

Part I ADMINISTRATION OF THE GOVERNMENT

Title XIV PUBLIC WAYS AND WORKS

Chapter 81 STATE HIGHWAYS

Section 21 EXCAVATIONS OR DRIVEWAY OPENINGS ON STATE HIGHWAYS;
CONDITIONS; ENFORCEMENT

Section 21. No state highway shall be dug up, nor opening made therein for any purpose, nor access granted thereto for any purpose, nor shall any material be dumped or placed thereon or removed therefrom, and no tree shall be planted or removed or obstruction or structure placed thereon or removed therefrom or changed without the written permit of the department, and then only in accordance with its regulations, and the work shall be done under its supervision and to its satisfaction, and the entire expense of replacing and resurfacing the highway at the same level and in as good condition as before, with materials equal in specifications to those removed, shall be paid by the persons to whom the permit was given or by whom the work was done; but a town may dig up a state highway without the approval of the department in case of immediate necessity; but in such cases it shall forthwith be replaced in as good condition as before at the expense of the town and the town shall notify the department by registered mail, return receipt requested, within seven days of the excavation. In the case of a driveway opening on a state highway, the said department shall not grant a permit for a driveway

location or alteration if the board or department in a city or town having authority over public ways and highways has notified the department by registered mail, return receipt requested, of their objection to the driveway; provided, that such objection shall be based on highway safety and accepted by the said department. The department may require a bond to guarantee the faithful and satisfactory performance of the work and payment for any damage to state highways and facilities caused by or resulting from the operations authorized by such permit. The amount of said bond shall be determined by the department not to exceed the estimated cost of the work and possible damage; provided, however, that the bond shall be not less than \$300,000 unless a lesser amount is approved in writing by a representative of the department. Except in case of an emergency no permit for digging up or opening any state highway shall be approved or issued by the department until copies of the notices to public utility companies required by section forty of chapter eighty-two have been filed with the department by the applicant for such permit.

Any person who builds or expands a business, residential, or other facility intending to utilize an existing access or a new access to a state highway so as to generate a substantial increase in or impact on traffic shall be required to obtain a permit under this section prior to constructing or using such access. Said person may be required by the department to install and pay for, pursuant to a permit under this section, standard traffic control devices, pavement markings, channelization, or other highway improvements to facilitate safe and efficient traffic flow, or such highway improvements may be installed by the department and up to one hundred per cent of the cost of such improvements may be assessed upon such person.

The department may issue written orders to enforce the provisions of this section or the provisions of any permit, regulation, order, or approval issued under this section. Any person who violates any provision of this section or any permit, regulation, order or approval issued thereunder (a) shall be punished by a fine of not more than one thousand dollars per day for each such violation or (b) shall be subject to a civil penalty not to exceed one thousand dollars per day for each such violation; provided, however, that each day such violation occurs or continues shall be a separate offense. The superior court shall have jurisdiction, upon petition of the commissioner of the department, to enforce the provisions of this section or of any permit, regulation, order, or approval issued thereunder. The commissioner of highways shall adopt regulations to effectuate the purposes of this section.