

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 7, 1994 to June 30, 1995**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 29, 1995**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1995**

B. Operates a motor vehicle with ~~a blood alcohol level of 0.02% or more~~ any amount of alcohol in the blood.

**Sec. 2. 29-A MRSA §2472, sub-§§4 and 5,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

**4. Duty to submit to test.** A person under 21 years of age who operates a motor vehicle shall submit to a chemical test if there is probable cause to believe that person has operated a motor vehicle with ~~a blood alcohol level of 0.02% or more~~ any amount of alcohol in the blood. The provisions of subchapter IV apply, except the suspension must be for a period of one year.

**5. Hearing; stay; issues.** If a hearing is requested in accordance with section 2483, the suspension under subsection 3, paragraph B is stayed pending the outcome of the hearing. The scope of a hearing must include whether:

A. There was probable cause to believe that the person was under 21 years of age and operated a motor vehicle ~~while having 0.02% or more by weight of alcohol in the blood~~ with any amount of alcohol in the blood;

B. The person operated a motor vehicle ~~while having 0.02% or more by weight of alcohol in the blood~~ with any amount of alcohol in the blood; and

C. The person was under 21 years of age.

See title page for effective date.

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## CHAPTER 27

H.P. 165 - L.D. 213

### **An Act to Change the Activities Requiring a Permit from the Department of Environmental Protection**

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

**Sec. 1. 38 MRSA §480-Q, sub-§2,** as amended by PL 1993, c. 617, §1, is repealed and the following enacted in its place:

**2. Maintenance and repair.** Maintenance and repair of a structure in, on, over or adjacent to a protected natural resource and maintenance and repair of a private crossing of a river, stream or brook if:

A. Erosion control measures are taken to prevent sedimentation of the water;

B. Crossings do not block fish passages in water courses;

C. There is no additional intrusion into the protected natural resource; and

D. The dimensions of the repaired structure do not exceed the dimensions of the structure as it existed 24 months prior to the repair, or if the structure has been officially included in or is considered by the Maine Historical Preservation Commission eligible for listing in the National Register of Historic Places, the dimensions of the repaired structure do not exceed the dimensions of the historic structure.

This subsection does not apply to: the repair of more than 50% of a structure located in a coastal sand dune system; the repair of more than 50% of a dam, unless that repair has been approved by a representative of the United States Natural Resources Conservation Service; or the repair of more than 50% of any other structure, unless the municipality in which the proposed activity is located requires a permit for the activity through an ordinance adopted pursuant to the mandatory shoreland zoning laws and the application for a permit is approved by the municipality;

See title page for effective date.

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## CHAPTER 28

H.P. 317 - L.D. 438

### **An Act to Amend the Law Regarding Minimum Sentences for Class C Crimes Involving the Use of a Firearm against a Person**

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

**Sec. 1. 17-A MRSA §1252, sub-§5,** as amended by PL 1979, c. 701, §30, is further amended to read:

**5.** Notwithstanding any other provision of this code, ~~except as provided in this subsection,~~ if the State pleads and proves that a Class A, B or C crime was committed with the use of a firearm against a person, the minimum sentence of imprisonment, which ~~shall~~ may not be suspended, ~~shall be~~ is as follows: When the sentencing class for ~~such the~~ such the crime is Class A, the minimum term of imprisonment ~~shall be~~ is 4 years; when the sentencing class for ~~such the~~ such the crime is Class B, the minimum term of imprisonment ~~shall be~~ is 2 years; and when the sentencing class for ~~such the~~ such the crime is Class C, the minimum term of imprisonment ~~shall be~~ is one year. For purposes of this subsection, the applicable sentencing class ~~shall be~~ is determined