs to some particular person. *Id.*, 695. Of sidewalk, as part of highway. 76 C. 105. See 71 C. 655; 77 C. 307; 80 C. 296. Discretion of municipality as to methods to be used. 79 C. 94. Municipality cannot enter private property to abate conditions there which tend to create defect. 80 C. 291. Section measures the liability imposed by Sec. 13a-149. 81 C. 68; 89 C. 30. Section does not apply to state aid or trunk line highways. 94 C. 594. Town is under duty to maintain roadway of bridge over railroad, although railroad is obliged to maintain superstructure of bridge. 100 C. 437. Does not apply to defect caused by opening in street made by trolley company in repairing its roadbed. 103 C. 121; *Id.*, 605. Town's obligation for sidewalks not modified by Sec. 13a-144. 109 C. 336. Where town builds road under Sec. 13a-173 as a contractor with the state, jury may reasonably find it entered contract for special benefit and pecuniary profit, thereby depriving itself of governmental immunity from liability. 120 C. 148. Cited. 121 C. 616; 124 C. 344; 160 C. 295; 193 C. 589; 226 C. 684. Municipality's duty to maintain public highways is nondelegable. 292 C. 364. Although town has the power to build roads within its limits for the benefit of its own residents, it does not have power to close roads at town border for sole purpose of preventing residents of adjoining towns from using town streets; town roads are for the benefit of the general public, not just the residents of the town. 295 C. 802.

Cited. 12 CA 153; 29 CA 18. Motion for jury instruction re ultra vires act of removing obstruction was properly denied since removal was authorized pursuant to section, town charter and case law. 71 CA 531.

City becomes responsible for condition of highways when town and city consolidate. 3 CS 418. Cited. 4 CS 401; 5 CS 193. Duty of New Haven not impaired by special act 576 of 1937. 8 CS 204. Cited. 25 CS 305; 27 CS 469.

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Sec. 13a-99a. Town roads lying within, intersecting or crossing state highway rights-of-way. (a) Whenever a town road or a portion thereof lies within the limits of a state highway right-of-way or passes over or under a state highway right-of-way, such road or portion thereof shall be state highway property subject to an easement to the town for travel. The local traffic authority, as defined in section 14-297, shall have the jurisdiction over any portion of a town road within an easement created by this subsection.

(b) Any portion of a town road lying within the limits of a state highway right-of-way, which town road is no longer maintained or used by such town, shall be deemed legally abandoned as a public highway and title to such portion of such town road shall vest in the state.

(c) When a town road crosses or intersects a state highway right-of-way at grade level, the responsibility for maintenance of that portion of the town road from the edge of the state highway right-of-way to the edge of the traveled portion of the state highway shall remain with the town; and any liability for neglect or default of maintenance of such portion of the town road shall be in accordance with section 13a-149. When a town road passes over or under a state highway right-of-way, the responsibility for maintenance of the road shall remain with the town; and any liability for neglect or default of such maintenance shall be in accordance with section 13a-149.

(1967, P.A. 209, S. 1-3; P.A. 77-78; P.A. 90-342, S. 4, 5.)

History: P.A. 77-78 added the words “or intersects” in Subsec. (c); P.A. 90-342 added provision in Subsec. (a) providing the local traffic authority with jurisdiction over any portion of a town road within an easement.

Cited. 21 CA 633.

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Sec. 13a-100. Expense of bridges between towns. Necessary bridges between towns, except when otherwise specially provided by law, shall be built and kept in repair by such towns, and the expense thereof shall be apportioned between them according to the total revenue received yearly from direct taxation in each of such towns, as averaged for the three fiscal years next preceding.

(1949 Rev., S. 2119; 1958 Rev., S. 13-4; 1963, P.A. 226, S. 100.)

History: 1963 act replaced previous provisions: See title history.

What constitutes a bridge. 26 C. 583; 44 C. 25; 64 C. 568.

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Sec. 13a-100a. Maintenance of pedestrian walkways on bridges. The person required to maintain any bridge constructed over any section of the National System of Interstate and Defense Highways located within this state, which bridge (1) is constructed or undergoes major reconstruction, as determined by the Commissioner of Transportation, on or after October 1, 2000, and (2) has a defined pedestrian walkway, shall install and maintain fencing along such walkway to prevent pedestrians from throwing objects from such walkway onto the highway below. The bridge located between the Legislative Office Building and the State Capitol Building shall not be subject to the provisions of this section.

(P.A. 00-184, S. 1.)

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Sec. 13a-101. Bridges over artificial watercourses. Any bridge or passageway over any artificial watercourse on a highway which it is not the duty of the commissioner to maintain shall be constructed and maintained by the person owning or controlling such watercourse and shall be of such width and carrying capacity as are approved by the board of selectmen of the town, provided, if at any time the board of selectmen finds that any such existing bridge or passageway has become insufficient to permit the traveling public to use it with safety, the board of selectmen shall cause such bridge or passageway to be reconstructed so as to make it sufficient or shall cause a new sufficient bridge or passageway to be constructed. The town and the person owning or controlling the watercourse shall each pay an equitable portion of the cost of reconstructing such existing bridge or passageway or of constructing a new sufficient bridge or passageway, which equitable apportionment shall be based upon the respective needs of the town and the person for such change in such bridge or passageway, and the board of selectmen may enter into an agreement with such person determining the portion to be paid by each, provided, if the board of selectmen and such person cannot agree upon an equitable apportionment of such cost, either may apply to the superior court in the judicial district within which such bridge or passageway is situated, or, if said court is not in session, to any judge thereof, for a determination of the portion of the cost to be borne by each, and said court or such judge, after causing notice of the pendency of such application to be given to the other party, shall appoint a state referee to make such determination. Such referee, having given at least ten days' notice to the parties interested of the time and place of the hearing, shall hear both parties, shall view the bridge or passageway and take such testimony as such referee deems material, and shall thereupon determine the

portion of the cost to be borne by each and immediately report to the court. If the report is accepted by the court, such determination shall, subject to right of appeal as in civil actions, be conclusive upon both parties.

(1949 Rev., S. 2200; 1951, S. 1192d; 1957, P.A. 211, S. 1; 1958 Rev., S. 13-9; 1963, P.A. 226, S. 101; P.A. 78-280, S. 2, 127; P.A. 03-115, S. 31.)

History: 1963 act replaced previous provisions: See title history; P.A. 78-280 substituted “judicial district” for “county”; P.A. 03-115 made technical changes.

See Sec. 13a-90 re bridges over artificial watercourses which Transportation Commissioner is responsible for maintaining.

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Sec. 13a-102. Court may direct construction or repair of bridge. When any town neglects to construct or repair a bridge across a river in a highway in such town, or when it is necessary to construct or repair any such bridge between towns or judicial districts and the towns liable therefor neglect, or do not agree, to construct or repair it, the superior court of the judicial district in which either town is situated, on complaint of any person, and legal notice given to the town liable for such construction or repairs, shall inquire by itself or committee into the public necessity and convenience thereof; and, if no sufficient reason is shown to the contrary, and such town or towns do not undertake to construct or repair such bridge within such time as the court directs, it may appoint some suitable person to do the same; and the expense thereof, being allowed by said court, shall be paid by such town or towns. Said court or such committee may estimate the damages, if any, sustained by any person or corporation by the construction of such bridge, due notice having been given to such person or corporation to appear and be heard, and, upon return of the report of any such committee into court, the same proceedings may be had in regard to such report and damages as are provided in sections 13a-52 to 13a-72, inclusive, for persons interested in laying out or altering a highway, in regard to remonstrance and reassessment of damages.

(1949 Rev., S. 2123; 1958 Rev., S. 13-7; 1963, P.A. 226, S. 102; P.A. 78-280, S. 2, 4, 127.)

History: 1963 act replaced previous provisions: See title history; P.A. 78-280 substituted “judicial district(s)” for “county(ies)”.

State's attorney cannot complain. 9 C. 32.

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Sec. 13a-103. Complaint to court for failure of town to maintain highway. Whenever any town fails to keep any highway within such town in good and sufficient repair or whenever the selectmen of any town fail to remove or cause to be removed any encroachments upon any highway in such town or to make such alterations or improvements therein as may be required by common convenience or necessity, the superior court for the judicial district in which such highway is located, upon the written complaint of six or more citizens of this state under oath, after due inquiry made by it, shall appoint a time and place when and where all persons interested may appear and be heard upon the propriety of such repairs, or of the removal of such encroachments, or of the making of such alterations and improvements. If a time and place for hearing is set by the court, the clerk shall deliver to the complainants or their attorneys the documents set forth in this section for service by a proper officer. Notice shall be given to the first selectman of such town and to the person or persons maintaining such encroachments by causing a true and attested copy of such complaint, accompanied with a summons notifying such parties of such time and place, to be left with each of such parties, or at his usual place of abode, by some proper officer at least six days inclusive before the day appointed for the hearing; but, before issuing any summons on such complaint, the court shall require of the complainants a sufficient bond for costs to the adverse parties and may, any time thereafter, require further bond for such costs. If the court finds that such highway

should be repaired or that such encroachments should be removed or that such alterations and improvements should be made, it shall order the selectmen of such town to cause such highway to be repaired and such encroachments to be removed and such alterations and improvements to be made, and shall prescribe the manner and extent of such repairs and of the removal of such encroachments and of the making of such alterations and improvements and the time within which the work shall be done, and may, for reasonable cause, extend such time. The court shall assess the benefits resulting from such repairs or removal of encroachments or such alterations and improvements against any of the parties to be benefited, including such town. Such benefits as to such parties other than such town may be collected in the same manner as town taxes are collected.

(1949 Rev., S. 2127; 1958 Rev., S. 13-12(a); 1959, P.A. 152, S. 35; 674, S. 1; 1963, P.A. 226, S. 103; P.A. 76-436, S. 337, 681; P.A. 78-280, S. 1, 127; P.A. 98-81, S. 2.)

History: 1959 acts substituted common pleas court for county commissioners to take jurisdiction of petition, removed requirement petition be endorsed and approved by state's attorney after inquiry by him, removed power of county commissioners to cause repairs to be made and added provisions re assessment of benefits resulting from repairs, removals etc. against parties to be benefited; 1963 act replaced previous provisions: See title history; P.A. 76-436 substituted superior court for court of common pleas and added reference to judicial districts, effective July 1, 1978; P.A. 78-280 deleted reference to counties; P.A. 98-81 added provision re delivery by clerk to complainants or their attorneys of documents for service by proper officer, if time and place for hearing is set by court.

Under former statute, agent for repair of road not personally liable for expense of repair. 3 C. 564. Complaint by state's attorney for replacement of bridge not maintainable. 9 C. 35. Condition of highway may be compared with others similar. 67 C. 536. Condition of highway a question of fact. Id., 537. Whether a road is a public highway is a question of fact, to be determined by the commissioners and Superior Court. 70 C. 102. Want of repair question of fact; construction of new highway at elevation above old held not a repair. 75 C. 271. Applied to road laid out by railroad commissioners. 76 C. 58. Cited. 127 C. 57. Appeal from order directing town to repair road continued on court docket pending determination of question whether such town had effectively discontinued such road. 148 C. 113. Where town discontinued a highway under Sec. 13a-49, plaintiff user allowed recovery where his only access to public highway was cut off by discontinuance. 158 C. 276. Town is responsible under section only for highways which have been dedicated in accordance with the statutes; Secs. 13a-48, 13a-71 and 8-25 may not be circumvented by claims of a common law dedication. 159 C. 107. An unimproved portion of a road was not a public highway and no municipal duty arose with respect to it since there had been no express or implied dedication and acceptance of the property. 180 C. 435. Cited. 234 C. 390.

Cited. 5 CA 448; 12 CA 153; 17 CA 111; 29 CA 18.

Cited. 11 CS 429. Section will not avail those seeking to have highway boundaries defined. 15 CS 404.

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Sec. 13a-104. Proceeding against borough for failure to maintain highway. Whenever any borough has assumed the care of the highways and sidewalks within its limits and the authorities of such borough fail to keep such highways and sidewalks in good and sufficient repair, the same proceedings may be had against such borough and the authorities thereof, to secure the repair of such highways and sidewalks, as are provided for in section 13a-103.

(1949 Rev., S. 2128; 1958 Rev., S. 13-12 (b); 1963, P.A. 226, S. 104.)

History: 1963 act replaced previous provisions: See title history.

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Sec. 13a-105. Contracts for highway construction. When any town has determined to construct or reconstruct any highway, section of highway or bridge, which construction or reconstruction is to be paid for from funds allotted to such town under the provisions of sections 13a-175a to 13a-175f, inclusive, and the commissioner has entered into an agreement with the selectmen of such town, as provided by sections 13a-175e and 13a-175f, said commissioner shall call for bids and award a contract for such construction or reconstruction in the manner provided by section 13a-95, except that, if, in the opinion of said commissioner, it is to the best interest of the state and such town, the commissioner may award to such town a contract for such construction or reconstruction upon such terms and conditions as the commissioner determines, provided the estimated unit prices under any contract so awarded shall not be in excess of ten per cent more than the average unit prices prevailing during the preceding twelve months for similar work in the state and provided such town shall have authorized the selectmen to enter into such contract in the name and on behalf of such town. Nothing in this section shall be construed to eliminate the use of force account work for the repair of town aid highways. The commissioner may, subject to the approval of the selectmen or legislative body of such town, enter into an agreement with a third party for additional construction or reconstruction works when requested to do so by such third party, provided such third party shall, immediately upon certification by the commissioner, pay to the State Treasurer the full cost to the state of such additional construction or reconstruction works. If under such agreement such additional construction or reconstruction works are carried out by such third party, they shall conform with all requirements and regulations of such town and such as may be prescribed by the commissioner.

(1949 Rev., S. 2178; 1958 Rev., S. 13-65; 1963, P.A. 226, S. 105; 1967, P.A. 701, S. 11; 1971, P.A. 582, S. 1; P.A. 02-89, S. 16.)

History: 1963 act replaced previous provisions: See title history; 1967 act corrected obsolete statutory references; 1971 act added provisions re agreements between commissioner and third party for additional construction or reconstruction work; P.A. 02-89 replaced reference to Sec. 13a-175h with reference to Sec. 13a-175f, reflecting the repeal of Sec. 13a-175h by the same public act, and made technical changes for purposes of gender neutrality.

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Sec. 13a-106. Competitive bids not required when material available at price acceptable to commissioner. When any town highway is maintained, improved, constructed or reconstructed on a force account basis by expenditure of funds allocated under sections 13a-175a to 13a-175f, inclusive, the furnishing of gravel, sand or wood posts by competitive bids under section 4a-57 shall not be required when suitable material, meeting Department of Transportation specifications, is available to the town at a unit price acceptable to the commissioner.

(1953, S. 1184d; 1958 Rev., S. 13-66; 1963, P.A. 226, S. 106; 1967, P.A. 701, S. 12; 1969, P.A. 768, S. 89; P.A. 02-89, S. 17.)

History: 1963 act replaced previous provisions: See title history; 1967 act changed obsolete statutory references; 1969 act substituted commissioner and department of transportation for highway commissioner and department; P.A. 02-89 replaced reference to Sec. 13a-175h with reference to Sec. 13a-175f, reflecting the repeal of Sec. 13a-175h by the same public act.

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Sec. 13a-107. Selectmen to open highway blocked with snow. Whenever any highway becomes blocked with snow to an extent that renders the same impassable for public travel, the selectmen of the town in which such highway is located shall cause such highway to be opened for public travel at the expense of such town within a reasonable time thereafter, if they find the same to be required for public convenience and necessity. Any selectman who fails to open any highway so blocked, when requested in writing so to do by six taxpayers residing on or near such highway, shall be fined ten dollars. The provisions of this section shall not apply to any

highway within the limits of any city or borough, unless the town has the supervision of the highways in such city or borough.

(1949 Rev., S. 2132; 1958 Rev., S. 13-16; 1963, P.A. 226, S. 107.)

History: 1963 act replaced previous provisions: See title history.

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Sec. 13a-108. Rural free delivery route to be opened. If the selectmen of any town fail, for a period of five days, to open, in accordance with the provisions of section 13a-107, any highway which is part of a rural free delivery route, any person or persons residing on such route may open such highway and shall be paid therefor by the town compensation at the prevailing rate of wages for such services; provided, if the selectmen have contracted with any other person to open such road, the amount paid by the town as compensation as herein provided may be recovered by such town from such contractor, unless otherwise expressly provided in such contract.

(1949 Rev., S. 2133; 1958 Rev., S. 13-17; 1963, P.A. 226, S. 108.)

History: 1963 act replaced previous provisions: See title history.

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Sec. 13a-109. Apportionment of cost for work on bridge. The commissioner or any municipality or other person who has performed any work on any bridge for a portion of the cost of which any other municipality or person is liable shall, within thirty days after the completion of such work, mail to each person liable for a portion of the cost of such work a statement of the total cost of such work, showing the proportionate share assessed against each interested party, and such amount assessed against each interested party shall thereupon become due and, if not paid within thirty days, shall bear interest at the rate of six per cent per annum and shall be collectible in an action at law brought to the superior court for the judicial district wherein such bridge is located.

(1949 Rev., S. 2273; 1958 Rev., S. 13-129; 1963, P.A. 226, S. 109; P.A. 78-280, S. 24, 127.)

History: 1963 act replaced previous provisions: See title history; P.A. 78-280 substituted superior court for “any court of competent jurisdiction” and “judicial district” for “county”.

That county or town has no money in its treasury, no defense against action to recover amount due. 70 C. 437.

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## **PART VI**

### **EQUIPMENT**

Sec. 13a-110. Lighting on bridges, dangerous locations and intersections. (a) The commissioner shall cause to be installed and shall maintain suitable lighting on any bridge or on any dangerous location or intersection on any state highway when he deems such lighting necessary to the safety of the public.

(b) The commissioner may provide, at the request of any interested town, person or company, a system of street lighting on any bridge on any state highway, under the provisions of section 13a-87, provided the state shall be reimbursed for the entire cost thereof by such town, person or company.

(c) The commissioner, upon request of any municipality, may enter into a written agreement with the municipality to reimburse it or any municipal district therein for twenty-five per cent of the cost of new highway lighting installations and the annual cost of operation thereof on agreed portions of unlimited access state-maintained highways, when he deems that such lighting will contribute to the safety of the public and the need for such lighting meets the requirements established by the commissioner.

(1949 Rev., S. 2241, 2271; 1957, P.A. 609; 1958 Rev., S. 13-122, 13-123, 13-127; 1961, P.A. 517, S. 76; 1963, P.A. 226, S. 110; P.A. 73-675, S. 17, 44; P.A. 75-568, S. 13, 45.)

History: 1961 act removed obsolete reference to requests by counties in Subsec. (b), county government having been abolished in 1959; 1963 act replaced previous provisions: See title history; P.A. 73-675 substituted transportation fund for highway fund in Subsec. (a); P.A. 75-568 deleted provision re payment of costs from transportation fund in Subsec. (a).

Cited. 198 C. 413.

Cited. 39 CS 234.

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Sec. 13a-110a. Highway and roadway lighting designed to maximize energy conservation and minimize light pollution. State and municipal funds. (a) As used in this section:

- (1) "Fixture" means the assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens;
- (2) "Full cutoff luminaire" means a luminaire that allows no direct light emissions above a horizontal plane through the luminaire's lowest light-emitting part;
- (3) "Glare" means direct light emitting from a luminaire that causes reduced vision or momentary blindness;
- (4) "Illuminance" means the level of light measured at a surface;
- (5) "Lamp" means the component of a luminaire that produces the light;
- (6) "Light trespass" means light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located;
- (7) "Lumen" means a unit of measurement of luminous flux;
- (8) "Luminaire" means the complete lighting system, including the lamp and the fixture;
- (9) "Municipality" has the same meaning as provided in subsection (a) of section 7-148;
- (10) "Municipal funds" means any bond revenue or any money appropriated or allocated by a municipality;
- (11) "Municipal road" means any public highway, road, street, avenue, alley, driveway, parkway or place, under the control of a municipality of the state, dedicated, appropriated or opened to public travel;
- (12) "Permanent outdoor luminaire" means any luminaire or system of luminaires that is outdoors and intended to be used for seven days or longer;
- (13) "State funds" means any bond revenues or any money appropriated or allocated by the General Assembly; and

(14) "State highway" has the same meaning as provided in subsection (a) of section 13a-1.

(b) Except as provided in subsection (c) of this section, no state or municipal funds shall be used to install or replace a permanent outdoor luminaire for roadway lighting unless (1) the luminaire is designed to maximize energy conservation and to minimize light pollution, glare and light trespass, (2) the luminaire's illuminance is equal to the minimum illuminance adequate for the intended purpose of the lighting, (3) for a luminaire with a rated output of more than 1800 lumens used on state secondary highways, as defined in section 13a-14, and state special service highways, as defined in said section 13a-14, such luminaire is a full cutoff luminaire, (4) for a luminaire with a rated output of more than 1800 lumens used on municipal roads, such luminaire is a full cutoff luminaire, (5) for a luminaire with a rated output of more than 1800 lumens used on state primary highways, as defined in said section 13a-14, for which, in the opinion of the Commissioner of Transportation, use of a full cutoff luminaire shall not compromise the safety of the highway, increase the cost of the lighting plan or lighting replacement for the highway or violate any provision of federal law, such luminaire is a full cutoff luminaire, (6) the Commissioner of Transportation determines that the purpose of the lighting installation or replacement of lights on state highways cannot be achieved by reducing the speed limit in the area to be lighted or by installing reflectorized roadway markers, lines, warnings, informational signs or other means of passive or reflective lighting, and (7) the chief elected official of a municipality or such official's designee, determines that for a municipal road the purpose of the lighting installation or replacement cannot be achieved by reducing the speed limit in the area to be lighted or by installing reflectorized roadway markers, lines, warnings, informational signs or other means of passive or reflective lighting.

(c) The Commissioner of Transportation or the commissioner's designee may waive the provisions of subdivision (3) of subsection (b) of this section when, after a request for such a waiver has been made and reviewed, the commissioner or the commissioner's designee determines that such a waiver is necessary for the lighting application. Requests for such a waiver shall be made to the commissioner or the commissioner's designee in such form as the commissioner shall prescribe and shall include, without limitation, a description of the lighting plan, a description of the efforts that have been made to comply with the provisions of subdivision (3) of subsection (b) of this section and the reasons such a waiver is necessary. In reviewing a request for such a waiver, the commissioner shall consider design safety, costs and other factors deemed appropriate by the commissioner.

(d) The chief elected official of a municipality or said official's designee may waive the provisions of subdivision (4) of subsection (b) of this section when, after a request for such a waiver has been made and reviewed, said official or said official's designee determines that such a waiver is necessary for the lighting application. Requests for such a waiver shall be made to said official or said official's designee in such form as said official shall prescribe and shall include, without limitation, a description of the lighting plan, a description of the efforts that have been made to comply with the provisions of subdivision (4) of subsection (b) of this section and the reasons such a waiver is necessary. In reviewing a request for such a waiver, said official shall consider design safety, costs and other factors deemed appropriate by said official.

(e) No public utility company may install or replace a permanent outdoor luminaire for roadway lighting, if the cost of operating such luminaire is paid for by municipal funds, unless (1) the luminaire is designed to maximize energy conservation and to minimize light pollution, glare and light trespass, (2) the luminaire's illuminance is equal to the minimum illuminance adequate for the intended purpose of the lighting, and (3) for a luminaire with a rated output of more than 1800 lumens used on municipal roads, such luminaire is a full cutoff luminaire. The chief elected official of a municipality or said official's designee may waive the provisions of subdivision (3) of this subsection when, after written notice from the public utility company thirty days prior to the installation or replacement of said luminaire, said official or said official's designee determines that a waiver is necessary for the lighting application. Such notice shall be in such form as said official shall prescribe and may include a description of the lighting plan and a description of the efforts that have been made to comply with the provisions of subdivision (3) of this subsection. Said official may consider design safety, costs and other factors deemed appropriate by said official.

(f) The provisions of this section shall not apply to the installation or replacement of luminaires for which the Secretary of the Office of Policy and Management (1) conducts a life-cycle cost analysis of one or more

luminaires which meet the requirements set forth in subsection (b) of this section and one or more luminaires which do not meet such requirements, and (2) certifies that a luminaire which meets such requirements is not cost effective and is not the most appropriate alternative based on the life-cycle cost analysis.

(P.A. 95-217, S. 6; P.A. 01-134; P.A. 14-122, S. 18, 101, 102.)

History: P.A. 01-134 amended Subsec. (a) by adding definitions of “municipality”, “municipal funds”, “municipal road” and “state highway” and redesignating existing Subdivs. (9) and (10) as Subdivs. (12) and (13), amended Subsec. (b) by making section applicable to municipal funds, adding Subdiv. (4) re requirements for a luminaire on municipal roads, redesignating existing Subdiv. (4) as Subdiv. (5) and adding provisions as Subdivs. (6) and (7) re determinations by commissioner and chief elected officer of a municipality, amended Subsec. (c) by making technical changes for purposes of gender neutrality, added Subsec. (d) re waiving the provisions of Subsec. (b)(4), added Subsec. (e) re conditions for a public utility company to install or replace a permanent outdoor luminaire for roadway lighting and redesignated existing Subsec. (d) as Subsec. (f); P.A. 14-122 made technical changes in Subsec. (a)(9) and (14) and Subsec. (b).

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Sec. 13a-111. Railings on bridges and highways. The party bound to maintain any bridge or highway shall erect and maintain a sufficient railing or fence on the sides of such bridge and on the sides of such parts of such road as are so made or raised above the ground as to be unsafe for travel. The specifications for railings or fences on state highways or bridges required to be erected and maintained pursuant to this section shall be constructed equal to, or better than, the current specifications and policies approved by the Commissioner of Transportation for the installation and maintenance of roadside appurtenances. A railing or fence that is reasonably maintained under said specifications shall be deemed sufficient under the provisions of this section.

(1961, P.A. 43; 1963, P.A. 226, S. 111; P.A. 98-182, S. 14, 22.)

History: 1963 act replaced previous provisions: See title history; P.A. 98-182 deleted the requirement for the commissioner to promulgate regulations, required the specifications for railings or fences to be constructed equal to or better than current specifications and policies, effective July 1, 1998.

See Sec. 13a-152 re damages for failure to maintain railing or fence.

Annotations to former statute:

Proof of compliance with former provision deemed to raise conclusive presumption defendant discharged duty. 122 C. 99. Standard not generally applicable; applies only to highways specified. 129 C. 700.

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Sec. 13a-112. Certain bridges to have draws. No bridge without a draw shall be built or maintained across any water navigated by open-deck vessels for business purposes, whose passage would be impeded thereby. If any bridge is so maintained or its construction commenced, the Superior Court, or any judge thereof in vacation, upon the complaint of any party aggrieved, may enjoin the maintenance or construction of such bridge, and may order its removal at the expense of the respondent and that a suitable bridge be built, and may establish the width of the draw therein, but, whenever any highway is laid out over any navigable water, the committee of the Superior Court appointed with power to lay out such highway or a committee appointed by the Superior Court upon the application of the selectmen of the town which has laid out such highway may inquire, after due and reasonable notice to all parties interested, whether the building, construction or maintenance of a bridge without a draw will materially interfere with the navigation of such water by open-deck vessels for business purposes. If such committee finds that the construction or maintenance of such a bridge without a draw will not materially interfere with the navigation of such water, such committee, after giving at least five days' notice in the manner

prescribed for the service of legal process to all persons owning wharves, docks or wharf privileges above such bridge, may assess the damages which the construction of such bridge without a draw will cause to the owners of such wharf or wharf privileges and, if the committee finds that the total amount of such damages, if paid by the town in which such bridge is located, will be more economical for such town than the construction or maintenance of such bridge with a draw, such bridge may be maintained, built or constructed without a draw, after the amount of damages so found has been paid to the parties entitled to the same or has been deposited in the town treasury subject to their order; and the amount of such damages shall be paid by the town in which the bridge is located, as a part of the expense of building or maintaining such highway or bridge. All persons interested in such wharves or wharf privileges shall be entitled to all of the privileges by way of remonstrance and reestimate of damages which are provided in part III of this chapter for persons interested in laying out or altering a highway. This section shall not be construed to authorize the construction of a bridge without a draw over Branford River below Hobart's Bridge.

(1949 Rev., S. 2120; 1958 Rev., S. 13-5; 1963, P.A. 226, S. 112.)

History: 1963 act replaced previous provisions: See title history; (Revisor's note: In 2003 a reference to "chapter 238" was changed editorially by the Revisors to "this chapter").

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Sec. 13a-113. Drawbridges to have gates. The approaches to all drawbridges over which highways pass shall be provided, by the town or towns or owners of such bridges, with gates for the protection of travelers, subject to the approval of the selectmen of the town or towns in which such bridge or bridges may be located. Each bridge tender shall insure closure of such gates before the draw is opened. Any bridge tender who violates the provisions of this section shall be fined not more than fifty dollars.

(1949 Rev., S. 2121; 1958 Rev., S. 13-6; 1963, P.A. 226, S. 113.)

History: 1963 act replaced previous provisions: See title history.

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## **PART VII**

### **TRAFFIC CONTROL**

Sec. 13a-114. Traffic control during department operations. The commissioner or his agent may, while engaged in Department of Transportation operations, restrict, control and halt traffic. Anyone who disregards or disobeys the person so restricting, controlling or halting traffic shall be fined not more than one hundred dollars.

(1949 Rev., S. 2238; 1958 Rev., S. 13-119; 1961, P.A. 206; 1963, P.A. 226, S. 114; 1969, P.A. 768, S. 90.)

History: 1961 act added provisions of this section to 1958 Rev., S. 13-119, other provisions of which are found in Secs. 13a-115 and 13a-145; 1963 act replaced previous provisions: See title history; 1969 act substituted department of transportation for highway department.

Cited. 39 CS 234.

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Sec. 13a-115. Closing highways under construction, maintenance or repair. (a) The Commissioner of Transportation may close or restrict traffic over any section of any state highway or bridge for the purpose of construction, reconstruction, maintenance or repair by posting notices at each end of such section of highway or at each end of such bridge. Any person who, without a permit from the commissioner, closes any state highway or bridge shall be fined not more than one hundred dollars.

(b) If in the course of construction, reconstruction, maintenance or repair of any state highway, the commissioner finds it necessary to close a highway or bridge of any town, city, borough or municipal corporation, he shall have the authority to do so in the manner provided in subsection (a) of this section and the provisions of said subsection and section 13a-145 shall be applicable thereto.

(1949 Rev., S. 2238; 1957, P.A. 611, S. 2; 1958 Rev., S. 13-119, 13-192; 1963, P.A. 226, S. 115; 1967, P.A. 45, S. 1; 1969, P.A. 768, S. 91; P.A. 75-248, S. 1, 2.)

History: 1963 act replaced previous provisions: See title history; 1967 act included “reconstruction or repair” in Subsec. (b) and replaced “expressway” with “state highway”; 1969 act substituted commissioner of transportation for highway commissioner; P.A. 75-248 included references to “maintenance” of highways.

See Sec. 13a-145 re use of closed highway at user's risk.

See Sec. 13a-257 re contractors' liability.

Cited. 27 CA 734.

Cited. 39 CS 234.

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Sec. 13a-116. Warning signs. On any road or bridge maintained by the state where repairs or construction are under way or on any road or bridge being constructed or reconstructed under supervision of the commissioner, the display of reflectorized signs erected under the provisions of sections 13a-115 and 13a-119 shall be deemed adequate warning, provided there are no openings or obstructions within the traveled portion of the road or adjacent thereto.

(1949, S. 1200d; 1958 Rev., S. 13-133; 1963, P.A. 226, S. 116.)

History: 1963 act replaced previous provisions: See title history.

Cited. 193 C. 413.

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Sec. 13a-117. Permit to operate truck between parts of industrial plant. The commissioner may, if in his opinion it is equitable, grant a special permit for the operation of industrial trucks, tractors, trailers and semitrailers upon the highways of this state for the purpose of transporting goods, property or merchandise to and between buildings of the same industrial plant, provided the maximum distance on the highways over which such vehicle may be operated under such permit shall not exceed fifteen hundred feet, and may make necessary regulations as to their use thereon.

(1949 Rev., S. 2198; 1958 Rev., S. 13-84; 1963, P.A. 226, S. 117.)

History: 1963 act replaced previous provisions: See title history.

See Sec. 14-24 re special registrations for heavy duty trailers, heavy construction equipment, etc.

See Sec. 14-49(l) re fee for registration of trucks used between parts of industrial plants.

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Sec. 13a-117a. (Formerly Sec. 13a-28). Permit to operate service car or wrecker on limited access highway. Section 13a-117a is repealed, effective June 29, 1993.

(1961, P.A. 46, S. 1; 1963, P.A. 226, S. 29; 1969, P.A. 553, S. 1; P.A. 73-675, S. 18, 44; P.A. 75-568, S. 14, 45; P.A. 84-429, S. 52; P.A. 93-307, S. 32, 34.)

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Sec. 13a-117b. Soliciting of business by service car and wrecker businesses. No person, firm or corporation engaged in a service car or wrecker business shall solicit customers while on any limited access state highway. Any person, firm or corporation violating the provisions of this section shall be fined not more than one hundred dollars for each offense.

(1969, P.A. 553, S. 2.)

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Sec. 13a-118. United States routes to be marked. The commissioner shall on state highways, and may on town highways, mark, with standard shields, as approved by the American Association of State Highway Officials, the portion in this state of any route adopted by said association as a United States route. Such marking shall not be construed as approval of such route by said commissioner.

(1949 Rev., S. 2199; 1958 Rev., S. 13-85; 1963, P.A. 226, S. 118.)

History: 1963 act replaced previous provisions: See title history.

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Sec. 13a-119. Warning and directional signs. Control cities. (a) Whenever, in the opinion of the Commissioner of Transportation the same is necessary, said commissioner shall on any state highway, and may on any town highway, erect and maintain suitable warning and directional signs for the guidance of persons traveling thereon and may erect and maintain traffic control signals, devices, signs and markings on state highways, as approved by the Office of the State Traffic Administration. All of such signs and devices shall conform to the specifications of the manual of uniform traffic control devices as approved and revised by the Office of the State Traffic Administration.

(b) The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, that set forth the criteria used for the designation of control cities in accordance with the standards established by the American Association of State Highway and Transportation Officials.

(1949 Rev., S. 2246; 1958 Rev., S. 13-132; 1963, P.A. 226, S. 119; 523; P.A. 09-186, S. 53; P.A. 12-132, S. 7.)

History: 1963 acts added “devices” and requirement of conformance to specifications of uniform traffic control devices manual rather than standards of American association of state highway officials and restated previous

provisions: See title history; P.A. 09-186 designated existing provisions as Subsec. (a), made technical changes therein and added Subsec. (b) re designation of control cities, effective July 1, 2009; P.A. 12-132 amended Subsec. (a) by replacing “State Traffic Commission” with “Office of the State Traffic Administration”, effective July 1, 2012.

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Sec. 13a-120. Traffic authority to maintain warning signs. The traffic authority of any city, town or borough shall erect and maintain suitable warning signs on highways under the jurisdiction of such traffic authority, legible from a distance of one hundred feet and located at a reasonable distance in each direction from schoolhouses or at a reasonable distance from the ends of hard surfaced highways, which signs shall designate the proximity of such schoolhouses or the ends of such hard surfaced highways; and such traffic authority shall erect and maintain similar warning signs in respect to bridges, dangerous curves and intersecting highways. All new and replacement signs, signals or markings erected in accordance with the requirements of this section shall conform to the specifications of the manual on uniform traffic control devices as approved and revised by the Office of the State Traffic Administration.

(1949 Rev., S. 2137; 1958 Rev., S. 13-21; 1963, P.A. 226, S. 120; 337; P.A. 12-132, S. 8.)

History: 1963 acts added mandatory requirement of maintenance of signs in re bridges, curves and intersections required that new and replacement signs, signals, etc. conform to specifications in manual on uniform traffic control devices and restated previous provisions: See title history; P.A. 12-132 replaced “State Traffic Commission” with “Office of the State Traffic Administration”, effective July 1, 2012.

Cited. 225 C. 217.

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Sec. 13a-121. Notice of load capacity; appeal. When the load-carrying capacity of any bridge on any highway is such that it will not carry safely any vehicle or combination of vehicle and trailer or semitrailer or any other object within the limits of the weights specified in section 14-267a, the authority having control of such bridge shall maintain notice at each end of such bridge legible at a distance of fifty feet, stating the maximum weight of vehicle which such bridge will carry safely. Any person may appeal from the restriction of the use of such bridge under the provisions of section 13a-89.

(1949 Rev., S. 2186; 1955, S. 1189d; 1958 Rev., S. 13-73; 1963, P.A. 226, S. 121; P.A. 79-188, S. 3, 10.)

History: 1963 act replaced previous provisions: See title history; P.A. 79-188 substituted Sec. 14-267a for reference to repealed Sec. 14-268.

See Sec. 13a-88 re load capacity of bridges.

See Sec. 13a-151 re violation of load capacity of bridge.

See Sec. 14-269 re exemptions from weight restrictions for certain vehicles engaged in construction work.

When read with Sec. 14-222, amounts to a penal statute; where there was no evidence that the sign on the bridge was legible for 50 feet, defendants were not proved guilty of reckless driving beyond a reasonable doubt. 24 CS 155.

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Sec. 13a-122. Installation of decorations in streets restricted. No person, firm or corporation, or any group or organization of persons, shall install any decorations or cause them to be installed within the limits of any highway without having received a permit to do so from the traffic authority having control of such highway. No decorations shall be so installed as to obstruct a clear view by any motor vehicle operator or pedestrian of any traffic control signal and, if such decorations include colored lights, no red, green or amber light shall be so placed as to be mistaken for a traffic control signal.

(1959, P.A. 153; 1963, P.A. 226, S. 122.)

History: 1963 act replaced previous provisions: See title history.

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Sec. 13a-123. Restriction of outdoor advertising structures, signs, displays or devices on state property or interstate, federal-aid and other limited access highways. Signs upon or within buildings or personal property. Exceptions. License or permit. Information centers at safety rest areas. Removal. Penalty. (a)(1) The erection of outdoor advertising structures, signs, displays or devices within six hundred sixty feet of the edge of the right-of-way, the advertising message of which is visible from the main traveled way of any portion of the National System of Interstate and Defense Highways, hereinafter referred to as interstate highways, the primary system of federal-aid highways or other limited access state highways, is prohibited except as otherwise provided in or pursuant to this section, and except that those outdoor advertising signs, displays and devices which are more than six hundred sixty feet off the nearest edge of the right-of-way, located outside of urban areas, visible from the main traveled way of the system and erected with the purpose of their message being read from such main traveled way are prohibited.

(2) The erection of advertising signs, displays or devices on real property owned or in the custody or control of the state, except such signs, displays or devices described in subdivision (6) of subsection (e) of this section, is prohibited. Nothing in this subsection shall restrict the right of the Commissioner of Transportation to issue permits for the maintenance of existing advertising signs, displays or devices, to renew existing permits or to issue new permits for the replacement of existing advertising signs, displays or devices on real property owned or in the custody or control of the state.

(3) Nothing in this subsection shall prohibit the erection or maintenance of advertising signs, displays or devices upon or within personal property, including, but not limited to, vehicular property owned or in the custody or control of the state.

(b) The Commissioner of Transportation may enter into agreements with the Secretary of Commerce on behalf of the state or any of its agencies to comply with Title I of the Highway Beautification Act of 1965 and do such things as are necessary to enable the state to be eligible for the bonus payments as set forth in an agreement between the state and the Secretary of Commerce dated June 23, 1961.

(c) The commissioner may promulgate regulations for the control of outdoor advertising structures, signs, displays and devices along interstate highways, the primary system of federal-aid highways and other limited access state highways. Such regulations shall be as, but not more, restrictive than the controls required by Title I of the Highway Beautification Act of 1965 and any amendments thereto with respect to the interstate and primary systems of federal-aid highways or the national standards of the Secretary of Commerce in respect to the interstate highways, in effect November 13, 1958, and any amendments thereto.

(d) The regulations promulgated by the commissioner shall, in the case of such other limited access state highways, exclude any area along either side of such highways which is zoned for industrial or commercial use under local ordinance or zoning regulation and which, upon application, is determined by the commissioner to be in actual use as an industrial or commercial area at the time of application, provided such exclusion shall remain operative only as long as such area remains so zoned.

(e) The following types of signs, displays and devices may, with the approval of and subject to regulations adopted by the commissioner, be permitted within the six-hundred-sixty-foot area of interstate, primary and other limited access state highways, except as prohibited by state statute, local ordinance or zoning regulation: (1) Directional and other official signs or notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders and scenic and historical attractions which are required or authorized by law; (2) signs, displays and devices advertising the sale or lease of the property upon which they are located; (3) signs, displays and devices advertising activities conducted on the property on which they are located; (4) signs, displays or advertising devices which are in place for sixty days or less; and (5) advertising signs, displays or devices (A) located or erected on real property or abutting real property within areas owned, leased or managed by a public authority for the purpose of (i) railway or rail infrastructure facilities, including, but not limited to, associated structures located within areas zoned solely or predominantly for the development of a railway or rail infrastructure facilities, (ii) bus rapid transit corridors, including, but not limited to, the Hartford-New Britain busway project authorized in section 13b-15a, and any shelter, structure or other facility associated with the operation of such bus rapid transit corridor, (iii) airport development zones designated in section 32-75d, or (iv) any other similar transit or freight purpose, or (B) upon or within buildings, structures or other venues in the custody or control of the state and designed, operated or intended to be operated for the purpose of presenting athletic, artistic, musical or other entertainment events. Subject to regulations adopted by the commissioner and except as prohibited by state statute, local ordinance or zoning regulation signs, displays and devices may be erected and maintained within six hundred sixty feet of primary and other limited access state highways in areas which are zoned for industrial or commercial use under authority of law or located in unzoned commercial or industrial areas which areas shall be determined from actual land uses and defined by regulations of the commissioner. The regulations of the commissioner in regard to size, spacing and lighting shall apply to any segments of the interstate system which traverse commercial or industrial zones wherein the use of real property adjacent to the interstate system is subject to municipal regulation or control, or which traverse other areas where the land use, as of September 21, 1959, was clearly established under state law as industrial or commercial.

(f) Notwithstanding the provisions of subsections (a) and (e) of this section, signage that may be changed at intervals by electronic or mechanical process or by remote control shall be permitted within six hundred sixty feet of the edge of the right-of-way of any interstate, federal-aid primary or other limited access state highway, except as prohibited by state statute, local ordinance or zoning regulation, provided such signage (1) has a static display lasting no less than eight seconds, (2) achieves a message change with all moving parts or illumination moving or changing simultaneously over a period of three seconds or less, and (3) does not display any illumination that moves, appears to move or changes in intensity during the static display period.

(g) (1) Whenever the commissioner deems it in the best interest of the state, the commissioner may acquire by purchase, gift or condemnation, in accordance with part IV of this chapter, the right to advertise or regulate advertising in an area adjacent to the right-of-way of a project on the interstate or primary system or any limited access state highway. (2) The commissioner may also acquire by purchase, gift or condemnation, and shall pay just compensation upon the removal of the following outdoor advertising structures, signs, displays and devices adjacent to interstate and federal-aid primary highways which (A) were lawfully in existence on October 22, 1965, (B) were lawfully on a highway made part of the interstate or primary system on or after October 22, 1965, and before January 1, 1968, and (C) were lawfully erected on or after January 1, 1968. Just compensation for the removal of structures, signs, displays and devices along the interstate and primary systems shall be paid only for the following: (i) The taking from the owner of such sign, display or device of all right, title, leasehold and interest in such structure, sign, display or device; and (ii) the taking, from the owner of the real property on which the structure, sign, display or device is located, of the right to erect and maintain such structures, signs, displays and devices thereon.

(h) Licenses or permits for outdoor structures, signs, displays or devices adjacent to interstate, primary federal-aid or other limited access state highways issued by the Commissioner of Emergency Services and Public Protection in accordance with chapter 411 shall be consistent with regulations and standards adopted under this section.

(i) In order to provide information in the specific interest of the traveling public the Commissioner of Transportation may maintain maps and may permit informational directories and advertising pamphlets to be made available at safety areas, and, subject to the approval of the Secretary of Commerce, may establish information centers at safety rest areas for the purpose of informing the public of places of interest within the state and providing such other information as the commissioner may consider desirable. In addition to being subject to the provisions of this section, all outdoor advertising structures, signs, displays or devices shall continue to be subject to the provisions of any municipal ordinance or regulation.

(j) The commissioner may order the removal of any advertising structure, sign, display or device along any interstate, federal-aid primary, or other limited access state highway erected in violation of this section. Any advertising structure, sign, display or device in existence on September 1, 1965, within six hundred and sixty feet of the right-of-way of any interstate, federal-aid primary, or other limited access state highway may continue to be maintained until July 1, 1970, but may not be replaced or relocated on such highway except (1) in areas where otherwise allowed by statute or regulations adopted thereunder, or (2) if such sign is removed from a building to which it is attached for purposes of repair or reconstruction of the building, the identical sign may be returned to its original position. Any advertising structure, sign, display or device lawfully erected since September 1, 1965, within six hundred sixty feet of the right-of-way of any interstate, federal-aid primary, or other limited access state highway and before June 21, 1967, may continue to be maintained until the end of the fifth year after it becomes nonconforming, but may not be replaced or relocated on such highway except in areas where otherwise allowed by statute or regulations adopted thereunder. If the person, firm or corporation in control of or owning a structure, sign, display or device or whose name appears thereon does not remove it within fourteen days after an order of removal has been sent to such person, firm or corporation by registered or certified mail, said commissioner may cause such structure, sign, display or device to be removed and the expense of such removal may be collected from the person, firm or corporation owning or controlling the same in an action based on the provisions of this section, or from the sureties on the bond filed by a nonresident person, firm or corporation pursuant to section 21-54.

(k) Any person violating any provision of this section or of any regulation, license, permit or order adopted or issued pursuant to this section shall be subject to a civil penalty in the amount of one hundred dollars for each day on which the violation occurs. Prior to imposing a penalty under this section, the commissioner shall send such person a written notice of the violation by certified mail, return receipt requested. If such person terminates or corrects the violation by the fifteenth day following such person's receipt of such notice, the commissioner shall not impose such penalty on such person for such violation. Any such violation that continues for more than sixty consecutive days shall be cause for revocation of the permit granted pursuant to this chapter with which the violation is associated.

(1959, P.A. 526, S. 1-7, 9-11; 1963, P.A. 226, S. 123; 1967, P.A. 632, S. 1; 1969, P.A. 768, S. 92; P.A. 76-146; P.A. 77-614, S. 486, 610; P.A. 94-188, S. 25, 30; P.A. 03-115, S. 32; P.A. 05-210, S. 36; P.A. 06-196, S. 195; P.A. 08-101, S. 12; P.A. 11-51, S. 134; 11-227, S. 1; P.A. 13-277, S. 13, 56, 57; P.A. 14-199, S. 12.)

History: 1963 act replaced previous provisions: See title history; 1967 act included primary system federal-aid highways in applicability provision and specified applicability to other limited access state highways in Subsec. (a), revised applicable federal law references in Subsec. (b), amended Subsec. (c) for clarity and stated that regulations shall be neither more restrictive nor less restrictive than controls required by Highway Beautification Act, removed interstate highways from regulation under Subsec. (d), revised provisions of Subsec. (e) to specifically include signs pertaining to natural wonders and scenic and historical attractions, replacing previous provision re "information in the specific interest of the traveling public" and to add provision re signs in areas zoned for industrial or commercial use, added Subsec. (f)(2) re removal of signs etc., added provision re information centers in Subsec. (h) and clarified time limits for nonconforming signs, etc. in Subsec. (i); 1969 act substituted commissioner of transportation for highway commissioner; P.A. 76-146 amended Subsec. (a) to prohibit overly large signs erected beyond six-hundred-sixty-foot limit outside of urban areas; P.A. 77-614 substituted commissioner of public safety for state police commissioner, effective January 1, 1979; P.A. 94-188 amended Subsec. (i) to add provision re return of identical sign to building which was repaired or reconstructed and inserted Subdiv. indicators, effective June 2, 1994; P.A. 03-115 added new Subsec. (f) allowing electronic

message signs within 660 feet of the edge of the right-of-way of any interstate, federal-aid primary or other limited access state highway and specifying requirements for such signage, redesignated existing Subsecs. (f) to (j) as Subsecs. (g) to (k) and made a technical change for the purpose of gender neutrality in Subsec. (g); P.A. 05-210 amended Subsec. (k) by deleting maximum fine of \$100 per violation and providing that commissioner shall impose civil penalty of \$100 for each day on which violation occurs and, before imposing penalty, shall send notice of violation and further providing that if person corrects or terminates violation within 15 days, commissioner shall not impose penalty, and if violation continues for more than 60 days permit may be revoked, effective July 1, 2005; P.A. 06-196 made a technical change in Subsec. (d), effective June 7, 2006; P.A. 08-101 amended Subsec. (e) to add Subdiv. (4) re signs, displays or advertising devices which are in place for 60 days or less, and make technical changes; pursuant to P.A. 11-51, "Commissioner of Public Safety" was changed editorially by the Revisors to "Commissioner of Emergency Services and Public Protection" in Subsec. (h), effective July 1, 2011; P.A. 11-227 amended Subsec. (e) by adding new Subdiv. (4) re directional and other official signs or notices pertaining to facilities in the state where Connecticut-made beer is manufactured or sold and redesignating existing Subdiv. (4) as Subdiv. (5), effective July 13, 2011; P.A. 13-277 amended Subsec. (a) by redesignating existing provisions as Subdiv. (1), adding Subdiv. (2) re restriction of advertising on state real property and adding Subdiv. (3) re advertising upon or within personal property, amended Subsec. (e) by adding Subdiv. (6) re permitted signs on or abutting real property used by a public authority for rail infrastructure facilities, bus rapid transit corridors, airport development zones or other similar transit or freight purposes and permitted signs upon or within state buildings used for athletic, artistic, musical or other entertainment events, and amended Subsec. (f)(1) to increase minimum allowable duration of static display from 6 seconds to 8 seconds; P.A. 14-199 amended Subsec. (e) by deleting former Subdiv. (4) re directional and other official signs or notices pertaining to facilities in the state where Connecticut-made beer is manufactured or sold and redesignating existing Subdivs. (5) and (6) as Subdivs. (4) and (5), effective June 12, 2014.

Cited. 212 C. 176.

Cited. 41 CS 66.

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Sec. 13a-123a. Church signs on state highways. Section 13a-123a is repealed, effective July 1, 1998.

(February, 1965, P.A. 430; 1969, P.A. 768, S. 93; P.A. 98-182, S. 21, 22.)

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Sec. 13a-123b. Exemption of certain areas. If Congress amends Title I of the Highway Beautification Act of 1965 to exempt any area adjacent to any interstate or primary federal-aid highway or any such highway in whole or in part from control of outdoor advertising structures, signs, displays or devices, then such area, or highway or portion thereof, shall be excluded from any regulations by the Commissioner of Transportation for the control of outdoor advertising structures, signs, displays and devices along the interstate and primary systems of federal-aid highways.

(1967, P.A. 632, S. 2; 1969, P.A. 768, S. 94.)

History: 1969 act substituted commissioner of transportation for highway commissioner.

Cited. 41 CS 66.

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Sec. 13a-123c. Junkyard and scrap metal processing facilities control. Definitions. As used in sections 13a-123c to 13a-123j, inclusive, “highway” means the federal interstate and primary systems and limited access state highways as defined in section 13a-1; “federal interstate system” means that portion of the National System of Interstate and Defense Highways located within this state, as officially designated, or as may hereafter be so designated, by the Commissioner of Transportation and approved by the Secretary of Commerce, pursuant to the provisions of Title 23, United States Code; “federal primary system” means that portion of connected main highways, as officially designated, or as may hereafter be so designated, by the commissioner and approved by the Secretary of Commerce, pursuant to the provisions of Title 23, United States Code; “junk” means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material; “automobile graveyard” means any establishment or place of business which is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts; “junkyard” means an establishment or place of business which is maintained, used or operated for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, garbage dumps and sanitary fills; “scrap metal processing facility” means an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron, steel or nonferrous scrap for sale for remelting purposes only; and “effective control” means that, by January 1, 1968, junkyards, and scrap metal processing facilities, existing in violation of sections 13a-123c to 13a-123j, inclusive, shall be screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main traveled way of any highway, as hereinafter defined, or shall be removed from sight.

(1967, P.A. 688, S. 1; 1969, P.A. 768, S. 95.)

History: 1969 act substituted commissioner of transportation for highway commissioner.

See Sec. 14-67g et seq. re motor vehicle junk yards.

Cited. 41 CS 66.

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Sec. 13a-123d. Regulations. The Commissioner of Transportation may promulgate regulations for effective control of junkyards and scrap metal processing facilities, in accordance with Section 136, Title 23 of the United States Code, situated within one thousand feet of the nearest edge of the right-of-way and visible from the main traveled way of a highway.

(1967, P.A. 688, S. 2; 1969, P.A. 768, S. 96.)

History: 1969 act substituted commissioner of transportation for highway commissioner.

Cited. 41 CS 66.

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Sec. 13a-123e. Certificate of approval. No person, firm or corporation shall establish, operate or maintain a junkyard, or scrap metal processing facility, any portion of which is within one thousand feet of the nearest edge of the right-of-way and visible from the main traveled way of a highway without obtaining a certificate of approval from the Commissioner of Transportation that such junkyard or scrap metal processing facility may be effectively controlled as required by sections 13a-123c to 13a-123j, inclusive. No license shall be issued under chapter 405 or 406 if any portion of the business requiring such license is within one thousand feet of the nearest edge of the right-of-way and visible from the main traveled way of any highway, as defined in sections 13a-123c to 13a-123j, inclusive, unless such certificate of approval has been obtained from the commissioner.

(1967, P.A. 688, S. 3; 1969, P.A. 768, S. 97.)

History: 1969 act substituted commissioner of transportation for highway commissioner and deleted obsolete reference to applicability “on and after October 1, 1967”.

Cited. 41 CS 66.

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Sec. 13a-123f. Screening of certain installations. Acquisition of property by Commissioner of Transportation. (a) Any junkyard or scrap metal processing facility, lawfully in existence on October 1, 1967, which is within one thousand feet of the nearest edge of the right-of-way and visible from the main traveled way of any highway, as herein defined, and any junkyard or scrap metal processing facility, which is at any time lawfully established within one thousand feet of such edge and visible from the main traveled way of any highway which at any time after October 1, 1967, is made a part of the interstate or primary system, shall be screened, if feasible, by the Commissioner of Transportation at locations within the highway right-of-way or in areas acquired for such purposes outside the right-of-way so as not to be visible from the main traveled way of such highways.

(b) When the commissioner determines that the topography of the land adjoining the highway will not permit adequate screening of such junkyards or scrap metal processing facilities, or the screening of such junkyards or scrap metal processing facilities would not be economically feasible, the commissioner may acquire by gift, purchase, exchange or condemnation such interests in lands on which the junkyard or scrap metal processing facility is located as may be necessary to secure the removal or disposal of the junkyards or scrap metal processing facilities, and pay for the costs of removal or disposal thereof. When the commissioner determines that it is in the best interest of the state, he may acquire by purchase, gift, exchange or condemnation such lands, or interests in lands, of the junkyard owner or scrap metal processing facility owner as may be necessary to provide adequate screening of such junkyards or scrap metal processing facilities, and he may purchase land or interests in land from owners other than the junkyard owner or scrap metal processing facility owner for the purpose of providing adequate screening of such junkyards or scrap metal processing facilities.

(1967, P.A. 688, S. 4; 1969, P.A. 768, S. 98; P.A. 02-89, S. 18.)

History: 1969 act substituted commissioner of transportation for highway commissioner; P.A. 02-89 deleted as obsolete Subsec. (c) providing that a nonconforming junkyard or scrap metal processing facility in existence on October 22, 1965, which cannot be screened shall not be required to be removed until July 1, 1970.

Cited. 41 CS 66.

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Sec. 13a-123g. Facilities as nuisance. Abatement. Any junkyard or scrap metal processing facility, established or maintained in violation of sections 13a-123c to 13a-123j, inclusive, or any regulation adopted thereunder, is declared to be a public nuisance and the Commissioner of Transportation may request the Attorney General to initiate proceedings at law or in equity to abate the nuisance, if, after said commissioner has given thirty days' notice, by certified mail, to the owner of the property on which such junkyard or scrap metal processing facility is located, such owner has not removed the same.

(1967, P.A. 688, S. 5; 1969, P.A. 768, S. 99.)

History: 1969 act substituted commissioner of transportation for highway commissioner.

Cited. 41 CS 66.

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Sec. 13a-123h. Provisions of other statutes, ordinances, etc., not abrogated. Nothing in sections 13a-123c to 13a-123j, inclusive, shall be construed to abrogate or affect the provisions of any statute, ordinance, regulation or resolution which are more restrictive than the provisions of said sections.

(1967, P.A. 688, S. 6.)

Cited. 41 CS 66.

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Sec. 13a-123i. Facilities in industrial area not affected. Nothing in sections 13a-123c to 13a-123j, inclusive, shall apply to any junkyard or scrap metal processing facility which is located within an area zoned for industrial use or which is within an area not so zoned but which is used for industrial activities as determined from actual land uses as defined by regulations of the Commissioner of Transportation.

(1967, P.A. 688, S. 7; 1969, P.A. 768, S. 100.)

History: 1969 act substituted commissioner of transportation for highway commissioner.

Cited. 41 CS 66.

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Sec. 13a-123j. Agreements with Secretary of Commerce. The Commissioner of Transportation is authorized to enter into agreements with the Secretary of Commerce of the United States as provided by Section 136 of Title 23 of the United States Code, and to act in the name of the state to comply with the terms of such agreement.

(1967, P.A. 688, S. 8; 1969, P.A. 768, S. 101.)

History: 1969 act substituted commissioner of transportation for highway commissioner.

Cited. 212 C. 176.

Cited. 41 CS 66.

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Sec. 13a-124. Unauthorized signs. No person, firm or corporation shall erect or maintain or cause to be erected or maintained, within three hundred feet of any state highway, any sign which has thereon any of the following words: "Stop", "caution", "danger", "dangerous", "warning" or "slow", or any other word or character or any device, floodlight or spotlight, signal or symbol intended to give or capable of giving warning or direction to or interfering with traffic, except with the approval or under the direction of the commissioner. No provision of this section shall be construed to prevent any officer of any municipality or any public utility company from erecting or maintaining any danger or warning sign required by statute or any sign designed for the protection of the public or to aid in the operation of any public utility. No such direction or danger sign shall bear the name of any article or product or the name or address of any person, firm or corporation or any advertisement, except that a directional sign may bear directions and other official notices pertaining to (1) farming that is part of the state's agricultural tourism; (2) facilities in this state where Connecticut-made beer is manufactured or sold, including,

but not limited to, signs or notices containing the words “Connecticut Brewery Trail”; or (3) any farm in this state located within ten miles of a state-maintained limited access highway, except a parkway, where Connecticut-made wine is manufactured or sold, including, but not limited to, signs or notices containing the words “Connecticut Wine Trail”. The commissioner may enter upon any property and remove any sign which does not conform to the provisions of this section. Any person, any member of any firm or any corporation violating any provision of this section shall be fined not more than one hundred dollars for the first offense and not more than five hundred dollars for each subsequent offense.

(1949 Rev., S. 2248; 1958 Rev., S. 13-135; 1963, P.A. 226, S. 124; 518; P.A. 14-199, S. 13.)

History: 1963 acts added words “device, floodlight or spotlight, signal” and “interfering with” traffic and restated former provisions: See title history; P.A. 14-199 added provision re exception for directional signs pertaining to agricultural tourism farming, facilities where Connecticut-made beer is manufactured or sold and farms where Connecticut-made wine is manufactured or sold, effective June 12, 2014.

See Sec. 14-310 re fraudulent or obstructive signs or signals.

Cited. 121 C. 478.

Cited. 41 CS 66.

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Sec. 13a-124a. Specific service sign on limited access highways. Regulations. (a) As used in this section, “specific service sign” means a rectangular sign with the word GAS, FOOD, LODGING, CAMPING or ATTRACTION and exit directional information pertaining to the designated motorist service placed on the sign and upon which is mounted separately attached business sign panels showing the brand, symbol, trademark or name, or any combination of these, for the designated service available on a crossroad at or near an interchange or intersection.

(b) The Commissioner of Transportation may enter into an agreement with a qualifying person or company regarding the erection, maintenance and removal of a specific service sign within the rights-of-way of any portion of a state-maintained limited access highway, except a parkway. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, regarding (1) the design and installation requirements for a specific service sign, (2) the minimum qualifications for a person or company to obtain a specific service sign, (3) the application process to obtain a specific service sign, (4) the financial responsibility of such person or company, and (5) the terms regarding the removal of a specific service sign or revocation of an agreement with such person or company.

(P.A. 83-498; P.A. 84-327, S. 2, 3; P.A. 98-91, S. 2; P.A. 06-196, S. 196; P.A. 21-175, S. 17; P.A. 22-44, S. 33.)

History: P.A. 84-327 amended Subsec. (b) to delete provision limiting specific information signs to sparsely settled areas; P.A. 98-91 added Subsec. (c) providing costs of the sign to be divided by the number of permittees on the sign, relettering former Subsec. (c) as (d); P.A. 06-196 made a technical change in Subsec. (b), effective June 7, 2006; P.A. 21-175 amended Subsec. (a) to change term from “specific information sign” to “a specific service sign” and redefine the same, deleted former Subsec. (b) re permits, added new Subsec. (b) re authority of Commissioner of Transportation to enter into agreements and adopt regulations and deleted Subsec. (c) and (d) re reimbursement and regulations, effective July 12, 2021; P.A. 22-44 amended Subsec. (a) to change term from “a specific service sign” to “specific service sign”, effective July 1, 2022.

Cited. 41 CS 66.

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Sec. 13a-124b. Payment for design and production of signs or notices re Connecticut-made beer facilities. The design and production of directional and other official signs or notices pertaining to facilities in this state where Connecticut-made beer is manufactured or sold, pursuant to section 13a-124, may be paid for by private persons or entities affiliated with Connecticut-made beer manufacturers or sellers.

(P.A. 11-227, S. 2; P.A. 14-199, S. 14.)

History: P.A. 11-227 effective July 13, 2011; P.A. 14-199 replaced “subsection (e) of section 13a-123” with “section 13a-124”, effective June 12, 2014.

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Sec. 13a-125. Removal or destruction of signs. Section 13a-125 is repealed.

(1949 Rev., S. 2247; 1958 Rev., S. 13-134; 1963, P.A. 226, S. 125; 1971, P.A. 690, S. 2.)

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## PART VIII

### PUBLIC SERVICE FACILITIES

Sec. 13a-126. Readjustment, relocation or removal of public service facilities for highway construction. As used in this section, “public service facility” includes all privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage and any other similar commodities, including fire and police signal systems and street lighting systems which directly or indirectly serve the public. Whenever the commissioner determines that any public service facility located within, on, along, over or under any land comprising the right-of-way of a state highway or any other public highway when necessitated by the construction or reconstruction of a state highway shall be readjusted or relocated in or removed from such right-of-way, the commissioner shall issue an appropriate order to the company, corporation or municipality owning or operating such facility, and such company, corporation or municipality shall readjust, relocate or remove the same promptly in accordance with such order; provided an equitable share of the cost of such readjustment, relocation or removal, including the cost of installing and constructing a facility of equal capacity in a new location, shall be borne by the state, except that the state shall not bear any share of the cost of a project of an electric distribution company, as defined in section 16-1, to readjust, relocate or remove any facility, as defined in subsection (a) of section 16-50i, used for transmitting electricity or as an electric transmission trunkline. The Department of Transportation shall evaluate the total costs of such a project, including department costs for construction or reconstruction and electric distribution company costs for readjusting, relocating or removing such facility, so as to minimize the overall costs incurred by the state and the electric distribution company. The electric distribution company may provide the department with proposed alternatives to the relocation, readjustment or removal proposed by the department and shall be responsible for any changes to project costs attributable to adoption of the company's proposed alternative designs for such project, including changes to the area of the relocation, readjustment or removal and any incremental costs incurred by the department to evaluate such alternatives. If such electric distribution company and the department cannot agree on a plan for such project, the Commissioner of Transportation and the chairperson of the Public Utilities Regulatory Authority shall, on request of the company, jointly determine the alternative for the project. Such equitable share, in the case of or in connection with the construction or reconstruction of any limited access highway, shall be the entire cost, less the deductions provided in this section, and, in the case of or in connection with the construction or reconstruction of any other state highway, shall be such portion or all of the entire cost, less the deductions provided in this section, as may be fair and just

under all the circumstances, but shall not be less than fifty per cent of such cost after the deductions provided in this section. In establishing the equitable share of the cost to be borne by the state, there shall be deducted from the cost of the readjusted, relocated or removed facilities a sum based on a consideration of the value of materials salvaged from existing installations, the cost of the original installation, the life expectancy of the original facility and the unexpired term of such life use. When any facility is removed from the right-of-way of a public highway to a private right-of-way, the state shall not pay for such private right-of-way, provided, when a municipally owned facility is thus removed from a municipally owned highway, the state shall pay for the private right-of-way needed by the municipality for such relocation. If the commissioner and the company, corporation or municipality owning or operating such facility cannot agree upon the share of the cost to be borne by the state, either may apply to the superior court for the judicial district within which such highway is situated, or, if said court is not in session, to any judge thereof, for a determination of the cost to be borne by the state, and said court or such judge, after causing notice of the pendency of such application to be given to the other party, shall appoint a state referee to make such determination. Such referee, having given at least ten days' notice to the parties interested of the time and place of the hearing, shall hear both parties, shall view such highway, shall take such testimony as such referee deems material and shall thereupon determine the amount of the cost to be borne by the state and immediately report to the court. If the report is accepted by the court, such determination shall, subject to right of appeal as in civil actions, be conclusive upon both parties.

(1953, 1955, S. 1201d; 1957, P.A. 576, S. 1; 1958 Rev., S. 13-124; 1963, P.A. 226, S. 126; 1967, P.A. 671; P.A. 76-133; P.A. 78-280, S. 2, 127; P.A. 82-472, S. 36, 183; P.A. 94-188, S. 7; P.A. 03-115, S. 33; P.A. 05-210, S. 28; P.A. 06-196, S. 278; P.A. 07-242, S. 56; P.A. 11-80, S. 9.)

History: 1963 act replaced previous provisions: See title history; 1967 act clarified provisions by adding references to construction or reconstruction of highways and added proviso re payment of relocation right-of-way costs for municipally-owned facilities removed from municipally-owned highway; P.A. 76-133 included community antenna television companies in definition of "public service facility"; P.A. 78-280 substituted "judicial district" for "county"; P.A. 82-472 corrected reference to superior court; P.A. 94-188 redefined "public service facility"; P.A. 03-115 made technical changes; P.A. 05-210 added exception providing that the state shall not bear any share of cost of project to readjust, relocate or remove facility used for transmitting electricity and that electric distribution company may provide alternatives, and if department does not agree, then department and chairperson of the Department of Public Utility Control shall jointly determine alternative for project, effective July 6, 2005; P.A. 06-196 made a technical change, effective June 7, 2006; P.A. 07-242 amended section to provide that state shall not bear any share of the cost of a project "of an electric distribution company, as defined in section 16-1" re any facility used as an electric "transmission" trunkline, effective June 4, 2007; P.A. 11-80 changed "Department of Public Utility Control" to "Public Utilities Regulatory Authority", effective July 1, 2011.

Cited. 206 C. 65.

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Sec. 13a-126a. Regulation of public service facility installations along state highway rights-of-way for aesthetic purposes. Notwithstanding the provisions of any other statute, the Commissioner of Transportation may, for the purpose of protecting the functional or aesthetic characteristics of any state highway or state highway appurtenance, promulgate regulations for the location and installation of any public service facility within, on, along, over or under the right-of-way of any state highway or state highway appurtenance and, when necessary to insure the protection of the aesthetic characteristics of any state highway, within, on, along, over or under the right-of-way of any other public highway; provided no such regulation shall limit, restrict or derogate from any power, right or authority of the Public Utilities Regulatory Authority as provided by statute in respect to the location and installation of such public service facilities. The state shall pay the additional cost of any location, relocation, installation, adjustment or readjustment of any public service facility made necessary by such regulations.

(1967, P.A. 686; 1969, P.A. 768, S. 102; P.A. 75-486, S. 32, 69; P.A. 77-614, S. 162, 610; P.A. 80-482, S. 28, 348; P.A. 11-80, S. 1.)

History: 1969 act substituted commissioner of transportation for highway commissioner; P.A. 75-486 substituted public utilities control authority for public utilities commission; P.A. 77-614 substituted division of public utility control within the department of business regulation for public utilities control authority, effective January 1, 1979; P.A. 80-482 made division an independent department and deleted reference to abolished department of business regulation; pursuant to P.A. 11-80, "Department of Public Utility Control" was changed editorially by the Revisors to "Public Utilities Regulatory Authority", effective July 1, 2011.

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Sec. 13a-126b. Agreements with public service facility operators for revision of plans of proposed installation. The Commissioner of Transportation is authorized, when in his opinion it would be in the best interest of the state, to enter into an agreement with the owner or operator of a public service facility, as defined in section 13a-126, for the revision, by the owner or operator, of the plans for any proposed public service facility installation when such installation is to be constructed prior to planned highway construction and readjustment or relocation of such installation would be required by the planned highway construction. The added cost of rights-of-way and construction of the public service facility resulting from such revision in plans shall, if the proposed public service facility would have been located within an existing state highway, be paid in accordance with said section 13a-126, or if the proposed public service facility would not have been located within an existing state highway, be paid from appropriations made to the commissioner.

(1967, P.A. 201; 1969, P.A. 768, S. 103.)

History: 1969 act substituted commissioner of transportation for highway commissioner.

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Sec. 13a-126c. Longitudinal use of highway right-of-way by public service facility or company. Notwithstanding any provision of the general statutes, the Commissioner of Transportation may enter into an agreement with the owner or operator of a public service facility, as defined in section 13a-126, desiring the longitudinal use of the right-of-way of a state highway to accommodate trunkline or transmission-type utility facilities and to fix the terms, conditions and rates and charges for use of such right-of-way; provided, no such agreement shall exempt a public service facility from the provisions of chapter 277a. In the case of public service companies, as defined in section 16-1, such charges or rates shall not exceed the actual administrative, construction, operation and maintenance costs of the department incurred as a result of the public service company's use of a nonlimited access state highway. The department may estimate such charges or rates and require prepayment of such charges or rates, provided any amount in excess of the actual amount shall be refunded to the public service company.

(P.A. 78-86; P.A. 04-143, S. 33; P.A. 05-210, S. 29; P.A. 06-196, S. 279; P.A. 14-134, S. 23.)

History: P.A. 04-143 changed subject of agreement from use of right-of-way of limited access highway to use of right-of-way of state highway and made a technical change, effective May 21, 2004; P.A. 05-210 added provision specifying that in the case of public service companies, charges or rates shall not exceed actual administrative, construction, operation and maintenance costs of department as result of use by public service company of state highway and that department may estimate charges or rates and require prepayment provided any amount in excess of actual amount is refunded to public service company, effective July 6, 2005; P.A. 06-196 made technical changes, effective June 7, 2006; P.A. 14-134 made a technical change, effective June 6, 2014.

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Sec. 13a-126d. Notification provided to Public Utilities Regulatory Authority and public service companies re highway construction projects. The Department of Transportation and any municipality shall notify the Public Utilities Regulatory Authority of any pending project involving the construction, alteration, reconstruction, improvement, relocation, widening or changing of the grade of a section of any state highway or any other public highway, that is greater than five miles long or located in a commercial area. The authority, upon determination that such project may provide an opportunity for any public service company, as defined in section 16-1, to install, replace, upgrade or bury any water, sewer or gas line, electric wire or cable or fiber optics, shall notify such company of such project.

(P.A. 12-148, S. 10.)

History: P.A. 12-148 effective June 15, 2012.

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Sec. 13a-126e. Easements for public service companies to provide service to Department of Transportation facilities. The Commissioner of Transportation may grant easements with respect to land owned by the state to a public service company, as defined in section 16-1, in connection with bringing utility service to a Department of Transportation facility or office, subject to the approval of the State Properties Review Board.

(P.A. 13-277, S. 5.)

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Sec. 13a-127. Utility lines on certain bridges. The commissioner is authorized to contract with any person, partnership, association or corporation, desiring the use of the project authorized by section 13a-32, the Gold Star Memorial Bridge or the Old Lyme and Old Saybrook Bridge, or the appurtenances and approaches or any part of such project or bridges, for placing thereon water, steam, gas or oil pipelines, telephone, electric light or power lines, or for any other purpose, and to fix the terms, conditions and rates and charges for such use.

(1961, P.A. 541, S. 14; 1963, P.A. 226, S. 127; P.A. 14-134, S. 29.)

History: 1963 act replaced previous provisions: See title history; P.A. 14-134 deleted reference to telegraph lines, effective June 6, 2014.

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Sec. 13a-128. Discontinuance or alteration of highways in watershed. When any municipal or private corporation, engaged in providing or authorized to provide a water supply for any town, city or borough, deems it necessary that any public highway or part thereof shall be discontinued or altered in order to enable it to construct or enlarge a reservoir or to promote or carry out its authorized purposes in other respects in providing a pure and ample supply of water, it may apply to the selectmen of any town in which such part of such highway is located for such discontinuance or alteration. Such municipal or private corporation shall give twelve days' notice of such application by publication in a newspaper published in the town or towns where such highways are located, and shall file, twelve days before such application, with the town clerk, a map showing the highways to be discontinued or altered. If such selectmen or any town denies such application or declines for thirty days to act upon it, such municipal or private corporation may petition the superior court for the judicial district in which

such town is located, setting forth the facts in relation thereto and that such discontinuance or alteration is a matter of public convenience and necessity.

(1949 Rev., S. 2148; 1958 Rev., S. 13-32; 1963, P.A. 226, S. 128; P.A. 78-280, S. 2, 127.)

History: 1963 act replaced previous provisions: See title history; P.A. 78-280 substituted “judicial district” for “county”.

Cited. 132 C. 446.

“Public convenience and necessity”, “ample” and “pure” discussed; waiver by highway commissioner. 6 CS 359.

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Sec. 13a-129. Court procedure. Estimate of damages. Appeal. Upon twelve days' notice of such petition to such town or towns and to all owners of land abutting on such highways and to such other persons as the court orders, served and returned in the same manner as in civil process, said court shall hear and decide such petition and, upon finding the allegations to be true, shall grant the discontinuance or alteration of such highways, prescribing in its judgment any modifications of such discontinuance or alteration requested in such petition, or any layout of a new highway or highways in lieu thereof, as said court deems to be required by public convenience and necessity. Said court shall, in such judgment, appoint a committee of three disinterested persons to make a survey and layout in accordance with such judgment and, upon such notice to the parties in interest as the court orders, to estimate the damages sustained by any person and to report in writing their actions to said court. Upon acceptance of such report by said court and payment of damages by the petitioner to the parties found to be entitled thereto or deposit of the same in said court for their use, such discontinuance, alteration or new layout shall become effectual, and the applicant shall immediately construct such highway as altered or laid out, at its own expense and in the manner determined by said court, and shall cause a certified copy of such judgment and of the report of such committee as accepted to be recorded in the land records of each town in which any part of such highway so discontinued, altered or laid out is situated. Appeal from the judgment granting such petition or from the judgment of the court accepting such report may be taken by any party in interest in the same manner as is prescribed by law for appeals in civil actions.

(1949 Rev., S. 2149; 1958 Rev., S. 13-33; 1963, P.A. 226, S. 129; P.A. 03-115, S. 34.)

History: 1963 act replaced previous provisions: See title history; P.A. 03-115 made technical changes.

Court may order discontinuance of roads several years before construction of reservoir. 6 CS 359. Cited. 11 CS 429.

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Sec. 13a-130. Bridges over railroad tracks. The bottom timbers of all bridges constructed over any railroad track shall be not less than eighteen feet above the rails, unless the Commissioner of Transportation requires a lesser height and prescribes the same in writing.

(1949 Rev., S. 2124; 1958 Rev., S. 13-8; 1963, P.A. 226, S. 130; P.A. 75-486, S. 33, 69; P.A. 77-614, S. 571, 587, 610; P.A. 78-303, S. 85, 136.)

History: 1963 act replaced previous provisions: See title history; P.A. 75-486 substituted public utilities control authority for public utilities commission; P.A. 77-614 and P.A. 78-303 substituted commissioner of transportation for public utilities control authority, effective January 1, 1979.

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Sec. 13a-131. Alteration of highway made unsafe by railroad occupation. The superior court for the judicial district in which is located any highway, or any portion thereof, taken for railroad purposes by any corporation, unless such highway or portion thereof is in a city or borough which has control of its highways, or has been constructed since such railroad, may, upon the petition of any party interested, served upon such company as other civil process, appoint a committee of three to inquire whether such highway or portion thereof is unsafe for travel by reason of such railroad, or whether any alteration of such highway or the construction of a new highway is thereby rendered necessary for the public safety and convenience. Such committee shall hear the parties and report its opinion thereon to said court, which may make any requisite order in the premises; and, if it orders any such alteration or construction and such company refuses to comply with such order, such town shall alter or construct such highway and may recover the expense thereof from such company.

(1949 Rev., S. 2153; 1958 Rev., 13-39; 1963, P.A. 226, S. 131; P.A. 78-280, S. 2, 127; P.A. 85-246, S. 4.)

History: 1963 act replaced previous provisions: See title history; P.A. 78-280 substituted “judicial district” for “county”; P.A. 85-246 deleted reference to street railway companies.

Cited. 11 CS 429.

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Sec. 13a-132. Alteration of railroad facilities in construction of highway. When it is necessary for the commissioner to construct a highway which intersects or crosses over or under any railroad, said commissioner may order any railroad company to change or alter its existing facilities as required by such construction. The cost of such change or alteration shall be included in the construction costs of such highway.

(1959, P.A. 46, S. 1; 1963, P.A. 226, S. 132; P.A. 73-675, S. 19, 44; P.A. 75-486, S. 34, 69; 75-568, S. 15, 45; P.A. 77-614, S. 571, 587, 610; P.A. 78-303, S. 85, 136.)

History: 1963 act replaced previous provisions: See title history; P.A. 73-675 replaced highway fund with transportation fund; P.A. 75-486 replaced public utilities commission with public utilities control authority; P.A. 75-568 deleted reference to payments made from transportation fund; P.A. 77-614 and P.A. 78-303 allowed deletion of reference to approval of public utilities control authority since P.A. 77-614 replaced authority with transportation commissioner and it would be nonsensical for commissioner to approve his own orders.

See Sec. 13b-271 re temporary grade crossings.

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Sec. 13a-133. Contracts with railroads where tracks to be altered. Advancement of funds. The commissioner may enter into agreements with railroad corporations for the purpose of performing any work which may be necessary in connection with the construction of highways, bridges and other public works undertaken by the Department of Transportation whenever such construction or work would entail relocation, alteration or other work on the tracks, bridges or other property of such corporations. Any such agreement, subject to the approval of the State Treasurer, may provide for the monthly advancement of funds to a special bank account administered jointly by the railroad corporations and the State Treasurer, for the purpose of covering the cost of such work, whenever it appears that otherwise delay would result in the reasonable progress of such work which would unreasonably obstruct and impede the construction of highways and disrupt the free flow of public transportation.

(1961, P.A. 551; 1963, P.A. 226, S. 133; 1969, P.A. 768, S. 104; P.A. 03-115, S. 35.)

History: 1963 act replaced previous provisions: See title history; 1969 act substituted commissioner and department of transportation for references to highway department; P.A. 03-115 made a technical change.

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Sec. 13a-134. Location of tracks of street railway. Section 13a-134 is repealed.

(1949 Rev., S. 2232; 1958 Rev., S. 13-115; 1963, P.A. 226, S. 134; P.A. 85-246, S. 22.)

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Sec. 13a-135. Taking of street railway rails and ties by commissioner. The commissioner may take, under the provisions of the general statutes relating to the taking of land for highway purposes, the ties, track appurtenances and rails of any disbanded or defunct street railway company, as defined in section 16-1, in state highways or bridges or, by agreement with any operating street railway company, take title to and possession of, on behalf of the state, any ties, rails or other track appurtenances in such highways or bridges, and thereupon such street railway company shall be relieved of all obligations with respect to construction, reconstruction, repair and maintenance of any part of such highways or bridges or with respect to the removal of such ties, rails and other track appurtenances.

(1949 Rev., S. 2256; 1958 Rev., S. 13-138; 1963, P.A. 226, S. 135; P.A. 85-246, S. 5; P.A. 03-115, S. 36.)

History: 1963 act replaced previous provisions: See title history; P.A. 85-246 added definitional reference to Sec. 16-1; P.A. 03-115 made technical changes.

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## **PART IX**

### **ABUTTING PROPERTY**

Sec. 13a-136. Benefits assessed where highway is dike against tides. Whenever any town lays out any public highway, either by action of its selectmen or by a decree of the Superior Court, across any meadow or lowlands, and such meadow or lowlands are open to the overflow of the tides, and such highway is capable of being used as a dike to prevent such overflow, the selectmen of such town may assess or cause to be assessed the benefits accruing to any owner of such lowlands, by reason of the same being protected from the overflow of the tides, on account of the construction of such highway and the construction of proper tide gates at suitable points, to permit the egress of water; provided not more than one-half the cost of opening and constructing such highway over such lowlands shall be assessed upon the owners of such lands. The cost of constructing gates to prevent the ingress of water may be included as a part of the cost of such highway for the purposes of this section. If the selectmen of any town and the owners of such lowlands cannot agree concerning the benefits accruing to such owners severally, the same proceedings may be had as are provided in section 13a-84, and any town constructing a highway across lowlands under the provisions of this section shall construct the necessary dams and tide gates across streams and watercourses and shall maintain the same at the expense of such town.

(1949 Rev., S. 2151; 1958 Rev., S. 13-37; 1963, P.A. 226, S. 136.)

History: 1963 act replaced previous provisions: See title history.

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Sec. 13a-137. Material for repair of highway taken from private land. Whenever necessary material for making or repairing any highway in any town cannot be obtained without great inconvenience from land sequestered for highways but may be found on land abutting on the highway, other than in a home lot, the selectmen of such town may take such material from such land on payment to the owner thereof of a reasonable compensation therefor to be ascertained before any such taking, either by agreement between the selectmen and such owner or by the same proceedings as are provided in section 13a-84. After such compensation has been so determined, such material shall not be taken until the town in lawful town meeting has approved the transaction, if the owner of such material, within one month thereafter, makes a request in writing to the selectmen that the town shall take action thereon.

(1949 Rev., S. 2152; 1958 Rev., S. 13-38; 1963, P.A. 226, S. 137.)

History: 1963 act replaced previous provisions: See title history.

Cited. 11 CS 429.

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Sec. 13a-138. Highways may be drained into private lands. (a) Persons authorized to construct or to repair highways may make or clear any watercourse or place for draining off the water therefrom into or through any person's land so far as necessary to drain off such water and, when it is necessary to make any drain upon or through any person's land for the purpose named in this section, it shall be done in such way as to do the least damage to such land.

(b) Nothing in this section shall be so construed as to allow the drainage of water from such highways into, upon, through or under the yard of any dwelling house, or into or upon yards and enclosures used exclusively for the storage and sale of goods and merchandise.

(1949 Rev., S. 2134; 1958 Rev., S. 13-18; 1963, P.A. 226, S. 138; P.A. 81-162, S. 1.)

History: 1963 act replaced previous provisions: See title history; P.A. 81-162 divided section into Subsecs. (a) and (b).

Municipalities are not liable for damage from draining water from highways onto private lands within statutory restrictions. 54 C. 520. Section not applicable to draining water off private land. 64 C. 375. Section does not prohibit grading of street so that surface water runs into dooryard. 73 C. 35. Meaning of "dooryard". 74 C. 321. Constitutionality of statute quaere. Id.; 79 C. 91. Does not apply where draining on land can be avoided by reasonable expense. Id. Scope limited. 81 C. 392. Section, as in derogation of private rights, to be strictly construed. 112 C. 568. Cited. 120 C. 551. Does not imply consent on part of state to be sued. 146 C. 316. Drainage easement not created in state in any particular land so as to constitute breach of covenant against encumbrances. 151 C. 183. Cited. 189 C. 740; 217 C. 520.

Cited. 6 CA 229. 15-year limitation period of Sec. 13a-138a applies to both Subsecs. (a) and (b); to construe otherwise would yield an unworkable result. 110 CA 591.

Town liable where it did not drain so as to do least damage to land. 3 CS 404. Proviso construed. 5 CS 487. Unnecessary discharge of surface water from state highway. 6 CS 485. No right of recovery where highway commissioner has neither drained water onto nor opened or cleared any watercourse on plaintiff's land. 20 CS 142. Cited. 29 CS 499.

Subsec. (a):

Clear and unambiguous language that drainage “shall be done in such way as to do the least damage to such land” does not provide for a balancing test that weighs the least damage against the least expense and other considerations claimed by defendant town. 49 CA 781.

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Sec. 13a-138a. Limitation on actions for drainage damage. No action shall be brought by the owner of land adjoining a public highway, or of any interest in such land, for recovery of damage to such property or interest by reason of any draining of water into or through such land by any town, city, borough or other political subdivision of the state pursuant to subsection (a) of section 13a-138, but within fifteen years next after the first occurrence of such drainage, except that if such drainage first occurred prior to October 1, 1981, no such action shall be brought after October 1, 1986.

(P.A. 81-162, S. 2.)

Cited. 217 C. 520.

15-year limitation period applies to both Subsecs. (a) and (b) of Sec. 13a-138; to construe otherwise would yield an unworkable result; public policy favors limitation periods for cause of action to grant degree of certainty to litigants. 110 CA 591.

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Sec. 13a-139. Clearing untraveled portion of highway. When any person owning or occupying land abutting on any highway has cut the brush and weeds on, removed the stones and rubbish from, and otherwise improved, the land within the limits of such highway between the traveled portion of such highway and such land, the selectmen of the town or other persons repairing such highway shall not place any stones, rubbish or waste material of any kind on the land so cleared and improved, and no other person shall place or leave any stones, rubbish or other waste material on such land. The provisions of this section shall not be construed to (1) prevent the selectmen or other legally authorized person or persons from making improvements upon any highway by widening such highway or reducing the grade thereof, or (2) authorize any improvements which conflict with the provisions of any ordinance adopted pursuant to section 7-149a. Any person violating any provision of this section shall be fined not more than ten dollars.

(1949 Rev., S. 2131; 1958 Rev., S. 13-15; 1963, P.A. 226, S. 139; P.A. 81-401, S. 3, 4.)

History: 1963 act replaced previous provisions: See title history; P.A. 81-401 amended the section to prohibit its interpretation as authorizing improvements conflicting with provisions of an ordinance adopted pursuant to Sec. 7-148o.

Cited. 11 CS 429.

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Sec. 13a-140. Removal of trees along state highways. Penalties established by municipalities. (a) The commissioner may cut, remove or prune any tree, shrub or other vegetation situated wholly or partially within the limits of any state highway so far as is reasonably necessary for safe and convenient travel thereon. No person, firm or corporation, and no officer, agent or employee of any municipal or other corporation, shall cut, remove or prune any tree, shrub or vegetation situated partially or wholly within the limits of any such highway without first obtaining from said commissioner a written permit therefor, provided however, that nothing contained in this subsection shall limit the rights of public service companies, as defined in section 16-1, to cut

and trim trees and branches and otherwise protect their lines, wires, conduits, cables and other equipment from encroaching vegetation. No such permit shall be issued by the commissioner unless the chief elected official of the municipality in which any tree with a diameter greater than eighteen inches is situated is notified in writing. The notice shall include the location and a description of such tree to be cut or removed. No such permit for the removal of any such tree, shrub or vegetation shall be refused if such removal is necessary for that use of such adjoining land which is of the highest pecuniary value. If such permit is refused on any state highway right-of-way, where the state does not own the right-of-way in fee, the owner of such tree, shrub or vegetation may, within thirty days thereafter, request said commissioner in writing to purchase or condemn an easement for the purpose of maintaining such tree, shrub or vegetation and, if said commissioner does not purchase the same, he shall condemn it, in the manner provided for the condemnation of land for the construction, alteration, extension or widening of state highways. Any payment so made shall be from funds appropriated to the Department of Transportation. Said commissioner may plant, set out and care for trees, shrubs or vegetation within the limits of such highways and, by agreement with the owner of land adjoining such highways, upon such adjoining land. Upon request in writing within thirty days of planting of trees, shrubs or vegetation to delimit boundaries of a highway by an adjoining owner not agreeing thereto, said commissioner shall purchase or condemn an easement for the purpose of maintaining such tree, shrub or vegetation in the manner provided in this subsection. When the removal of such tree, shrub or vegetation is necessary for that use of such adjoining land which is of the highest pecuniary value, said commissioner shall remove the same upon payment to him of all sums paid for said planting and for any such easement with interest at the rate of six per cent per annum. Any person, firm or corporation cutting, removing, damaging or pruning any tree, shrub or vegetation in violation of the provisions of this subsection, whether it was planted by the commissioner or not, without a permit from said commissioner, shall be fined not more than one thousand dollars for each such violation and shall be liable civilly for any damage in an action brought by said commissioner.

(b) Notwithstanding the provisions of section 51-164p, any municipality, by ordinance, may establish a civil penalty of not more than one thousand dollars, for cutting, removing, damaging or pruning any tree, shrub or vegetation in violation of the provisions of subsection (a) of this section, on any scenic road, designated pursuant to section 13b-31c, located in said municipality. Any such ordinance shall provide for notice and an opportunity for a hearing prior to the imposition of any such civil penalty. Any person who is assessed a civil penalty pursuant to this subsection may appeal therefrom to the Superior Court.

(1949 Rev., S. 2236; 1958 Rev., S. 13-117; 1963, P.A. 226, S. 140; 1967, P.A. 411, S. 1; 1969, P.A. 768, S. 105; P.A. 96-182; P.A. 99-207.)

History: 1963 act replaced previous provisions: See title history; 1967 act clarified language of section and added proviso re rights of public service companies to cut and trim trees to protect lines, wires etc. from encroaching vegetation; 1969 act substituted department of transportation for highway department; P.A. 96-182 prohibited issuance of permit by commissioner for the cutting, etc. of trees with a diameter greater than 18 inches unless chief elected official of municipality in which tree is located receives written notification; P.A. 99-207 designated existing provisions as Subsec. (a) and amended Subsec. to increase fine from \$100 to \$1,000 and to make technical changes, and added Subsec. (b) authorizing municipalities to establish a civil penalty for violations of Subsec. (a) on any scenic road.

Cited. 17 CS 108.

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Sec. 13a-141. Bridle paths; pedestrian walks; bicycle paths. (a) Upon written application made to the commissioner in such form as he prescribes, said commissioner may issue permits to private individuals, corporations or other organizations or to towns or other public authorities or agencies to construct and maintain, at the expense of the permittee or permittees, bridle paths, pedestrian walks, bicycle paths and suitable entrances to, and exits from, such walks and paths on the land owned by the state along any highway maintained by the state. Each such permit shall specify the location of the proposed walks and paths and entrances and exits which

may be constructed and maintained thereunder. Each such permit may be revoked at any time, with or without cause, by the commissioner. All construction and maintenance work pursuant to each such permit shall be subject to the supervision and control of the commissioner or, if the permittee so desires and said commissioner consents thereto, the funds for such work may be deposited in advance with the commissioner and the construction and maintenance work may then be performed by the commissioner to the extent that funds so deposited will pay for the same, provided, if the work is performed by the commissioner, he shall furnish to the permittee, prior to the commencement of such work, an estimate of the cost thereof, with specifications of the work to be done. No fee shall be charged any resident of the state for the use of such walks and paths. If a town or other public authority or agency requests a permit to construct and maintain such path or walk the commissioner is authorized to contribute one-half of the cost of construction of such path or walk from funds available to the Department of Transportation, provided such town, public authority or agency agrees to assume the maintenance, responsibility, liability and supervision of such path or walk.

(b) When the selectmen of any town discontinue any highway or private way, or land dedicated as such, pursuant to section 13a-49, they may except from the operation of such discontinuance and reserve to the town and to the public such rights in such discontinued highway, private way or land dedicated as such, as may be reasonably necessary to construct and maintain a bridle path, pedestrian walk or bicycle path. Any such rights excepted and reserved to a town under this section shall be subject to the rights of property owners bounding a discontinued highway as are provided in section 13a-55.

(1949 Rev., S. 2244; 1958 Rev., S. 13-130; 1963, P.A. 226, S. 141; 1969, P.A. 643, S. 1; 1972, P.A. 106, S. 1; P.A. 90-310, S. 1.)

History: 1963 act replaced previous provisions: See title history; 1969 act included pedestrian and bicycle walks and paths in addition to bridle paths; 1972 act added provision re construction and maintenance of walks or paths requested by town or other public authority or agency; P.A. 90-310 added new Subsec. (b) allowing selectmen to discontinue any highway or private way for the construction and maintenance of a bridle path, pedestrian walk or bicycle path.

See Sec. 13a-153 re state liability for bridle paths, pedestrian walks and bicycle paths and injuries incurred on them.

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Sec. 13a-141a. State-wide footpath and bicycle trail plan. (a) The Commissioner of Transportation shall prepare and, when necessary, revise a state-wide plan for the establishment of footpaths and bicycle trails to be located adjacent to state and local roads except: (1) Where the establishment of such paths and trails would be contrary to public health and safety; (2) if the cost of establishing such paths and trails would be excessively disproportionate to the need or probable use; or (3) where sparsity of population, other available ways or other factors indicate an absence of any need for such paths and trails.

(b) Said commissioner shall cause to be constructed and maintained such footpaths and bicycle trails adjacent to state roads as are designated in the state-wide plan prepared under subsection (a) of this section.

(c) Any private individual, corporation or other organization or any town or other public authority or agency wishing to construct and maintain a footpath or bicycle trail along any highway maintained by the state shall comply with the provisions of section 13a-141.

(d) No footpath or bicycle trail to be located, in whole or in part, within the boundaries of any transit district shall be constructed without the prior approval of such transit district. Any footpath or bicycle trail proposed by a transit district, whether or not said footpath or bicycle trail is included in the state-wide plan, shall be given priority in planning and construction.

(P.A. 73-524, S. 1, 2.)

See Sec. 13a-57b re inclusion of areas for bicyclists and pedestrians in layout of state highways.

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Sec. 13a-142. Bridle paths along Merritt Parkway. The commissioner may connect the bridle paths established along the Merritt Parkway under the provisions of section 13a-141 and may defray the expenses of making such connections at a cost not to exceed two thousand dollars.

(1949 Rev., S. 2245; 1958 Rev., S. 13-131; 1963, P.A. 226, S. 142.)

History: 1963 act replaced previous provisions: See title history.

See Sec. 13a-153 re state liability for bridle paths and injuries incurring on them.

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Sec. 13a-142a. Acquisition of land adjacent to highway for environmental protection purposes. The Commissioner of Transportation may acquire by purchase but not by condemnation, in the same manner and with like powers as said commissioner possesses in purchasing real property for state highway purposes, and accept gifts of, land adjacent to state highways and take a deed in the name of the state, and transfer custody of such land to the Commissioner of Energy and Environmental Protection when such land, in the opinion of the Commissioner of Transportation and the Commissioner of Energy and Environmental Protection, shall replace environmental protection land acquired from the Department of Agriculture or the Commissioner of Energy and Environmental Protection for highway purposes after October 1, 1965.

(February, 1965, P.A. 525; 1969, P.A. 768, S. 106; 1971, P.A. 739, S. 1; 872, S. 203; June 30 Sp. Sess. P.A. 03-6, S. 146(f); P.A. 04-189, S. 1; P.A. 11-80, S. 1.)

History: 1969 act replaced highway commissioner with commissioner of transportation; 1971 acts substituted department and commissioner of agriculture and natural resources for state park and forest commission and made technical changes consistent with the substitution and later provisions replaced park and forest commission with commissioner of environmental protection and made technical changes consistent with the substitution, the latter provisions were enacted; June 30 Sp. Sess. P.A. 03-6 replaced Department of Agriculture with Department of Agriculture and Consumer Protection, effective July 1, 2004; P.A. 04-189 repealed Sec. 146 of June 30 Sp. Sess. P.A. 03-6, thereby reversing the merger of the Departments of Agriculture and Consumer Protection, effective June 1, 2004; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

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Sec. 13a-142b. Development of linear parks along state highways. If requested by the Commissioner of Energy and Environmental Protection, the Commissioner of Transportation may acquire by purchase, gift, or condemnation, in the same manner and with like powers as authorized and exercised by said commissioner in acquiring real property for state highway purposes, any real property or interest therein he shall find necessary or appropriate for the development of linear parks along and adjacent to state highways. The custody and control of such real property or interest therein acquired by the Commissioner of Transportation may be transferred by him without consideration to the Commissioner of Energy and Environmental Protection provided said Commissioner of Energy and Environmental Protection shall agree to assume and provide for the maintenance, supervision, responsibility and liability for the property so transferred, either directly or through cooperative agreements with municipalities to provide for maintenance and regulation. The Commissioner of Energy and Environmental Protection is authorized to transfer funds appropriated to the Department of Energy and

Environmental Protection and the Commissioner of Transportation is authorized to accept said funds to acquire real property for the purposes herein authorized. Such linear parks may be located on either or both sides of a highway in one or more towns and need not be continuous. No purchase or condemnation of land, for the purposes herein authorized, in excess of fifty feet from the edge of the highway right-of-way shall be made by the Commissioner of Transportation without the approval of the legislative body of the municipality in which such land is located.

(1972, P.A. 106, S. 2; P.A. 11-80, S. 1.)

History: Pursuant to P.A. 11-80, “Commissioner of Environmental Protection” and “Department of Environmental Protection” were changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” and “Department of Energy and Environmental Protection”, respectively, effective July 1, 2011.

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Sec. 13a-142c. Authority of Department of Energy and Environmental Protection. The Department of Energy and Environmental Protection shall have the authority to:

- (1) Accept, receive and administer, on behalf of the state, any grants, loans or other funds made available to the state from any source for the purposes of sections 13a-141 and 13a-142b and this section;
- (2) Acquire lands, waters, or interests in lands or waters, by purchase or condemnation, and enter into agreements with federal, other state, or local agencies, corporations or individuals concerning such lands or waters which may be necessary to carry out the project;
- (3) Administer the finished design, including site planning, construction and development of the park, and
- (4) Administer, maintain and regulate the use of the park and enter into cooperative agreements with agencies of the federal or state government or local agencies to provide for maintenance and regulation.

(1972, P.A. 106, S. 3; P.A. 11-80, S. 1.)

History: Pursuant to P.A. 11-80, “Department of Environmental Protection” was changed editorially by the Revisors to “Department of Energy and Environmental Protection”, effective July 1, 2011.

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Sec. 13a-142d. Route 11 linear park. (a) The Department of Energy and Environmental Protection is authorized to establish, in conjunction with the Department of Transportation, a linear park along Route 11, utilizing both the highway right-of-way and other adjoining lands acquired for this purpose. Said linear park, if established, shall also link other state and municipal recreational and open space areas.

(b) The Department of Energy and Environmental Protection: (1) May accept, receive and administer, on behalf of the state, any grants, loans or other funds made available from any source for the purposes of establishing said linear park; (2) may acquire lands, waters or interests in lands or waters, by purchase or condemnation, and enter into agreements with federal, other state or local agencies, corporations or individuals concerning such lands or waters which may be necessary to establish said park; (3) may administer the design, including site planning, construction and development; (4) may administer, maintain and regulate the use of said park; and (5) may enter into cooperative agreements with agencies of the government or local agencies to provide for maintenance and regulation of said park.

(P.A. 98-132, S. 1, 2; P.A. 11-80, S. 1.)

History: P.A. 98-132 effective July 1, 1998 (Revisor's note: The Revisors editorially inserted a semicolon at the end of Subsec. (b)(4) after the word "park"); pursuant to P.A. 11-80, "Department of Environmental Protection" was changed editorially by the Revisors to "Department of Energy and Environmental Protection", effective July 1, 2011.

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Sec. 13a-142e. Route 11 Greenway Authority Commission. Transfer of real property to Commissioner of Transportation. (a) The towns of East Lyme, Montville, Salem and Waterford may, by ordinance consistent with the provisions of subsections (b) and (c) of this section, establish a Route 11 Greenway Authority Commission which shall be deemed established at such time as the last of the four towns has adopted such ordinance.

(b) Such ordinance shall specify the membership of the commission, which shall consist of the Commissioner of Energy and Environmental Protection, or said commissioner's designee, the Commissioner of Transportation, or said commissioner's designee, a member and alternate member from each of the towns of East Lyme, Montville, Salem and Waterford, appointed by the first selectman of each of said towns, and a member and alternate member of the Southeastern Connecticut Council of Governments appointed by said agency. Each member and alternate member shall serve for a term of two years and until such member's successor is appointed and has qualified. Such appointments may be made at a meeting of the town's legislative body, to take effect when the last of the four towns has adopted such ordinance. An alternate member shall be empowered to vote on said commission in the absence of the member for whom such person is an alternate. The initial terms of members shall commence when the last of the four towns adopting such ordinance has appointed a member and an alternate member. Any vacancy on the commission shall be filled in the same manner as the original appointment for the balance of the unexpired term. No appointed member shall receive any compensation for service on said commission. Said commission shall elect from its members a chairperson and such other officers as it deems necessary and shall establish its own rules of procedure. The commission shall be an autonomous body within the Department of Transportation for administrative purposes only. The commission may employ experts and such other assistants as it judges necessary and may accept funds from any source. Notwithstanding any other provision of the general statutes, any funds appropriated to the commission, or received by the commission from any other source, shall be held in the custody of the commission and expended by the commission for the purposes set forth in this section.

(c) Such ordinance shall also require the Commissioner of Energy and Environmental Protection and the Commissioner of Transportation, not later than sixty days after May 26, 2000, to call a meeting of said commission which shall, within ninety days thereafter:

(1) Hold public hearings for the purpose of developing standards for (A) defining the initial boundaries of the Route 11 Greenway, (B) planning the design, construction, maintenance and management of the Route 11 Greenway and intermodal transportation access system, (C) identifying and prioritizing lands that should be added to the Route 11 Greenway, (D) recommending land use within the Route 11 Greenway, and (E) acquiring land and securing conservation easements for the Route 11 Greenway, except that nothing in public act 00-148\* shall be construed to prohibit the acquisition of land within the Route 11 Greenway by a municipality; and

(2) Establish by-laws by which the commission shall (A) conduct its meetings, including a provision specifying that no action by the commission shall be effective except by the concurring vote of at least four members, (B) protect and preserve the lands under its custody, (C) supervise staff, (D) maintain its records, and (E) report to the General Assembly, as required under subsection (d) of this section.

(d) Notwithstanding any other provision of this section or the general statutes, the commission may: (1) Acquire or convey by purchase, gift, lease, devise, exchange or otherwise, any land or interest therein including, but not limited to, conservation easements, located wholly or partly in the conservation zone, or enter into covenants or agreements with owners of any land or interest therein to purchase options to acquire such land or interest therein, provided state funds may be used only to the extent that such funds have been authorized specifically by

an act of the General Assembly for the acquisition of land located within two thousand feet of the Department of Transportation's right-of-way; (2) transfer, with the approval of the commissioner, any land or interest therein to the state with or without consideration, provided any funds received therefor shall not be deemed funds furnished by the state for the purposes of this section; (3) contribute or transfer funds to, and enter into agreements with, land trusts or other conservation organizations, to carry out the purposes of public act 00-148\*; and (4) request the Commissioner of Transportation to acquire an interest in real property or an option to purchase real property on behalf of the commission for use as part of the Route 11 Greenway and, if acquired by said commissioner, accept the transfer of custody and control of such interest from said commissioner. Said commissioner may acquire any interest in real property for use as part of the Route 11 Greenway in the same manner and with like powers as authorized and exercised by said commissioner in acquiring real property for highway purposes and may, upon request of the commission, transfer custody and control of such interest in real property to the commission. The commission shall report to the General Assembly, on or before February fifteenth, annually, on its activities of the preceding year and on its finances. The existence of the commission shall terminate at such time as all of its member towns have withdrawn or it is abolished by the General Assembly.

(P.A. 00-148, S. 40, 41; P.A. 05-131, S. 2; P.A. 06-58, S. 1; P.A. 09-97, S. 1; P.A. 11-80, S. 1.)

\*Note: Public act 00-148 is entitled “An Act Revising Certain Transportation Laws”. (See Reference Table captioned “Public Acts of 2000” in Volume 16 which lists the sections amended, created or repealed by the act.)

History: P.A. 00-148 effective May 26, 2000; P.A. 05-131 amended Subsec. (d) by adding Subdiv. (4) empowering commission to request Commissioner of Transportation to acquire interest in real property to be used for Route 11 Greenway trail system; P.A. 06-58 amended Subsec. (c)(1) and (d) to delete references to trail system and further amended Subsec. (d) to remove requirement that the transfer of land acquired by Commissioner of Transportation for greenway use be pursuant to an act of the General Assembly and revise prohibition on use of state funds for acquisition of property to restrict use of such funds to those specifically authorized by an act of the General Assembly for land located within 2,000 feet of Department of Transportation's right-of-way; P.A. 09-97 amended Subsec. (d) to authorize commission, in Subdiv. (1), to enter into covenants or agreements with owners of land or interests in land to purchase options to acquire such land or interests and, in Subdiv. (4), to request commissioner to acquire option to purchase real property, effective July 1, 2009; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsecs. (b) and (c), effective July 1, 2011.

See Sec. 4-38f for definition of “administrative purposes only”.

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Sec. 13a-143. Commercial establishments along limited access highways. No commercial establishment shall be constructed or located within the right-of-way of, or on publicly owned or publicly leased land acquired or used for or in connection with, a limited access state highway, provided nothing herein shall be construed to divest the commissioner or any other state agency of the power exercised on October 1, 1959, with respect to service facilities under lease on said date along the Merritt Parkway, the Wilbur Cross Parkway or the Wilbur Cross Highway or to prevent the completion of any service facility on which construction has begun or for the construction of which a contract has been let prior to said date, nor shall anything herein be construed to prevent the commissioner or any other state agency from constructing and leasing service facilities along the Governor John Davis Lodge Turnpike.

(1959, P.A. 82; 1961, P.A. 443; 1963, P.A. 226, S. 143; P.A. 86-201, S. 4.)

History: 1961 act broadened establishments covered from original restriction to automotive service stations; 1963 act replaced previous provisions: See title history; P.A. 86-201 changed the reference from the Connecticut Turnpike to the Governor John Davis Lodge Turnpike.

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Sec. 13a-143a. Driveway permits. No person shall construct a new driveway or relocate an existing driveway leading onto a state highway without first obtaining a permit from the Commissioner of Transportation. In determining the advisability of issuing such permit, the commissioner shall include, in his consideration, the location of the driveway with respect to its effect on highway drainage, highway safety, the width and character of the highway affected, the density of traffic thereon and the character of such traffic. The person to whom the permit is issued shall comply with the provisions and restrictions contained therein at his own expense.

(1967, P.A. 609, S. 1; 1969, P.A. 768, S. 107.)

History: 1969 act replaced highway commissioner with commissioner of transportation.

Cited. 176 C. 63; 180 C. 11.

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Sec. 13a-143b. Car-wash installation to correct icy highway conditions. Any person who operates a car-wash installation shall provide means, including but not limited to sanding, to correct any hazardous icy condition on the street or highway adjacent to such place of business arising from such operation. Any such person who does not correct such hazardous icy condition within twenty-four hours after notice from the local police authority, shall be fined not more than fifty dollars.

(1971, P.A. 357.)

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Sec. 13a-143c. Regulations establishing minimum requirements re traffic safety for car wash facilities. Not later than February 1, 1996, the Commissioner of Transportation shall adopt regulations in accordance with the provisions of chapter 54 to establish minimum requirements relative to traffic safety for any car wash facility for which a building permit is issued on or after February 1, 1996. Such regulations shall include, but not be limited to, provisions which establish: (1) A minimum distance from the entrance and exit of the car wash building to the public highway; and (2) a minimum distance from the car wash site to a highway intersection.

(P.A. 95-325, S. 1, 16.)

History: P.A. 95-325 effective July 13, 1995.

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Sec. 13a-143d. Floodlights intended for private property illumination located within the state right-of-way on state highways. (a) For the purposes of this section:

- (1) "Fixture" means the assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror and a refractor or lens;
- (2) "Luminaire" means the complete lighting system, including the lamp and the fixture;
- (3) "Lumen" means a unit of measurement of luminous flux;

- (4) "Floodlight" means any luminaire fitted with a lamp having an output greater than one thousand eight hundred lumens intended for private area lighting and mounted on a utility pole within the state right-of-way;
- (5) "Light pollution" means direct light emitted above the horizontal plane running through the lowest point on the luminaire;
- (6) "Light trespass" means light emitted by a luminaire that shines beyond the boundaries of the property intended for illumination;
- (7) "State highway" has the same meaning as in subsection (a) of section 13a-1;
- (8) "Direct light" means light that can be seen directly from the light source and other light-emitting or reflecting elements of the luminaire;
- (9) "Glare" means the sensation produced by the illuminance of a luminaire within the visual field that is sufficiently greater than the illuminance to which the eyes are adapted causing annoyance, discomfort or loss in visual performance and visibility; and
- (10) "Illuminance" is the density of the luminous flux incident on a surface represented by the quotient of the luminous flux by the area of the surface when the surface is uniformly illuminated.
- (b) No floodlight intended for private property illumination shall be located within the state right-of-way on any state highway unless (1) the luminaire is designed to maximize energy efficiency and to minimize light pollution, glare and light trespass, (2) the maintained illuminance levels produced by the luminaire are equal to the minimum maintained levels recommended by the Illuminating Engineering Society of North America for the lighting application, (3) the luminaire is sufficiently shielded and aimed so that no direct light from the luminaire is visible at any point in the highway where the viewing height is four feet or greater and the distance from the mounting pole is seventy feet or greater, and (4) the luminaire is sufficiently shielded and aimed to prevent light trespass onto properties other than the property intended for illumination and so that no direct light is visible at a viewing height of five feet or greater at any point along the adjacent property line.
- (c) No floodlight intended for private property illumination shall be located within the state right-of-way if the structure or object intended for illumination is across a public highway from the utility pole on which the floodlight would be mounted.
- (d) All luminaires in violation of any provision of subsection (b) or (c) of this section operating prior to October 1, 2004, shall be brought into compliance with the requirements in subsection (b) of this section in accordance with the following schedule: Approximately twenty per cent by October 1, 2006, approximately forty per cent by October 1, 2007, approximately sixty per cent by October 1, 2008, approximately eighty per cent by October 1, 2009, and one hundred per cent by October 1, 2010.

(P.A. 03-210, S. 1; P.A. 06-86, S. 2.)

History: P.A. 06-86 amended Subsec. (d) to change date of operation from October 1, 2003, to October 1, 2004, and to change compliance deadline from October 1, 2005, to compliance in accordance with specified schedule, effective July 1, 2006.

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## **PART X**

### **LIABILITY**

Sec. 13a-144. Damages for injuries sustained on state highways or sidewalks. Any person injured in person or property through the neglect or default of the state or any of its employees by means of any defective highway, bridge or sidewalk which it is the duty of the Commissioner of Transportation to keep in repair, or by reason of the lack of any railing or fence on the side of such bridge or part of such road which may be raised above the adjoining ground so as to be unsafe for travel or, in case of the death of any person by reason of any such neglect or default, the executor or administrator of such person, may bring a civil action to recover damages sustained thereby against the commissioner in the Superior Court. No such action shall be brought except within two years from the date of such injury, nor unless notice of such injury and a general description of the same and of the cause thereof and of the time and place of its occurrence has been given in writing within ninety days thereafter to the commissioner. Such action shall be tried to the court or jury, and such portion of the amount of the judgment rendered therein as exceeds any amount paid to the plaintiff prior thereto under insurance liability policies held by the state shall, upon the filing with the Comptroller of a certified copy of such judgment, be paid by the state out of the appropriation for the commissioner for repair of highways; but no costs or judgment fee in any such action shall be taxed against the defendant. This section shall not be construed so as to relieve any contractor or other person, through whose neglect or default any such injury may have occurred, from liability to the state; and, upon payment by the Comptroller of any judgment rendered under the provisions of this section, the state shall be subrogated to the rights of such injured person to recover from any such contractor or other person an amount equal to the judgment it has so paid. The commissioner, with the approval of the Attorney General and the consent of the court before which any such action is pending, may make an offer of judgment in settlement of any such claim. The commissioner and the state shall not be liable in damages for injury to person or property when such injury occurred on any highway or part thereof abandoned by the state or on any portion of a highway not a state highway but connecting with or crossing a state highway, which portion is not within the traveled portion of such state highway. The requirement of notice specified in this section shall be deemed complied with if an action is commenced, by a writ and complaint setting forth the injury and a general description of the same and of the cause thereof and of the time and place of its occurrence, within the time limited for the giving of such notice.

(1949 Rev., S. 2201; 1953, 1955, S. 1193d; 1958 Rev., S. 13-87; 1963, P.A. 226, S. 144; February, 1965, P.A. 574, S. 50; 1967, P.A. 246; 414; 1969, P.A. 768, S. 108; 1971, P.A. 38, S. 1; P.A. 74-183, S. 201, 291; P.A. 76-222, S. 1; 76-436, S. 172, 681.)

History: 1963 act replaced previous provisions: See title history; 1965 act changed highways included in this section from those in the state highway system to those which the commissioner must keep in repair; 1967 acts included reference to actions in circuit court and limited payments from highway fund to the amount which “exceeds any amount paid to the plaintiff ... under insurance liability policies held by the state”; 1969 act substituted commissioner of transportation for highway department; 1971 act changed deadline for bringing action from one to two years from date of injury and required that notice to commissioner be in writing; P.A. 74-183 deleted reference to actions in circuit courts; P.A. 76-222 changed deadline for notice to commissioner from 60 to 90 days after injury; P.A. 76-436 deleted reference to actions in court of common pleas, effective July 1, 1978.

Applies to trunk line and state aid roads. 94 C. 231, 592. Does not affect statutory liability of street railway company. *Id.*, 238. State has recovery over against street railway company. *Id.*, 239. Imposes same liability for defective highways on highway commissioner as imposed by Sec. 13a-149 on towns. *Id.*, 542; 105 C. 360; 116 C. 243; 129 C. 259. For shoulders as part of traveled portion of highway. 108 C. 196. State not liable for defect in sidewalk on side of trunk line highway within town. 109 C. 336. Same duty as to fences as that required of towns by Sec. 13a-111. 110 C. 76. Actual or constructive notice and opportunity to remedy defect a prerequisite of liability. 116 C. 243; 129 C. 259. Highway commissioner's duty to erect fences at raised points to be guided by standard of reasonable safety under the circumstances. 121 C. 88, 94. Cited. *Id.*, 478. In action for damages caused by defective bridge, test of liability is whether state exercised reasonable care. *Id.*, 611. Cause of action is for breach of statutory duty. *Id.*, 613. *Res ipsa loquitur* held not to apply to defective bridge. *Id.*, 614. Cited. 122 C. 92; 124 C. 677. Variation in alignment of fences a defect. 130 C. 30. Suspension of highway commissioner does not abate action. *Id.*, 34. Shoulders of state highway are under control of commissioner. *Id.*, 87. Sec. 13a-145, if complied with, takes away right of action under this section. *Id.*, 621. Purpose of notice; its adequacy

generally for the jury. 134 C. 223. In computing 60-day period, date of injury is excluded and 60th day is final day on which notice must be received. *Id.*, 235. A defect outside the traveled path in a highway may give rise to an action; a person is not obliged to remain seated in a vehicle to get benefit of statute. 137 C. 285. Requirements of notice within 60 days and suit within 1 year do not pertain only to remedy; compliance with both conditions is essential to very existence of cause of action. 138 C. 363. Notice insufficient as matter of law. 139 C. 254. A complaint alleging necessary detail is notice even though withdrawn. *Id.*, 554. Cited. 144 C. 282. Plaintiff struck by defective directional sign under control of highway commissioner while walking on sidewalk within limits of trunk line highway but not under control of commissioner to repair; held complaint did not state a cause of action as statutory liability of highway commissioner exists only in the case of a traveler on a highway or sidewalk which it is commissioner's duty to keep in repair. 148 C. 355. Cited. 150 C. 455. Action maintainable under statute does not waive state's immunity to suit so as to allow count in nuisance. 151 C. 259. To recover under section, plaintiff must prove either that defendant had actual notice of defect or that it existed for sufficient time so defendant would have known of it. 158 C. 116. Plan of construction of highway could not be challenged as neglect under section. 159 C. 150. Overhanging tree limb which did not obstruct or hinder travel was not a "defect" in the highway. 177 C. 268. Where Commissioner of Transportation has legal duty to maintain a particular highway, he is liable for injuries occurring caused by negligence in performance of that duty. 186 C. 300. Cited. 198 C. 322; *Id.*, 413; 199 C. 651. No words in statute restricting scope of phrase "the state or any of its employees" to Department of Transportation personnel only. 202 C. 158. Cited. 205 C. 542; 209 C. 310; 211 C. 370; 212 C. 381; 213 C. 126. Highway defect as sole approximate cause of injury remains the standard in determining liability under statute. *Id.*, 307. Liability of commissioner for accidents caused by defective highways discussed. *Id.*, 446. Cited. 214 C. 464; 217 C. 281; 221 C. 346; 223 C. 14. Notice inadequate as a matter of law discussed. 224 C. 23. Cited. 225 C. 177. Application of general verdict rule discussed; judgment of appellate court in 27 CA 439 reversed. *Id.*, 782. Cited. *Id.*, 904; 228 C. 343. Court decided doctrine of sovereign immunity applied; judgment of Appellate Court in 29 CA 565 reversed. 228 C. 358. Cited. 232 C. 392; 239 C. 265. In an action against commissioner, a personal injury occurring in a parking lot within state right-of-way line and in public rest area connected to a highway may be compensable under statute. 248 C. 419. In an action brought under section where a party offers evidence to prove constructive notice of a defect rather than the defect itself, the standard of attenuated similarity is appropriate. 255 C. 670. With respect to degree of precision required of claimant in describing the place of injury, reasonable definiteness is all that can be expected or required; notice must provide sufficient information as to the injury, its cause and the time and place of its occurrence to permit commissioner to gather information about the case intelligently; judgment of Appellate Court in 78 CA 796 reversed. 273 C. 1. Rocks and debris falling on state highway from ledge above but not in roadway or so close to it to actually obstruct or impede travel not highway defect or cognizable design defect for purposes of statute. 274 C. 262. Plan of design providing for steep downhill grade of highway, in combination with absence of adequate warning signs and tangible safety measures, did not render highway defective within meaning of section. 313 C. 158. Defective highway claim based on design of Route 44 across Avon Mountain barred by sovereign immunity because it failed to state a cause of action under section. *Id.*, 197. Waiver of sovereign immunity under section extends to the actions of state employees other than those employed by the commissioner, but only to the extent that they are performing duties related to highway maintenance and plaintiff proves that a relationship exists between the commissioner and the state employee such that the commissioner can be found to have breached his statutory duty to keep the highways, bridges, or sidewalks in repair. 330 C. 400.

Cited. 4 CA 30; 5 CA 121; *Id.*, 663; *Id.*, 695; 6 CA 300; 7 CA 561; 8 CA 169; 12 CA 449; 18 CA 677; 21 CA 516; *Id.*, 633; 23 CA 198; *Id.*, 735; 25 CA 67; *Id.*, 217; *Id.*, 421; judgment reversed, see 222 C. 299; 26 CA 74; *Id.*, 407; 27 CA 439; judgment reversed, see 225 C. 782; *Id.*, 734; 28 CA 449; 29 CA 565; judgment reversed, see 228 C. 358; *Id.*, 791; 30 CA 594; 31 CA 752; 33 CA 65; 36 CA 211; 37 CA 551; 44 CA 597; *Id.*, 651. Court found that plaintiff's notice sufficiently identified the location of her fall so as to permit commissioner to gather information about the allegedly defective condition and that the issue of adequacy of plaintiff's notice was a question of fact for the jury. 70 CA 21. It is plaintiff's burden to prove each of the elements under statute, and failure to prove any element will preclude a finding of liability under statute. 72 CA 64. Phrase "place of its occurrence" refers to prior phrase "such injury", and therefore it is the place of injury that must be described in required notice; the legal standard is not the exact geodetic place of injury; however, that standard is not satisfied when the place of injury is described as two distinct places. 78 CA 796; judgment reversed, see 273 C. 1.

Plaintiff's notice of claim is insufficient because it fails to specify the precise nature of the claimed defect; it is not enough that defendant knows the exact location of the defect when the precise nature of the defect is unspecified and the complaint cannot be considered in conjunction with the notice because the complaint was filed beyond the 90-day period set forth in section. 132 CA 750. Court lacks jurisdiction to hear claim against state where notice informed commissioner only of suit against town. 142 CA 785. A claim related to an alleged defect in the plan pursuant to which a highway was constructed, rather than a claim that a defect in such plan or design resulted in an otherwise actionable hazard that was in or near the roadway and which actually obstructed travel, is precluded. Id., 826. Plaintiff failed to satisfy statutory requirement where the notice to defendant provided locations of defects that either did not exist or could not have been geographically accurate. 152 CA 560. An assessment of whether defendant's response to notice of highway defect was reasonable is a fact-specific determination and depends on many different factors, some of which may be unique to each case. 168 CA 570; judgment reversed in part, see 330 C. 400. Actual notice to the state police of a highway defect constitutes actual notice to defendant, which occurs when state police first learn of the defect, not the later time when they report that defect to defendant or the department. Id. Section unambiguously waives sovereign immunity for defective highway claims based upon the neglect or default of the commissioner, the state and any state employees, at least when performing duties related to highway maintenance, and it does not limit or restrict its scope to department employees only. Id.

Recovery in action brought under former statute limited to \$10,000. 1 CS 136. Responsibility of third person to perform duty of state is no defense in suit against the state; it is only the remedy of the state in a suit against third persons. 5 CS 259. Cited. 7 CS 95. Analogous to Sec. 13a-149. Id., 143; 10 CS 521. Cited. 7 CS 426; 8 CS 450. Defect must be sole cause of the damage. 12 CS 14. Cited. 15 CS 31. Commencement of action not an alternative to giving notice. 17 CS 419. Applies to pedestrian as well as vehicular traffic; no distinction between ice and snow and other defects; sidewalks built within limits of state highways are responsibility of town. 18 CS 499. Adequacy of notice is a question of fact. 19 CS 44. Cited. Id., 100. Right of action statutory; no action maintainable for nuisance. Id., 478. No right of recovery to an abutting landowner for damages from a defective highway. 20 CS 142. No presumption of the receipt of a notice by a certain day arises from the mere dating of the notice; plaintiff must allege facts which, if proved, will show that highway commissioner actually received the statutory notice within 60 days of occurrence of injury. 22 CS 468. History discussed; comparison with Sec. 13a-149; mere statement in plaintiff's notice of injury to knee not sufficient. 23 CS 113. Cited. Id., 152. A right of action against highway commissioner is maintainable, if at all, only under section and no right exists in the domain of alleged nuisance. 24 CS 159. Plaintiff is required by rule to recite in the complaint or annex thereto the notice given commissioner. 25 CS 358. To be sufficient notice, must satisfy purpose of notice requirement; it must furnish commissioner with such information as would enable him to make timely investigation of facts upon which claim for damages is being made. Id., 359, 360. Commissioner liable for defect at intersection of state and nonstate highway. 29 CS 365. Cited. 37 CS 710. Under section, plaintiff is authorized to maintain action for loss of consortium. 40 CS 194. Cited. 41 CS 425; 44 CS 389.

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Sec. 13a-145. Use of closed highway at user's risk. Any person using a state highway or bridge which has been designated as closed or restricted under the provisions of section 13a-115 shall do so at his own risk except with respect to any injury or loss not traceable to a defect caused in the process of construction, reconstruction or repair.

(1949 Rev., 2238; 1958 Rev. 13-119; 1963, P.A. 226, S. 145; 504.)

History: 1963 acts added exception and restated previous provisions: See title history.

See Sec. 13a-257 re contractors' liability.

Annotations to former statute:

The immunity from liability for damages which statute establishes inures to the benefit of a contractor. 121 C. 475. Cited. 123 C. 659; 125 C. 413. Commissioner resuming full control of road is liable for injuries due to defect even though contractor was responsible for sign not being in place. 126 C. 355. Immunity extends to negligence of a contractor under the commissioner as well as to defects in the highway. 128 C. 707. Statute not a defense unless pleaded. 130 C. 33. Compliance with section will confer immunity as regards a defect not related to construction work; warning is not of defect, but that state will not be responsible; adequacy of warning is a question of fact. Id., 616. Statute has no application to injury suffered by one whose duties require him to be on highway in aid of work being done. 132 C. 89.

Statutory immunity benefits highway commissioner only. 2 CS 75; 3 CS 241. Cited. 7 CS 357. If notice is posted, commissioner not liable for failure to maintain highway in reasonably safe condition. 10 CS 514. Notice "Caution, Guide Rail under Repair ..." does not close or restrict highway. Id., 521. Where highway closed for purpose of construction, reconstruction or repair, commissioner not liable for injury which is not traceable to defect caused in the process of such construction, etc. 11 CS 231. No immunity to contractor who performed work so as to create a nuisance; Id., 353; no reason for inserting implied exception removing statutory protection in case of such nuisance. 12 CS 309. Where posting of notice may be applicable only to vehicular traffic and not to foot travelers. 13 CS 124.

Immunity extended to negligence of employee of contractor under commissioner. 2 Conn. Cir. Ct. 60.

Annotations to present section:

Cited. 23 CA 735; 27 CA 734.

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Sec. 13a-146. Closing of municipal highway or bridge during expressway construction. Liability for injury. During the time that any highway or bridge is closed for the construction of an expressway under the provisions of subsection (b) of section 13a-115, the provisions of section 13a-149 shall be suspended and inapplicable thereto, provided such municipality shall not be relieved of the cost of repairing such highway or bridge, subject to reimbursement for the cost thereof as provided in section 13a-148. The suspension of the provisions of section 13a-149 and the applicability of subsection (a) of section 13a-115 shall end and said section 13a-149 shall become in full force and effect upon the completion of the repairs to and opening of any highway or bridge of a municipality for general traffic.

(1957, P.A. 611, S. 2; 1958 Rev., S. 13-192; 1963, P.A. 226, S. 146.)

History: 1963 act replaced previous provisions: See title history.

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Sec. 13a-147. Detours to be restored. Any highway or bridge which has been injured by traffic detoured by the commissioner from a state highway or bridge, while such state highway or bridge is being constructed, repaired or reconstructed, shall be restored by the commissioner to a condition as good as before such traffic was detoured.

(1949 Rev., S. 2261; 1958 Rev., S. 13-142; 1963, P.A. 226, S. 147.)

History: 1963 act replaced previous provisions: See title history.

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Sec. 13a-148. Damage to municipal highway or bridge in state highway construction. Where any highway or bridge required to be maintained in repair by any municipality is damaged by the operation thereon of equipment used in the construction of any state highway, or portion thereof, which construction is under the control of the commissioner, said commissioner, with the approval of the Attorney General, may agree with such municipality as to the cost of repairing such damage, and, upon such agreement being made, the sum agreed upon therein shall, upon the filing of such agreement with the Comptroller, be paid by the state to such municipality out of the appropriation of the commissioner for the repair of highways. If such municipality and the commissioner are unable to reach such an agreement, the municipality may commence an action against the commissioner in the superior court for the judicial district wherein the municipality is located to recover the cost of such repairs. Such action shall be tried to the court and the amount of the judgment rendered therein shall, upon the filing with the Comptroller of a certified copy of such judgment, be paid by the state out of the appropriation of the commissioner for repair of highways, but no costs or judgment fee in any such action shall be taxed against the commissioner. The commissioner, with the approval of the Attorney General and the consent of the court before which any such action may be pending, may make an offer of judgment in settlement thereof. No such agreement shall be entered into and no such action shall be commenced except within six months after such state highway, or portion thereof concerned, has been opened for general traffic, unless within such six-month period the commissioner, in writing, extends such period for not more than an additional six months. This section shall not be construed so as to relieve any contractor or other person, through whose neglect or default any such damage may have occurred, from liability to the state, and, upon payment by the Comptroller of any judgment rendered under the provisions of this section, or of any amount agreed on as provided herein, the state shall be subrogated to the rights of such municipality to recover from such contractor or other person an amount equal to the amount it has so paid. Prior to the commencement of any such construction activity, the commissioner and the executive authority of any municipality, the highways and bridges of which may be utilized during such construction, or their appointed agents, shall jointly inspect such highways and bridges and a report of such inspection signed by authorized agents of the municipality and the commissioner indicating the condition of such highways and bridges shall be filed in the offices of the clerk of the municipality and of the commissioner.

(1961, P.A. 530, S. 1; 1963, P.A. 226, S. 148; 568; P.A. 76-436, S. 338, 681; P.A. 78-280, S. 1, 4, 127.)

History: 1963 acts made statute applicable to all state highways and restated previous provisions: See title history; P.A. 76-436 deleted reference to actions in court of common pleas and added reference to judicial districts, effective July 1, 1978; P.A. 78-280 deleted reference to counties.

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Sec. 13a-149. Damages for injuries by means of defective roads and bridges. Any person injured in person or property by means of a defective road or bridge may recover damages from the party bound to keep it in repair. No action for any such injury sustained on or after October 1, 1982, shall be brought except within two years from the date of such injury. No action for any such injury shall be maintained against any town, city, corporation or borough, unless written notice of such injury and a general description of the same, and of the cause thereof and of the time and place of its occurrence, shall, within ninety days thereafter be given to a selectman or the clerk of such town, or to the clerk of such city or borough, or to the secretary or treasurer of such corporation. If the injury has been caused by a structure legally placed on such road by a railroad company, it, and not the party bound to keep the road in repair, shall be liable therefor. No notice given under the provisions of this section shall be held invalid or insufficient by reason of an inaccuracy in describing the injury or in stating the time, place or cause of its occurrence, if it appears that there was no intention to mislead or that such town, city, corporation or borough was not in fact misled thereby.

(1949 Rev., S. 2126; 1951, S. 1180d; 1958 Rev., S. 13-11; 1959, P.A. 372; 1963, P.A. 226, S. 149; P.A. 76-222, S. 2; P.A. 82-5; P.A. 86-338, S. 14.)

History: 1959 act extended time for giving notice of injury due to snow and ice from 10 to 30 days; 1963 act replaced previous provisions: See title history; P.A. 76-222 changed deadline for notice to town officer from 60

to 90 days after injury and deleted special provision re injury from defect caused by ice and/or snow; P.A. 82-5 required that actions for injuries sustained on or after October 1, 1982, be brought within two years of the injury; P.A. 86-338 deleted provision which exempted an injured person from the requirement of giving written notice if an action is commenced by complaint setting forth the same information as required in the notice within the time limited for the giving of such notice.

See Sec. 7-163a re municipal liability for ice and snow on public sidewalks.

See Sec. 7-308 re municipalities' assumption of liability for damages caused by firemen.

Defects in bridges. 1 R. 270; Id., 448; 2 R. 436. Liability of turnpike company. 7 C. 86. No liability for consequential damage. 17 C. 475; 66 C. 360. Where turnpike company has been dissolved. 18 C. 32. Action for death due to highway defect survives; not a penal statute within meaning of Sec. 52-599. 22 C. 80. Allegation of injury to person and property joinable in one count; plaintiff's use of defective materials in himself repairing bridge. Id., 290. Plaintiff may prove his peril and danger to enhance his damages. Id.; 27 C. 300. Burden of proof. 24 C. 491. Basis of damages; when punitive allowed. Id.; 47 C. 74. No liability for secret defects. 27 C. 300. Extent of protection required; degree of care. Id.; 78 C. 396; 79 C. 385; 80 C. 291; 82 C. 530. Sidewalks. 30 C. 118; 40 C. 377; Id., 406; Id., 456; 78 C. 396; 79 C. 44. Knowledge question of fact. 30 C. 118; 94 C. 693; 104 C. 94. Objects calculated to frighten horses. 30 C. 129; 39 C. 381; Id., 435. Highways by dedication. 31 C. 308; 72 C. 231; 73 C. 359; Id., 576; 74 C. 360. Admissibility of evidence that others safely crossed sidewalk. 33 C. 57; 89 C. 24. Injury from branch of tree falling in road not recoverable; 34 C. 9; 85 C. 128; so from weight falling from flagpole. 34 C. 136. Duty to give warning of dangerous conditions. 36 C. 320; 37 C. 298; 67 C. 428; 69 C. 103; 70 C. 122. Whether defect exists is question of fact. 37 C. 414; 118 C. 288; 128 C. 272. Ice on sidewalks. 37 C. 615; 44 C. 117; 51 C. 412; 104 C. 85. When knowledge of defect presumed. 39 C. 228; 40 C. 375; 72 C. 672; 79 C. 385; 89 C. 24; 118 C. 288; 128 C. 272. Failure in duty question of fact. 39 C. 439; 46 C. 218; 67 C. 433; 69 C. 354; 72 C. 680; 75 C. 289; 85 C. 693. Liability of town for defect in borough. 40 C. 205. Accident or negligence of fellow traveler contributing to injury. Id., 238; 71 C. 697; 75 C. 291; 81 C. 241; 86 C. 506; 104 C. 88. Where defendant causes defect. 40 C. 460; 67 C. 434; 98 C. 85. Special damage must be alleged. 43 C. 565. Waiver of notice. 46 C. 61. Abandonment of road by turnpike company. Id., 216. Railroad "structures". Id., 217; 50 C. 216; 54 C. 589; 74 C. 475. Sufficiency of notice. 46 C. 264; 50 C. 497; 51 C. 421; 53 C. 212; 58 C. 45; 59 C. 219, 225; 63 C. 268; 64 C. 376; 67 C. 437; 72 C. 673; 73 C. 312; 74 C. 437; 81 C. 300; 86 C. 45; 91 C. 181; 92 C. 552; 98 C. 312. Carrying too heavy a load. 47 C. 73; 91 C. 542. Nuisance distinguished. 48 C. 220. Ice and snow on highway. Id., 467; 49 C. 134. Abutting owner not liable for defect in sidewalk. 48 C. 532; 102 C. 401; 108 C. 200. Open basement descent held not a defect in sidewalk. 50 C. 536. Notice in case of railway bound to repair. 54 C. 9; 64 C. 381; 75 C. 693. Liability of borough. 65 C. 311; 77 C. 308. One whose negligence contributes to injury cannot recover. 66 C. 36; 79 C. 42; 82 C. 527; 86 C. 506; 89 C. 24; 98 C. 86; 103 C. 605. One may use highway little traveled. 66 C. 36. Nature of liability. Id., 360; 71 C. 686; 75 C. 291; 84 C. 657; 103 C. 605; 104 C. 88; 108 C. 555. Statutory notice; necessity. 66 C. 387; 81 C. 274; Id., 287. Defect in plan of street. 69 C. 353; 81 C. 67. Amending complaint after hearing in damages. 69 C. 554. Dangerous draw. Id., 651. Knowledge of policeman. 70 C. 115; 94 C. 692; 118 C. 288. Stumbling as excuse. 70 C. 554. Several defects may be alleged in one complaint. 72 C. 667. Reasonable obstructions not defects. 73 C. 199; 75 C. 349; 76 C. 311; 78 C. 145; 82 C. 527; 89 C. 343. Action by town against person causing defect. 74 C. 152; 91 C. 255. Liability of city. 74 C. 360; 80 C. 296; 85 C. 693. Evidence as to damage. 74 C. 475. Duty to provide against results of fright of ordinarily gentle horse. 75 C. 288. Duty to erect fence; Sec. 13a-111 distinguished. Id.; 81 C. 65; 89 C. 24; 105 C. 361. Town not liable where some other party is. 75 C. 693. Historical review of law. Id., 694; 81 C. 68. Statute does not apply to wrongful exclusion from highway. 76 C. 311. Duty extends to highway actually in use. 78 C. 62. Action against both town and railway. 79 C. 379; 103 C. 121. Crosswalks. 79 C. 659. One departing from traveled way for his own convenience cannot recover. 80 C. 154; 91 C. 542. Elements necessary to support recovery. 81 C. 66; 104 C. 87; 108 C. 555. Giving of notice must be alleged in complaint. 81 C. 274; 85 C. 221; 106 C. 62. Purpose of law is protection of travelers. 81 C. 393; 88 C. 151. Illegal act of person injured as debarring remedy. 82 C. 663. Action may lie at common law, and then notice not necessary. 84 C. 349; Id., 654; 94 C. 231. Burden of proof. 86 C. 506. Excavation outside limits of highway. 89 C. 24. Negligence of municipality in allowing minor defect to exist is a question of fact. 92 C. 365. Liability of municipality where alleged defect is caused by negligence of licensee excavating under a permit. Id.,

367. Snow and ice on sidewalk. 93 C. 548; *Id.*, 625. Knowledge of city must consist of knowledge of precise defect. *Id.*, 628. Obligation of street railway company operating on trunk line highway. 94 C. 237. Right of town to remove shade tree in highway but outside traveled part. *Id.*, 439. How great a part of width must be kept open for travel; covered tile drain near side of road giving way under weight of motor truck. *Id.*, 538. Limitations of doctrine of no liability for error in plan. *Id.*, 539. Knowledge of defect. *Id.*, 542. Municipality's right of recovery over does not accrue until its liability has been finally adjudicated. *Id.*, 667. Evidence of other accidents to show municipality's knowledge. *Id.*, 693. Contributory negligence in having defective lights on automobile; 10-day notice required where automobile runs into pile of ice and snow. 96 C. 7. Excavation in traveled part of highway; contributory negligence where accident happens in sunlight. 98 C. 84. Whether defect counted on in complaint is same as that described in statutory notice is a question for the court. *Id.*, 314. Platform extending into highway; nuisance. *Id.*, 524. Admissibility of evidence of condition of sidewalk before accident. 104 C. 95. Liability of state for defect in trunk line highway is same as that of town in an ordinary road. 105 C. 359. Embankment 6 feet from traveled part of highway may be a defect. *Id.*, 361. Liability in case of state aid highway. *Id.*, 596. Silent policeman not itself a defect, but may become so if allowed to remain out of position. *Id.*, 694. Tree protruding over traveled part of road. 106 C. 63. Definition of defect in highway. *Id.*; *Id.*, 380. Fire hose left across sidewalk to guard against rekindling of fire not a defect. *Id.*, 381. Complaint containing allegations showing notice was not given within statutory period is demurrable; whether period for giving notice runs before existence of injury could be known, *quaere*. *Id.*, 394. Indemnification of city of New Haven by abutting owner under special charter provision. 108 C. 70. Whether shoulders of road are within "traveled portion of highway", *quaere*. *Id.*, 196. Abutting owner's liability for nuisance on sidewalk or in proximity thereto; action against both abutting owner and municipality. *Id.*, 200. When act of third party in sanding sidewalk inures to benefit of municipality. *Id.*, 559. Placing of catch basin and cover is a governmental function but if they create condition rendering street not reasonably safe for public travel, they may be defect within statute. 109 C. 324, 327; 118 C. 427. State not liable for defect in sidewalk on side of trunk line highway within town. 109 C. 336. Unsafe wall abutting sidewalk is not defect within statute. *Id.*, 668. Cited. 110 C. 77. Whether notices of injury were served and whether they were intended to be or were misleading to city are questions of fact. 113 C. 145. Cited. 115 C. 385; *Id.*, 716. Duty of city is not to exercise reasonable care to make streets entirely safe, but only to make them reasonably safe. 116 C. 568; 124 C. 284. Notice that decedent fell "upon a sidewalk of a highway known as North Elm Street" is insufficient description. 117 C. 70. Notice failing entirely to state cause of injury is invalid; knowledge of facts by officers of city will not obviate necessity of compliance with statute. *Id.*, 401. Fundamental test is whether defect was sole cause in producing damage; notice of defect may be imputed to city after passage of time. 118 C. 288; 128 C. 272. Defect must be sole and essential cause of injury; if negligence of plaintiff's intestate or of third party is also a proximate cause, no recovery. 118 C. 480; 124 C. 463. Where injury is result of defect combined with accident or natural cause, municipality is liable unless accident or natural cause was so direct and separate as to be sole proximate cause. 119 C. 168. Liability is not based on negligence, but on breach of statutory duty; Sec. 52-114 does not apply. *Id.*, 479; 133 C. 246. City not liable for nuisance where sidewalk on grade became dangerous only when icy and city could do nothing practicable by way of construction to make it more safe. 120 C. 499. Purpose and elements of notice; entire absence of general description of injury is fatal. *Id.*, 577. Cited. 121 C. 613. Notice giving cause as "defective sidewalk", without describing defect, is sufficient. 123 C. 152. Remedy for injuries caused by snow and ice on sidewalk is against city, not abutting owner. *Id.*, 453. "Do not know full extent of my injuries" is insufficient description. *Id.*, 685. Special law validating defective notice held constitutional. 124 C. 183. What constitutes a defect; small cavity at edge of walk not. *Id.*, 283. Cited. *Id.*, 677. Statute affords exclusive remedy for defects due to neglect rather than positive act of municipality, whether or not defect is a nuisance; apart from statute, municipality is liable for condition it created by positive act on highway amounting to nuisance. 126 C. 402; 131 C. 691; 133 C. 245. 60-day notice held not a condition precedent where action was based on negligence of railroad company at common law in permitting dangerous condition on bridge. 126 C. 558. "Got hurt" is insufficient description. 127 C. 711. Hidden defect; constructive notice and duty of city to inspect. 128 C. 464. Failure to warn or safeguard against danger from flagstone upheaved by hurricane constituted violation of statutory duty, when city had ample means and opportunity. *Id.*, 483. Cited. *Id.*, 710; 129 C. 259. Jury to say if municipality should make fence sufficient to guard against skidding; effect on duty of city of failure of railway company to make rails safe. *Id.*, 699. Town has no duty to keep in repair shoulders of state highway used by public as footpath. 130 C. 84. Section applies to highway by dedication; common convenience and necessity with respect to establishment of highway reviewed. *Id.*, 298. Where plaintiff slipped on ice which had filled up long-existing defect, city not liable on ground defect

was cause of plaintiff's fall. Id., 410; 131 C. 239. Municipality not liable for negligence in performing function of construction and maintenance, but for defective condition which is proximate cause of injury; length of time defect in sidewalk must have existed in order to charge municipality with notice is question of fact. Id. Notice alleging "bruises on other parts of legs and body" inaccurate, but not a total failure of description preventing recovery for fracture of spine. Id., 430. Cited. 132 C. 395. City not liable where maintenance of nuisance by or negligence of another is a proximate cause of injury which concurred with sidewalk defect to bring it about. 134 C. 89. Duty of plaintiff to recite statutory notice given in complaint or to annex it thereto. Id., 569. Defect not too slight as matter of law to justify an award of damages; where hole was made and maintained by state, failure of city to repair was not sole proximate cause. Id., 686. Bottle of syrup on walk for 45 minutes does not warrant finding of constructive notice. Id., 694. Whether a condition of highway constitutes defect must be determined in each case upon the basis of its particular circumstances. 135 C. 469. From photographs of raised flagstone in sidewalk and other evidence, jury might reasonably have found that defendant had notice of defect. Id., 473. Elapsed time insufficient as a matter of law to sustain a finding of constructive notice and an opportunity of remedying the condition. Id., 484. Sidewalk within boundaries of state highway; where there was no finding that sidewalk was constructed by state it was held that, as between town and state, the town was liable for plaintiff's injuries. Id., 619. When city assumes control of sidewalks, it must exercise reasonable care to keep them in a reasonably safe condition. 136 C. 553. Cited. 137 C. 288. Statute is designed to protect travelers only; provides no right of recovery to an abutting landowner for damage from a defective highway. 138 C. 116. Cited. Id., 367; 139 C. 256; 140 C. 279. Constructive notice. 141 C. 126. Cited. 144 C. 282. Breach of duty on part of municipality must be shown. Id., 739. Special act of legislature validating notice given municipality does not constitute breach of cooperation clause in insurance policy by municipality. 145 C. 368. Unlike most negligence actions, plaintiff has burden of proving due care for action brought under statute. 147 C. 149. If certain portions of street are devoted to purpose other than travel, travelers leaving way provided for them and attempting to cross such reserved portions may not assume such portions are free from danger or unusual conditions. 148 C. 349. Ordinarily, the length of time a defect in a sidewalk must exist in order to charge a municipality with notice of its existence is a question of fact; defect must have existed for such a length of time that the city was charged with notice of it and had a reasonable opportunity to remedy the defect. Id., 548. What constitutes defect discussed. 150 C. 514. Where statutory notice relied solely on accumulated water, as distinguished from snow and ice, as the claimed defective condition and cause of the accident, and plaintiff testified that he actually lost control of his car on a film of ice, he cannot recover from the city. 151 C. 343. Cited. 153 C. 439; 159 C. 150; 162 C. 295; 167 C. 509. Overhanging tree limb which did not obstruct or hinder travel was not a "defect" in the highway. 177 C. 268. Cited. 183 C. 473. Sec. 52-572h does not apply to actions for personal injuries based on this statute; liability of defendant under statute is for breach of statutory duty and does not arise from negligence. 184 C. 205. Cited. 186 C. 229; Id., 300; Id., 692. Special act limiting liability of New Britain could not stand where clear policy statement in this section that municipal liability for damages should not be limited. 193 C. 589. Cited. 196 C. 509; 211 C. 370; 213 C. 307; Id., 446; 214 C. 1; 218 C. 1; 219 C. 179; Id., 641; 224 C. 23; 225 C. 177; Id., 217; 226 C. 282; Id., 757. Section does not bar an employer from seeking reimbursement under Sec. 31-293(a). 231 C. 370. Cited. 235 C. 408; 240 C. 105. In order for liability to obtain under section, defendant must have notice of an actual defect and not merely notice of potential defects or conditions likely to create a defect. 246 C. 638. Section invoked where plaintiff tripped on a portion of a steel sign post that had been cut off just above ground level while disembarking from bus that had stopped approximately 7 feet from the broken post; section is not void for vagueness as applied to facts of case. 255 C. 330. When town clerk's office is closed on the 90th day on which notice can be filed, it is sufficient to file notice on the next day on which the office is open; a party does not fail to give notice simply because the notice addresses the wrong name as town clerk. Id., 693. Sole proximate cause doctrine precludes municipal liability where plaintiff is contributorily negligent and where other tortfeasors or independent nontortious factors contributed to the injury; therefore statute does not provide a right to indemnification. 258 C. 56. Under section, the focus with respect to the element of sole proximate cause is whether any factors other than municipality's breach of its statutory duty caused plaintiff's injury. Id., 574. Inaccurate notice under section is not, by itself, fatal to plaintiff's claim; the savings clause operates to protect plaintiffs from having their claims barred by reason of a vague, indefinite or inaccurate notice of accident location. 262 C. 787. Manner in which defect is created has no bearing on municipal liability under section and municipal liability was imposed where defect in highway created by third-party contractor was sole proximate cause of plaintiff's injuries. 292 C. 364. If injury complained of was caused by a highway defect on town road, plaintiff's only recourse against town is to pursue a claim under this section

pursuant to the exclusivity provision of Sec. 52-557n(a)(1)(C), and plaintiff cannot maintain a separate nuisance action against town. 304 C. 298. Whether driveway upon which plaintiff was driving was public, thereby falling within the purview of section, or whether it was a private thoroughfare, thereby falling within the purview of Sec. 52-557n, is a question of fact to be determined by the trial court. 315 C. 606.

In action pursuant to section, costs may be taxed against a defendant municipality. 4 CA 30. Savings clause of section must be pleaded and evidence introduced to prove its elements. Id., 315. Cited. 5 CA 104; 8 CA 169; 11 CA 1; 15 CA 185; Id., 668; 16 CA 213; 21 CA 633; 25 CA 67; 26 CA 407; Id., 534; 27 CA 487; 28 CA 449; 29 CA 565; judgment reversed, see 228 C. 358; Id., 791; 30 CA 594; 31 CA 906; 33 CA 56; Id., 754; 36 CA 158; 38 CA 14; 39 CA 289; 40 CA 179; 45 CA 413. Notice provisions discussed. 47 CA 365. Walkway deemed to be road or bridge since it was on public property leading from city street to public school and there was reasonable anticipation that the public would make use of it. Id., 734. Plaintiff could not prevail on claim that because section contains its own limitation period, court improperly relied on Sec. 52-584, which is applicable to negligence cases in general; trial court properly determined statute of limitations was not tolled during plaintiff's illness because this section contains no such tolling provision. 48 CA 60. Notice requirement not met where plaintiff's letter of notice did not arrive at town clerk's office until after the 90th day and where addressee on the letter was not a person employed in clerk's office or known to town clerk. 58 CA 191. Savings clause does not extend time requirement for delivery of notice. 67 CA 464. Plaintiff bears burden of proving delivery and actual receipt of notice. 72 CA 766. Notice by plaintiff's attorney that was received by town clerk more than 90 days from date of claimed injury and e-mail sent from plaintiff's supervisor to supervisor of a community center did not meet notice requirements of highway defect statute in order to invoke subject matter jurisdiction. 96 CA 387. Because there was no factual dispute that access to a transfer station was restricted and was, therefore, not open to the public, the court properly determined plaintiff's claim did not fall within the purview of the defective highway statute. 110 CA 657. Section and Sec. 13a-144 are not irreconcilably in conflict and do not prevent plaintiff from recovering from either state or municipal governmental entity if municipal employees caused a defect on a state highway because liability depends on existence of a defect, not the underlying causes which produced it. 116 CA 28. Failure to comply with Sec. 14-300c(a) demonstrated negligence on the part of plaintiff and precluded recovery under this section. 119 CA 724. Trial court properly concluded that plaintiff's claim fell within the purview of section and granted defendant's motion to dismiss for failure to comply with section's notice requirement because an improperly positioned storm drain cover located on a sidewalk is a defect in the highway and the facts admitted to in the pleadings name the defendant as the party bound to keep the property at issue in repair; highway defect statute is a legislative exception to the immunity of municipalities at common law and must be strictly construed. 125 CA 149. Common-law negligence is not applicable in a highway defect case; notice must be given under section and provide a general description of injuries sustained. 139 CA 487. Allegation that municipal road was unsafe for public travel because of a condition of the road caused by town's construction project is sufficient to satisfy pleading requirements of section, regardless of whether the claim is brought specifically under section. 143 CA 249. Because town defendants can only be held liable pursuant to section, and section requires that town defendants' conduct be sole proximate cause of damages alleged in order for liability to attach, any negligence on the part of third party negates possibility of relief from town defendants on theory of common-law indemnification. 147 CA 650. Where plaintiff exercises due care, failure to see sidewalk defect does not render plaintiff contributorily negligent. 148 CA 186. A public nuisance claim may not be brought independently of section when plaintiff's claim for damages against a municipality resulted from an injury sustained by means of a defective municipal road. 150 CA 805. Whether notice was sufficient under the savings clause was a question of law for the court. 157 CA 528.

What is sufficient notice. 2 CS 41; 14 CS 365; 18 CS 330; 19 CS 43. Statute applied to the City of New Haven. 2 CS 41; 4 CS 401, 481; 5 CS 88, 193, 312; 6 CS 44, 491; 7 CS 245, 297; 9 CS 79; 29 CS 75. Cited. 3 CS 12. Section grants right of action. 4 CS 401. Contributory act of another; civil liability of property owner in absence of an ordinance creating it. Id., 481. Complaint based on nuisance. 5 CS 81; Id., 268; 16 CS 222. No action at common law in absence of negligence. 5 CS 88. Cited. Id., 193. Sidewalk built for travel under normal conditions is devoid of defect. Id., 312. Notice improperly addressed. Id., 493; 16 CS 136. Cited. 7 CS 143; Id., 297. Notice condition precedent to recovery. Id., 245. Contents of notice. Id., 379. Notice concerning ice and snow. 8 CS 471. Cited. 9 CS 79. General description of "defective road". 10 CS 22. Cited. Id., 521. Suit against both city and town. 11 CS 114. How "time" of injury is stated. 12 CS 246. Cited. Id., 267; Id., 283; Id., 309.

Burden of plaintiff to prove that defective notice was not intended to mislead municipality. 14 CS 106. Action against Waterbury must be read with city charter. Id., 403. Terms of statute may not be waived; notice requirement not obviated because officer has knowledge of the fact. 15 CS 442. Notice not required if action based on negligence. 16 CS 222. Cited. 17 CS 114. Commencement of action as alternative to notice. Id., 420. Governmental immunity not a defense to action under section. 18 CS 124. Cited. Id., 501; 20 CS 142. Action against city under section and against another defendant for nuisance can be joined but claim must be in alternative. 22 CS 74, 76. Complaint demurrable where plaintiff did not allege exercise of due care or freedom from contributory negligence. Id., 75, 77. Whether path in public park was part of public highway system and was being used by plaintiff as traveler within meaning of section are questions of fact to be determined on trial of case. Id., 456. Savings clause serves to obviate inaccuracies in description of injuries; comparison with Sec. 13a-144. 23 CS 113. Cited. Id., 132. Redrafted count of complaint, substituted after demurrer, should have alleged requisite notice had been given. Id., 147. Cited. Id., 152. Where plaintiff brought action under Sec. 7-465 against local board of education to recover for injuries resulting from school bus accident, held action should have been brought under this section. 25 CS 305. Purpose of notice requirement. Id., 358. Cited. 26 CS 74. A malfunctioning traffic light is a defect in the highway. 29 CS 108. Municipality liable for invisible stop sign. Id., 352. Cited. 31 CS 442; 44 CS 45; Id., 389.

Although a notice will not be held invalid because of inaccuracy in describing the cause of the injury, where there is in effect no cause of injury stated the notice is invalid. 3 Conn. Cir. Ct. 644.

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Sec. 13a-150. Obligations of towns. The obligations for highways constructed under the provisions of part II of chapter 240, imposed under the provisions of sections 13a-144 and 13a-149 upon towns and upon the state, shall be assumed by the towns which accept an allocation of funds under the provisions of said part, except for highways or bridges accepted by the commissioner as state highways or bridges.

(1949 Rev., S. 2175; 1958 Rev., S. 13-62; 1963, P.A. 226, S. 150.)

History: 1963 act replaced previous provisions: See title history.

Cited. 128 C. 711.

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Sec. 13a-151. Violation of load capacity of bridge. Liability for damages to vehicle not in violation. (a) The owner of a motor vehicle that crosses or attempts to cross any bridge posted with a maximum weight limit notice, as required by section 13a-121, when such vehicle has a gross weight in excess of the posted weight limit shall be liable to the authority bound to maintain such bridge for any damage to the structure resulting from the passage or attempted passage of such vehicle.

(b) The authority having control of any bridge shall be responsible for any damage sustained by reason of the passage of any vehicle having a gross weight not in excess of the maximum weight prescribed in the notice provided for in section 13a-121, provided such vehicle shall not be operated at a speed in excess of the posted speed limit for such bridge while crossing such bridge.

(1949 Rev., S. 2186, 2188; 1955, S. 1189d; 1958 Rev., S. 13-73, 13-75; 1963, P.A. 226, S. 151; 395; P.A. 21-175, S. 2.)

History: 1963 acts changed proviso in Subsec. (b) from speed in excess of 25 miles per hour to in excess of posted speed limit and restated previous provisions: See title history; P.A. 21-175 amended Subsec. (a) by replacing “stated maximum safe load” with “posted weight limit”, deleting “shall constitute reckless driving by

the operator of such vehicle and the owner of such vehicle” and making technical changes, effective July 12, 2021.

See Sec. 14-269(c) re maximum weight of vehicle allowed to operate on any highway or bridge.

When read with Sec. 14-222, amounts to a penal statute; where there was no evidence that the sign on the bridge was legible for 50 feet, defendants were not proven guilty of reckless driving beyond a reasonable doubt. 24 CS 155.

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Sec. 13a-152. Damages for failure to maintain railing or fence. Any person who suffers damage in his person or property by reason of the want of any railing or fence required by section 13a-111 may recover damages from the party required to erect and maintain the same, but no action for damages for any such injury shall be maintained against any such party unless written notice of such injury and a general description of the same, and of the cause thereof and of the time and place of its occurrence, shall, within ninety days thereafter, be given to such party. No notice given under the provisions of this section shall be held invalid or insufficient by reason of an inaccuracy in describing the injury or in stating the time, place or cause of its occurrence if it appears that there was no intention to mislead or that such party was not misled thereby.

(1949 Rev., S. 2125; 1958 Rev., S. 13-10; 1963, P.A. 226, S. 152; P.A. 76-222, S. 3.)

History: 1963 act replaced previous provisions: See title history; P.A. 76-222 required that notice be given within 90, rather than 60, days after injury.

No liability for consequential damage. 17 C. 480. Railroad company authorized to alter highway liable to town for damages incurred by omission to erect railings. 27 C. 158. Contributory negligence. 29 C. 204. Liability for hole some distance from road. 30 C. 543. Town liable for injury from want of railing. 36 C. 324; 37 C. 199. Testimony that no previous accident resulted from use of bridge without railing inadmissible, unless previous use like plaintiff's. 43 C. 41; 62 C. 8. Expert testimony admissible as to necessity of railing. 43 C. 41. Omission to allege raising of highway above adjoining ground cured by verdict. 46 C. 263. Section does not apply to open basement descents on city streets. 50 C. 538. Whether row of trees is a sufficient fence is a question for the jury. 62 C. 13. Degree of protection required. 75 C. 290; 81 C. 65; 89 C. 31; 105 C. 360. Highway commissioner liable in case of trunk line or state aid highways. 94 C. 542; Id., 596; 105 C. 360. Railing or fence should make road reasonably safe for reasonable use of traveling public. 110 C. 68. Liability is not based on negligence but on breach of statutory duty; Sec. 52-114 does not apply. 119 C. 479; 133 C. 246. Highway commissioner's duty to erect fence at raised points to be guided by standard of reasonable safety under the circumstances. 121 C. 88, 94. Cited. Id., 383; Id., 616. Action for death due to highway defect survives; not a penal statute within meaning of Sec. 52-599. 122 C. 80, 95, 96. Imposes a duty which may involve the manner of construction of fence or railing. Id., 98. Cited. 123 C. 449. Jury to say if municipality should make fence sufficient to guard against skidding. 129 C. 699. Cited. 134 C. 220; 137 C. 288; 153 C. 439; 235 C. 408.

Cited. 1 CS 136; 3 CS 12; 4 CS 481; 5 CS 374. Right to sue political subdivision of the state may be revoked. 6 CS 491. Concerned only with duty imposed in Sec. 13a-99; applicable to New Haven. 8 CS 204. Cited. 18 CS 501. Facts necessary to support an allegation. 19 CS 101.

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Sec. 13a-153. State liability for bridle paths, pedestrian walks and bicycle paths and injuries thereon. (a) No person, firm or corporation performing or engaged in performing work under the provisions of section 13a-141 or contributing any labor, services, supplies or materials in connection therewith shall have any claim against the state either (1) for compensation or payment for such labor, services, supplies or materials, except to the extent

that funds for the payment thereof have been deposited with the commissioner as provided in said section, or (2) for any injuries or damages to person or property suffered or incurred while performing such work or in connection therewith.

(b) Each person, firm or corporation using the pedestrian walks, bicycle paths, bridle paths, entrances or exits provided for in section 13a-141, 13a-141a or 13a-142e, or using any lane or other part or facility of any highway, road, bridge or parking facility provided by the state for bicycle traffic or using the walk or path connections provided for in section 13a-142, shall do so at his, her or its own risk, and no liability shall accrue to the state or any agency, including the Route 11 Greenway Authority Commission created under section 13a-142e, or employee of the state for any injuries or damages to any person or property which may result, either directly or indirectly, from the use of such walks, paths, entrances, exits or connections.

(1949 Rev., S. 2244, 2245; 1958 Rev., S. 13-130, 13-131; 1963, P.A. 226, S. 153; 1969, P.A. 643, S. 2; P.A. 75-305, S. 1, 2; P.A. 05-131, S. 1.)

History: 1963 act replaced previous provisions: See title history; 1969 act included pedestrian and bicycle walks and paths; P.A. 75-305 added reference to Sec. 13a-141a and to lanes or parts of highways, roads, bridges or parking facilities for bicycle traffic in Subsec. (b); P.A. 05-131 amended Subsec. (b) by adding reference to Sec. 13a-142e and adding “including the Route 11 Greenway Authority Commission created under section 13a-142e”.

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Secs. 13a-153a to 13a-153e. Reserved for future use.

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## **PART XI**

### **USER ACCOMMODATIONS AND FACILITIES**

Sec. 13a-153f. Accommodations and provision of facilities for all users. (a) For the purposes of this section:

- (1) “Department” means the Department of Transportation;
- (2) “Funds” means any funds from the Special Transportation Fund, bond allocations and any other source that is available for the construction, maintenance and repair of roads in this state;
- (3) “User” means a motorist, transit user, pedestrian or bicyclist;
- (4) “Bikeway” means any road, street, path or way which in some manner is specifically designated for bicycle travel, including the provision of a bicycle lane, regardless of whether such facility is designated for the exclusive use of bicycles or is to be shared with other modes of transportation; and
- (5) “Total project cost” means the cost of the entire corridor plan project.

(b) Accommodations for all users shall be a routine part of the planning, design, construction and operating activities of all highways, as defined in section 14-1, in this state. The department, in concert with elected or appointed municipal authorities and taking into consideration any municipally approved transportation plan, where appropriate, shall give consideration to implementing the AASHTO minimum standard lane width, if such

implementation allows the addition of a bicycle lane that conforms to the bicycle lane standards of AASHTO or the National Association of City Transportation Officials.

(c) From funds received by the department or any municipality for the construction, restoration, rehabilitation or relocation of highways, roads or streets, a reasonable amount shall be expended to provide facilities for all users, including, but not limited to, bikeways and sidewalks with appropriate curb cuts and ramps. On and after October 1, 2010, not less than one per cent of the total amount of any such funds received in any fiscal year shall be so expended. The department or municipality shall take future transit expansion plans into account where appropriate. Notwithstanding the provisions of this subsection, such provisions shall not apply in the event of a state or municipal transportation emergency.

(d) Accommodations pursuant to subsection (b) of this section and the provision of facilities pursuant to subsection (c) of this section shall not be required if the Commissioner of Transportation or a municipal legislative body determines, with respect to a highway, road or street that: (1) Nonmotorized usage is prohibited; (2) there is a demonstrated absence of need; (3) the accommodation of all users would be an excessively expensive component of the total project cost; or (4) the accommodation of all users is not consistent with the state's or such municipality's, respectively, program of construction, maintenance and repair.

(P.A. 09-154, S. 1; 09-186, S. 54; P.A. 15-41, S. 5.)

History: P.A. 09-154 effective July 1, 2009; P.A. 09-186 amended Subsec. (d) to add reference to accommodations pursuant to Subsec. (b), effective July 1, 2009; P.A. 15-41 amended Subsec. (b) by requiring consideration of minimum standard lane width for purposes of addition of a bicycle lane, and made a technical change in Subsec. (d), effective July 1, 2015.

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Sec. 13a-153g. Design standards for roads. Not later than July 1, 2018, the Commissioner of Transportation shall update design standards for roads in the state. Such design standards shall include, as appropriate, the standards contained within the National Association of City Transportation Officials Urban Bikeway Design Guide and the National Association of City Transportation Officials Urban Street Design Guide.

(P.A. 15-41, S. 4; P.A. 17-230, S. 17.)

History: P.A. 15-41 effective July 1, 2015; P.A. 17-230 added provision requiring commissioner to update design standards for roads in the state and made conforming changes.

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