# 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**

missioner shall develop a monitoring plan for these facilities and submit the plan, including a list of the selected facilities, to the technical advisory group established in section 420-B, subsection 1, paragraph B, subparagraph (5). At least 30 days prior to submitting the plan to the technical advisory group, the commissioner shall notify the owners or operators of each selected facility of the fact of the facility's inclusion in the plan. The technical advisory group shall review the plan and information related to the plan provided by the commissioner, by the owners or operators of selected facilities and by others, including information regarding whether the selected facilities are known or likely sources of dioxin contamination. The technical advisory group shall advise the commissioner on the plan and the choice of selected facilities. The total number of facilities monitored by the commissioner may not exceed 12;

**Sec. 2. 38 MRSA §420-A, sub-§5,** as enacted by PL 1987, c. 762, §1, is amended to read:

**5. Fees assessed.** The commissioner shall assess the selected facilities for the costs of sample collection and analysis, except that, if the selected facility is a publicly owned treatment works, the commissioner may assess the primary industrial generator discharging effluent into the treatment facility if the generator is known or likely to be discharging dioxin into the treatment facility. Fees received under this section ~~shall~~ must be credited to the Maine Environmental Protection Fund. Payment of these fees is a condition of the discharge license issued under this Title for continued operation of the selected facilities, except that, if the selected facility is a publicly owned treatment works and the commissioner assesses the fee on an industrial generator, payment of the fee is not a condition of the discharge license of the selected facility.

**Sec. 3. 38 MRSA §420-A, sub-§6,** as enacted by PL 1989, c. 856, §5 and affected by §7, is amended to read:

**6. Repeal.** This section is repealed ~~on~~ December 31, ~~1995~~ 1997.

**Sec. 4. Allocation.** The following funds are allocated from the Maine Environmental Protection Fund to carry out the purposes of this Act.

**1996-97**

**ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

**Maine Environmental Protection Fund**

| | |
|---|---|
| All Other | $168,000 |

Provides an allocation for the continuance of the dioxin monitoring program.

See title page for effective date.

## CHAPTER 224

**H.P. 879 - L.D. 1234**

**An Act to Amend the Maine Criminal Code to Ensure Fairness in Classifying a Crime Based on the Value of Loss or Damage**

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

**Sec. 1. 17-A MRSA §15, sub-§1, ¶A,** as amended by PL 1993, c. 475, §3, is further amended to read:

A. Any person who the officer has probable cause to believe has committed or is committing:

(1) Murder;

(2) Any Class A, Class B or Class C crime;

(3) Assault while hunting;

(4) Any offense defined in chapter 45;

(5) Assault, criminal threatening or terrorizing, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;

(5-A) Assault or reckless conduct, if the officer reasonably believes that the person and the victim are family or household members, as defined in Title 15, section 321;

(6) Theft as defined in section 357, when the value of the services is ~~$1,000~~ $2,000 or less, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(7) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(8) Negotiating a worthless instrument, if the officer reasonably believes that the per-

son will not be apprehended unless immediately arrested;

(9) A violation of a condition of probation when requested by an official of the Division of Probation and Parole;

(10) Violation of a condition of release in violation of Title 15, section 1026, subsection 3; Title 15, section 1051, subsections 2 and 9; and Title 15, section 1092;

(11) Theft involving a detention under Title 17, section 3521;

(12) Harassment, as set forth in section 506-A; or

(13) Violation of a protection order, as specified in Title 5, section 4659, subsection 2; Title 15, section 321, subsection 6; Title 19, section 769, subsection 2; and Title 19, section 770, subsection 5; and

**Sec. 2. 17-A MRSA §352, sub-§5, ¶D,** as enacted by PL 1975, c. 499, §1, is amended to read:

D. If the value of property or services cannot be ascertained beyond a reasonable doubt pursuant to the standards set forth above, the trier of fact may find the value to be not less than a certain amount, and if no such minimum value can be thus ascertained, the value ~~shall be~~ is deemed to be an amount less than ~~$500~~ $1,000.

**Sec. 3. 17-A MRSA §362, sub-§2,** as amended by PL 1977, c. 510, §48, is further amended to read:

**2.** Theft is a Class B crime if:

A. The value of the property or services exceeds ~~$5,000~~ $10,000;

B. The property stolen is a firearm or an explosive device; or

C. The actor is armed with a dangerous weapon at the time of the offense.

**Sec. 4. 17-A MRSA §362, sub-§3,** as amended by PL 1991, c. 548, Pt. A, §8, is further amended to read:

**3.** Theft is a Class C crime if:

A. The value of the property or services is more than ~~$1,000~~ $2,000 but not more than ~~$5,000~~ $10,000; or

B. The theft is a violation under section 355.

**Sec. 5. 17-A MRSA §362, sub-§§4 and 5,** as enacted by PL 1975, c. 499, §1, are amended to read:

**4.** Theft is a Class D crime if:

A. It is a ~~volation~~ violation of section 360, regardless of the value involved; or

B. The value of the property or services exceeds ~~$500~~ $1,000 but does not exceed ~~$1,000~~ $2,000.

**5.** Theft is a Class E crime if the value of the property or services does not exceed ~~$500~~ $1,000.

**Sec. 6. 17-A MRSA §703, sub-§2,** as repealed and replaced by PL 1989, c. 187, §2, is amended to read:

**2.** Violation of this section is:

A. A Class B crime if the face value of the written instrument or the aggregate value of instruments exceeds ~~$5,000~~ $10,000;

B. A Class C crime if:

(1) The face value of the written instrument or the aggregate value of instruments exceeds ~~$1,000~~ $2,000 but does not exceed ~~$5,000~~ $10,000; or

(2) The actor has 2 prior convictions for any combination of theft, violation or attempted violation of this section, violation or attempted violation of section 702 or 708 or any violation or attempted violation of section 401 if the intended crime within the structure is theft, or any violation or attempted violation of section 651. Determination of whether a conviction constitutes a prior conviction for purposes of this subsection ~~shall be~~ is pursuant to section 362, subsection 3-A; or

C. Except as provided in paragraphs A and B, forgery is a Class D crime.

**Sec. 7. 17-A MRSA §708, sub-§4,** as amended by PL 1989, c. 186, is further amended to read:

**4.** Violation of this section is:

A. A Class B crime, if the face value of the negotiable instrument exceeds ~~$5,000~~ $10,000;

B. A Class C crime, if:

(1) The face value of the negotiable instrument exceeds ~~$1,000~~ $2,000 but does not exceed ~~$5,000~~ $10,000; or

(2) The actor has 2 prior convictions for any combination of theft, a violation of section 702, 703 or this section, a violation of section 401 in which the crime intended to be committed inside the structure is theft, a violation of section 651 or attempts at these violations. Determination of whether a conviction constitutes a prior conviction for purposes of this subsection ~~shall be~~ is pursuant to section 362, subsection 3-A;

C. A Class D crime, if the face value of the negotiable instrument exceeds ~~$500~~ $1,000 but does not exceed ~~$1,000~~ $2,000; or

D. A Class E crime, if the face value of the negotiable instrument does not exceed ~~$500~~ $1,000.

**Sec. 8. 17-A MRSA §805, sub-§1, ¶¶A and B,** as enacted by PL 1975, c. 499, §1, are amended to read:

A. Damages or destroys property of another in an amount exceeding ~~$1,000~~ $2,000 in value, having no reasonable ground to believe that ~~he~~ the person has a right to do so; or

B. Damages or destroys property in an amount exceeding ~~$1,000~~ $2,000 in value, to enable any person to collect insurance proceeds for the loss caused; or

**Sec. 9. 17-A MRSA §953, sub-§1, ¶A,** as amended by PL 1977, c. 55, is further amended to read:

A. Engaging in bookmaking to the extent that ~~he~~ the person receives or accepts in any 24-hour period more than 5 bets totaling more than ~~$250~~ $500; or

**Sec. 10. 17-A MRSA §953, sub-§1, ¶C,** as amended by PL 1975, c. 740, §94, is further amended to read:

C. Receiving in connection with a lottery, mutuel or other gambling scheme or enterprise~~,~~ more than ~~$500~~ $1,000 in any 24-hour period played in the scheme or enterprise.

See title page for effective date.

## CHAPTER 225

**H.P. 908 - L.D. 1284**

### An Act to Remove Outdated Provisions from the Public Utilities Law

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

**Sec. 1. 5 MRSA §200-B,** as repealed and replaced by PL 1987, c. 769, Pt. A, §9, is amended to read:

**§200-B. Authority of Attorney General to request telephone records**

Whenever the Attorney General, a deputy attorney general or a district attorney has reasonable grounds to believe that the services furnished to a person or to a location by a public utility, as defined in Title 35-A, section 102, ~~subsections 17 and~~ subsection 19, whether or not subject to the jurisdiction of the Public Utilities Commission, and that ~~such~~ the public utility services are being or may be used for, or to further, an unlawful purpose, ~~he~~ the Attorney General may demand, in writing, all the records in the possession of the public utility relating to that service. Upon a showing of cause to any Justice of the Supreme Judicial Court or the Superior Court or Judge of the District Court, the justice or judge shall approve the demand. ~~Such~~ The showing ~~shall~~ must be by the affidavit of any law enforcement officer. Upon receipt of a demand, approved by a justice or judge, the public utility shall ~~forthwith~~ deliver to the person making the request all the records or information in compliance with the demand. If the person making request demands that the public utility not release the fact of the request or that records will be or have been supplied, the public utility ~~shall~~ may not release ~~such~~ the fact or facts without court order. ~~No~~ A public utility or employee of that public utility may not be criminally or civilly responsible for furnishing any records or information in compliance with the demand.

**Sec. 2. 35-A MRSA §102, sub-§13,** as repealed and replaced by PL 1991, c. 342, §2, is amended to read:

**13. Public utility.** "Public utility" includes every gas utility, natural gas pipeline utility, electric utility, telephone utility, ~~telegraph utility,~~ water utility, public heating utility and ferry, as those terms are defined in this section, and each of those utilities is declared to be a public utility. "Public utility" does not include the operation of a radio paging service, as that term is defined in this section, or mobile telecommunications services unless only one entity or an affiliated interest of that entity, as defined in section 707, subsection 1, paragraph A, exclusively controls the use of the radio frequency spectrum assigned by the Federal Communications Commission to provide mobile service to the service area.

Nothing in this subsection precludes: