

OR BY WHOM THE WORK IS DONE SHALL PAY THE COST OF REPLACING THE HIGHWAY IN AS GOOD A CONDITION AS BEFORE THE WORK WAS DONE.

(C) WHEN PERMIT NOT REQUIRED.

A PERMIT IS NOT REQUIRED OF:

(1) A MUNICIPAL CORPORATION, UNLESS IT OTHERWISE IS REQUIRED BY LAW TO OBTAIN ONE; OR

(2) AN ELECTRIC RAILROAD COMPANY FOR ITS OPERATION OR THE MAINTENANCE OF ITS ROADBED AND OVERHEAD CONSTRUCTION, BUT ALL NECESSARY REPAIRS AND THE MAINTENANCE OF ITS ROADBED, INCLUDING THE AREA WITHIN 2 FEET OF EACH SIDE OF THE TRACKS, SHALL BE PERFORMED TO THE SATISFACTION OF THE ADMINISTRATION AND UNDER ITS SUPERVISION.

(D) PENALTIES.

ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$100.

REVISOR'S NOTE: This section is new language derived from the first, second, and fourth sentences of Art. 89B, §43.

As to subsection (c) (2) of this section, present §43 is unclear as to whether its intent is merely to prohibit direct interference with electric railroad tracks (such as digging them up without permission) or, since the railroad's maintenance is to be performed under Administration supervision, to waive the requirement for a permit. The revision adopts the latter view. This provision, though apparently obsolete and, in any event, totally inapplicable in Baltimore City, is retained at the request of the Mass Transit Administration.

In subsection (d) of this section, the provisions of present §43 that authorize prosecutions of violations "at the instance of any taxpayer" are deleted as unnecessary and obsolete. Also, the presently specified minimum penalty of \$25 for violation of this section is deleted to conform to the statement of legislative policy contained in Art. 27, §643 of the Code, which sets forth the general rule that, notwithstanding a prescribed minimum penalty, the court nevertheless may impose a lesser penalty of the same character.

The third sentence of present §43, which relates to construction of roads through