

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

FIRST REGULAR SESSION

January 3, 1979 to June 15, 1979

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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Augusta, Maine  
1979

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**PUBLIC LAWS**  
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1. Failure to give notice. Failure of persons required to give notice of certain snowmobile accidents under section 7827, subsection 22, to give notice of any accident requiring notice to the nearest available law enforcement officer to the place where the accident occurred shall be prima facie evidence that the accident was not reported.

2. Use of accident reports. All accident reports made by investigating officers shall be for the purpose of statistical analysis and accident prevention and shall not be admissible in evidence in any trial, civil or criminal, arising out of the accident, but any investigating agency may disclose, upon the request of any person, the date, time and location of the accident and the names and addresses of drivers, owners, injured persons, witnesses and the investigating officer. The investigating agency may upon written request furnish a photocopy of any report at the expense of the person making the request.

§ 7953. Purchase or sale of wildlife by commissioner's agents

Any agent of the commissioner may buy or sell any wildlife for use as evidence in prosecution of a violation of chapters 701 to 721.

Sec. 2. 7 MRSA c. 707, as amended, is repealed.

Sec. 3. 7 MRSA § 3602, as last amended by PL 1977, c. 696, §§ 106 and 107, is repealed.

Sec. 4. 7 MRSA § 3603 is repealed.

Sec. 5. 12 MRSA Pt. 3, as amended, is repealed.

Sec. 6. 32 MRSA c. 65, as amended, is repealed.

Effective December 31, 1979—PL 1979, c. 543, § 85

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## CHAPTER 421

H. P. 795 — L. D. 1002

### AN ACT to Encourage Industrial Cogeneration and Small Power Production Facilities using Renewable Sources of Energy.

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

Sec. 1. 35 MRSA § 2314, as enacted by PL 1977, c. 633, is repealed.

Sec. 2. 35 MRSA c. 172 is enacted to read:

## CHAPTER 172

SMALL POWER PRODUCTION FACILITIES  
AND COGENERATION FACILITIES

## § 2321. Title

This chapter shall be known and may be cited and referred to as the "Small Power Production Facilities Act."

## § 2322. Purpose

The Legislature finds that it is in the best interest of the State to reduce the State's dependence upon fossil fuels for its energy needs. It is necessary to diversify energy producing systems and energy sources to ensure an adequate and reliable supply of energy for Maine citizens. The Legislature further finds that the development of small energy production facilities using renewable resources and cogeneration facilities will have a significant and beneficial effect upon this State.

The Legislature intends through this legislation to encourage the development of energy producing systems using renewable resources; particularly abundant, indigenous, renewable resources or resources in close proximity to Maine. It is further the intent of the Legislature to promote the more efficient use of existing energy systems particularly through the cogeneration of power.

## § 2323. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. Cogenerator. "Cogenerator" means a person or corporation:
  - A. Owning or operating a facility which generates electricity and steam or other useful forms of energy which are used for commercial, industrial, heating or cooling purposes; and
  - B. Not primarily engaged in the generation or sale of electric power, other than the power generated at the cogeneration facility.
2. Renewable resources. "Renewable resources" mean resources that are capable of being reproduced, replenished or restored following the use of these resources and resources that are inexhaustible. Renewable resources shall include biomass, wood, water, waste, solar and wind, but shall exclude nuclear fuel sources, coal and oil.
3. Small power producer. "Small power producer" means a person or corporation owning or operating a power production facility with a power

production capacity which, together with any other facilities located at the same site, does not exceed 80 megawatts of electricity and which depends upon renewable resources for its primary source of energy. A small power producer shall not include a public utility, a subsidiary of a public utility or an affiliate of a public utility that owns or operates a small power production facility generating power from renewable resources.

§ 2324. Control and regulation of generating facilities

Notwithstanding the definition of a public utility in section 15, subsection 13, a small power production facility and a cogeneration facility, as defined in section 2323, shall not be deemed a public utility and shall not be subject to control or regulation by the Public Utilities Commission, except that commission determination and regulation of rates of public utilities which include purchases of power from a qualifying small power production facility or cogeneration facility shall not be considered control or regulation of these facilities.

§ 2325. Sale of electricity

1. Authorized markets for electricity. Any small power producer or cogenerator may sell electricity without prior approval or rate approval by the commission to any electric public utility corporation or cooperative authorized to make, generate, sell or distribute electricity.

2. Use of electricity by the producer. Any small power producer or cogenerator may generate or distribute electricity through his private property solely for his own use, the use of his tenants or the use of his associates in a small power production or cogeneration facility and not for sale to others without approval or regulation by the commission.

§ 2326. Transactions

The rate paid by the public utility for the purchase of electricity as described in this section shall be determined by the small power producer or cogenerator and the public utility electric corporation or cooperative. In the event that the small power producer or cogenerator and the public utility electric corporation or cooperative are unable to mutually agree to a contract for electricity or to a price for the electricity purchased by the public utility, the commission may require the utility to purchase the power, determine the price, or both. The commission shall render a decision within 60 days from receipt of a petition signed by a small power producer, cogenerator, public utility electric corporation or electric cooperative for commission intercession.

§ 2327. Review of rates

During a rate proceeding before the commission which involves the review of rates paid by a public utility for electricity purchased by the utility from a small power producer, or upon petition to the commission in accordance with section

2326, the commission shall follow the standards prescribed in this section as the basis of the commission's decision pertaining to these rates.

1. **Term of contract.** Long-term contracts for the purchase of electricity by the utility from small power producers and cogenerators shall be encouraged in order to enhance the economic feasibility of small power production and cogeneration facilities.

2. **Alternative cost of energy to the utility.** The rates paid by a utility to a small power producer or cogenerator shall not exceed, over the term of the purchase power contract, the cost to the electric utility of the electric energy which, but for the purchase from the cogenerator or small power producer, the utility would generate or purchase from another source. A determination of alternative energy costs to the utility shall include consideration of the cost of additional or existing generating capacity which could be displaced over the term of the contract as well as the cost of fuel and other operating expenses of electric energy production which a utility would otherwise incur in generating or purchasing power from another source.

3. **Displacement of fossil fuel.** Displacement of fossil fuel by the production of energy from renewable resources or by the more efficient use of energy by cogeneration shall be encouraged by contracts with and by rates paid to small power producers or cogenerators that make displacement feasible.

4. **Availability and reliability of power.** The rate charged by a small power producer or cogenerator for electricity produced shall reflect the reliability of the power with respect to the number of hours per day and days per year that it is available; the time of day and season of the year at which the electricity is made available; and the time of day, season of the year and the total need for power required by a public utility electric corporation or electric cooperative.

Effective September 14, 1979

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## CHAPTER 422

H. P. 934 — L. D. 1166

**AN ACT to Strengthen the Procedures for Prosecuting Operating Under the Influence Cases and Strengthen the Penalties for First Offenses.**

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

Sec. 1. 29 MRSA § 1312, sub-§ 8, as repealed and replaced by PL 1971, c. 547, is amended by adding at the end the following new paragraphs: