

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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

J.S. McCarthy Company
Augusta, Maine
1995

(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, mutual 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An Act to Remove Outdated Provisions from the Public Utilities Law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:

A. The jurisdiction, control and regulation by the commission pursuant to private and special act of the Legislature;

B. The commission's jurisdiction and control over and regulation of a public utility that provides, in addition to other services, radio paging service or mobile telecommunications services;

C. The commission's jurisdiction and control over and regulation of basic exchange telephone service offered by a provider of mobile telecommunications services if, after investigation and hearing, the commission determines that the provider is engaged in the provision of basic exchange telephone service; and

D. Negotiations for, or negates agreements or arrangements existing on the effective date of this paragraph relating to, rates, terms and conditions for interconnection provided by a telephone utility to a company providing radio paging or mobile telecommunications services.

Sec. 3. 35-A MRSA §102, sub-§§17 and 18, as enacted by PL 1987, c. 141, Pt. A, §6, are repealed.

Sec. 4. 35-A MRSA §116, sub-§1, as amended by PL 1991, c. 343, §1, is further amended to read:

1. Utilities subject to assessments. Every electric, gas, ~~telegraph~~, telephone and water utility and ferry subject to regulation by the commission is subject to an assessment of not more than .35% on its intrastate gross operating revenues to produce no more than \$4,473,000 in revenues annually beginning in the 1991-92 fiscal year and not more than \$4,918,000 in revenues annually beginning in the 1992-93 fiscal year. The commission shall determine the assessments annually prior to May 1st and assess each utility for its pro rata share for expenditure during the fiscal year beginning July 1st. Each utility shall pay the assessment charged to the utility on or before July 1st of each year. Any increase in the assessment that becomes effective subsequent to May 1st may be billed on the effective date of the act authorizing the increase.

A. The assessments charged to utilities under this section are just and reasonable operating costs for rate-making purposes.

B. For the purposes of this section, "intrastate gross operating revenues" means intrastate revenues derived from filed rates, except revenues derived from sales for resale.

C. Gas utilities subject to the jurisdiction of the commission solely with respect to safety are not be subject to any assessment.

D. The commission may correct any errors in the assessments by means of a credit or debit to the following year's assessment rather than reassessing all utilities in the current year.

E. The commission may exempt utilities with annual intrastate gross operating revenues under \$50,000 from assessments under this section.

Sec. 5. 35-A MRSA §701, sub-§2, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

2. Renting facilities. ~~Nothing in this~~ This section prohibits does not prohibit a public utility from renting any facilities incident to the production, transmission, delivery or furnishing of electricity, gas, heat or water or the conveyance of telephone ~~or telegraph~~ messages and paying a reasonable rental for the facilities.

Sec. 6. 35-A MRSA §710, sub-§4, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

4. Filing accident reports. Every public utility shall file reports of accidents described in subsections 1 and 2 with the commission. Accident reports ~~shall~~ must be filed in compliance with the commission's rules and in the manner and form designated by the commission. Accidents resulting in loss of human life ~~shall~~ must be reported immediately by telephone, facsimile machine or telegraph electronic media in a manner designated by the commission followed by a detailed written report.

Sec. 7. 35-A MRSA §2101, as amended by PL 1987, c. 490, Pt. C, §7, is further amended to read:

§2101. Organization of certain public utility corporations

Corporations for the operation of ~~telegraphs or~~ telephones and for the purpose of making, generating, selling, distributing and supplying gas or electricity or for the operation of water utilities, ferries or public heating utilities in any municipality, or 2 or more adjoining municipalities, within the State, may be organized under the general corporate law of the State.

Sec. 8. 35-A MRSA §2301, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

§2301. Telephone utilities and television corporations may construct lines

Except as limited, every corporation organized under section 2101 for the purpose of operating

~~telegraphs or~~ telephones and every corporation organized for the purpose of transmitting television signals by wire may construct, maintain and operate its lines upon and along the route or routes and between the points stated in its certificate of incorporation; and may, construct its lines and necessary erections and fixtures for them along, over, under and across any of the roads and streets and across or under any of the waters upon and along the route or routes subject to the conditions and under the restrictions provided in this chapter and chapter 25.

Sec. 9. 35-A MRSA §2501, sub-§2, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

2. Applicability of section 2503. Except as otherwise provided, ~~no~~ a person may not construct facilities upon and along highways and public roads, without applying for and obtaining a written location permit from the applicable licensing authority under section 2503. Included within this requirement is every person operating ~~telegraphs or~~ telephones or transmitting television signals by wire; every person that owns, controls, operates or manages any pipeline within or through this State for the transportation as a common carrier for hire of oil, gas, gasoline, petroleum or any other liquids or gases; every water utility and every person making, generating, selling, distributing and supplying gas or electricity; every water utility or sewer company, district or system privately or municipally owned; every municipally owned or operated fire alarm, police alarm or street lighting circuit or system; every cooperative organized under chapter 35; and any other person engaged in telecommunications or the transmission of heat, or electricity.

Sec. 10. 35-A MRSA §2516, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Permit required to cut wires and remove poles. ~~No~~ A person may not cut, disconnect or remove the wires or poles of a ~~telegraph,~~ telephone or electric utility in order to move a building, alter, repair or improve a street, bridge or way, or for any other purpose unless that person:

A. Applies in writing to the municipal officers of the municipalities in which changes or alterations of wires or poles are desired, or in which a building is to be moved; and

B. Receives a written permit from the officers.

Sec. 11. 35-A MRSA §2517, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Revocation of pole location by municipal officers. When the municipal officers of a municipality having a population of more than 40,000 inhabitants, determine, after notice and hearing, that public safety and the public welfare require the revocation of a location for poles for conveying electricity or for the transmission of telephone ~~or telegraph~~ messages already erected in a public street or way other than a state or a state-aid highway outside the compact area and other than a federal-aid highway, they may revoke the location and order the poles removed. The person that owns the poles shall remove them within a reasonable time. Other suitable locations or the right to use other poles jointly ~~shall~~ must be granted by the municipal officers to the person.

Sec. 12. 35-A MRSA §2518, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Municipality may order joint use of poles. Subject to the provisions of sections 711 and 8302, the municipal officers may, after notice and hearing, order any wires used for conveying electric current or the transmission of telephone ~~or telegraph~~ messages and attached to poles located in a public street or way of the municipality to be removed and attached to other poles, however owned and controlled, legally located in the public streets or ways, as the municipal officers may designate, ~~provided only if~~ in their judgment the change is practicable and can be made without unreasonably interfering with the business of any person. The municipal officers may establish such regulations as they determine necessary for the joint use of the poles.

Sec. 13. 35-A MRSA c. 79 is amended by repealing the chapter headnote and enacting in its place the following:

CHAPTER 79

TELEPHONE LINES

Sec. 14. 35-A MRSA §§7901 to 7904, as enacted by PL 1987, c. 141, Pt. A, §6, are amended to read:

§7901. Telephone lines

1. Connection between the lines of 2 or more utilities. ~~Whenever~~ When the commission, after a hearing, finds that a physical connection can reasonably be made between the lines of 2 or more telephone utilities ~~or 2 or more telegraph utilities~~ whose lines can be made to form a continuous line of communication by the construction and maintenance of suitable connections for the transfer of messages or conversations and that public convenience and necessity will be served by the connection, or finds that 2 or more ~~telegraph or~~ telephone utilities have failed to establish

joint rates, tolls or charges for service by or over their lines, and that joint rates, tolls or charges ought to be established, the commission may, by its order:

A. Require that the connection be made, except where the purpose of the connection is primarily to secure the transmission of local messages or conversations between points within the same city or town;

B. Require that conversations be transmitted and messages transferred over the connection under such rules as the commission may establish; and

C. Prescribe through lines and joint rates, tolls and charges to be made and to be used, observed and enforced in the future.

2. Division of costs between utilities. If the telephone or telegraph utilities do not agree upon the division between them of the cost of the physical connection or connections or the division of the joint rates, tolls or charges established by the commission over the through lines, the commission may, after further hearing, establish the division by supplemental order.

§7902. Lines along highways and across waters

Every telegraph or telephone utility or person transmitting television signals by wire may, except as limited, construct, maintain and operate its lines upon and along the routes and between the points stated in its certificate of incorporation; and may, subject to the conditions and under the restrictions provided in this Title, construct its lines along, over, under and across any of the roads and streets and across or under any of the waters upon and along the routes, with all necessary erections and fixtures.

§7903. Connection with other telephone lines

Every telegraph or telephone utility in the State may, upon such terms as may be agreed upon by the contracting parties, subject to the control of the commission:

1. Connect lines. Connect its lines with those of any other like utility;

2. Sell or lease lines. Sell or lease its lines and property, in whole or in part, to any other like utility; and

3. Purchase or lease lines. Purchase or lease the lines and property, in whole or in part, of any like utility.

§7904. Land for public use

Every telegraph or telephone utility in the State may purchase, or take and hold as for public uses, land

necessary for the construction and operation of its lines. Land may be taken and damages for it may be estimated, secured, determined and paid as provided for water utilities by sections 6502 to 6512.

Sec. 15. 35-A MRSA c. 81, as amended, is repealed.

See title page for effective date.

CHAPTER 226

H.P. 905 - L.D. 1281

An Act to Clarify Notice Requirements and a Party's Opportunity to be Heard

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

Sec. 1. 35-A MRSA §1304, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

1. Notice to utility and parties. The commission shall notify the public utility ~~and~~ other parties and interested persons it considers proper of the time and place of the formal public hearing as provided in Title 5, section 9052.

Sec. 2. 35-A MRSA §1304, sub-§2, ¶A, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

A. The commission may by rule or upon written notice to the public utility require it to:

(1) Give reasonable notice of the time and place of the hearing to each subscriber affected or to be affected by the subject of the hearing; or

(2) File pertinent information as to the rates or service involved, including schedules of proposed rates, in the office of the clerk of the municipality where the subscribers reside.

Sec. 3. 35-A MRSA §1304, sub-§§3 and 4, as enacted by PL 1987, c. 141, Pt. A, §6, are amended to read:

3. Subpoenas. The commission may issue subpoenas to require the attendance and testimony of witnesses and the production of evidence relating to any fact at issue in the hearing. A party to a hearing is entitled to have subpoenas issued by the commission in the manner described in Title 5, section 9060.