

# 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**

removed records provided by the board or an authorized officer are admissible as evidence if offered by ~~the drug outlet or wholesaler~~ any representative of the premises to prove compliance with any rule of the board or requirement of law.

A. Prescriptions, orders and records required by this chapter and stocks of prescription and legend drugs are open only to the board, the board's inspectors and investigators, federal and state law enforcement officers whose duty it is to enforce the laws of this State or of the United States relating to scheduled drugs or controlled substances and other law enforcement officers authorized by the board or the Attorney General for the purposes of inspecting, investigating and gathering evidence of violations of law or any rule of the board. No officer having knowledge by virtue of the officer's office of any such prescription, order or record may divulge that knowledge, except before a licensing or registration board or officer or in connection with a prosecution or proceeding in court.

B. The Bureau of Health, the board, their officers, agents, inspectors and representatives, all peace officers within the State and all prosecuting attorneys shall enforce all provisions of this chapter, except those specifically delegated, and shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this State and of all other states relating to prescription or legend drugs or their equivalent.

See title page for effective date.

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## CHAPTER 252

H.P. 842 - L.D. 1173

### An Act to Amend the Maine Criminal Code Sentence Alternative for Forfeiture of Firearms

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

**Sec. 1. 17-A MRSA §1158**, as amended by PL 1989, c. 815, is further amended to read:

#### §1158. Forfeiture of firearms

As part of every judgment of conviction and sentence imposed, every firearm that constitutes the basis for conviction under Title 15, section 393 or under section 1105, subsection 1, paragraph C or that is used by the defendant or any accomplice during the commission of any murder or Class A, Class B or Class C crime or any Class D crime defined in chapter 9, 11 or 13 must be forfeited to the State and the court

shall so order, unless another person can satisfy the court prior to the judgment and by a preponderance of the evidence that such other person had a right to possess the firearm, to the exclusion of the defendant, at the time of the offense. The Attorney General shall adopt rules in accordance with Title 5, chapter 375, governing the disposition to state, county and municipal agencies of firearms forfeited under this section.

See title page for effective date.

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## CHAPTER 253

S.P. 466 - L.D. 1262

### An Act to Make Certain Changes to the Maine Juvenile Code

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

**Sec. 1. 15 MRSA §3310, sub-§5, ¶B**, as enacted by PL 1977, c. 520, §1, is repealed and the following enacted in its place:

B. Following the issuance of the order of adjudication, a dispositional hearing must be commenced. Upon motion of any interested party or on the court's own motion, the time for the commencement of the dispositional hearing may be increased to 2 weeks or, upon cause shown, for a longer period. Once commenced, the dispositional hearing may be continued one or more times for any of the reasons specified in section 3312, subsection 3 or, upon cause shown, for any other reason.

**Sec. 2. 15 MRSA §3311, sub-§3**, as amended by PL 1983, c. 480, Pt. B, §16, is further amended to read:

**3. Requirement for dispositional hearing.** ~~Unless waived~~ If ordered by the court, the Department of Corrections shall make a social study and prepare a written report on every juvenile adjudicated as having committed a juvenile crime and shall present that report to the juvenile court prior to that juvenile's dispositional hearing. The person who prepared the report may be ordered to appear, as provided in subsection 1.

**Sec. 3. 15 MRSA §3312, sub-§1**, as amended by PL 1979, c. 681, §28, is further amended to read:

**1. Evidence of proper disposition.** After making an order of adjudication, the court shall hear evidence on the question of the proper disposition best serving the interests of the juvenile and the public. ~~¶~~

~~not waived by the court, such~~ Such evidence ~~shall~~ must include, but is not necessarily ~~be~~ limited to, the social study ~~and written report, if ordered prepared under section 3311, subsection 3, and other reports as provided in section 3311, subsection 1.~~ Any person who would be entitled to address the court pursuant to Title 17-A, section 1257 if the conduct for which the juvenile has been adjudicated had been committed by an adult, as provided in that section, must be accorded notice of the dispositional hearing and the right to address the court. The Maine Rules of Evidence ~~shall~~ do not apply in dispositional hearings.

**Sec. 4. 15 MRSA §3314, sub-§6** is enacted to read:

**6. Forfeiture of firearms.** As part of every disposition in every proceeding under this code, every firearm that constitutes the basis for an adjudication for a juvenile crime that, if committed by an adult, would constitute a violation of section 393 or Title 17-A, section 1105, subsection 1, paragraph C and every firearm used by the juvenile or any accomplice during the course of conduct for which the juvenile has been adjudicated to have committed a juvenile crime that would have been forfeited pursuant to Title 17-A, section 1158 if the criminal conduct had been committed by an adult must be forfeited to the State and the juvenile court shall so order unless another person satisfies the court prior to the dispositional hearing and by a preponderance of the evidence that the other person had a right to possess the firearm, to the exclusion of the juvenile, at the time of the conduct that constitutes the juvenile crime. Rules adopted by the Attorney General that govern the disposition of firearms forfeited pursuant to Title 17-A, section 1158 govern forfeitures under this subsection.

See title page for effective date.

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## CHAPTER 254

H.P. 1040 - L.D. 1459

### An Act to Make Changes to the Public Utilities Laws

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

**Sec. 1. 35-A MRSA §307, first ¶,** as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

No change may be made in any schedule, including schedules of joint rates, except upon 30 days' notice to the commission, and all such changes must be plainly indicated upon existing schedules by filing new schedules in lieu of them 30 days prior to the time they are to take effect. The commission may,

for good cause shown, allow changes upon less than the notice specified or modify the requirements of this section and section 308 in respect to publishing, posting and filing of ~~tariffs~~ schedules, either in particular instances or by a ~~general order rule~~ rule applicable to special or peculiar circumstances or conditions.

**Sec. 2. 35-A MRSA §703, sub-§3,** as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

**3. Existing contracts.** The furnishing by a public utility of a product or service at the rates and upon terms and conditions provided for in a contract in existence January 1, 1913, may not be construed as constituting a discrimination or undue or unreasonable preference or advantage within the meaning specified. When any such contract or contracts are or become terminable by notice of a utility, the commission may order that the contract or contracts be terminated by the utility as and when directed by the order. ~~It shall be lawful for a public utility to make a contract for a definite term subject to the commission's approval for its product or service, but the published rates shall not be changed during the term of the contract without the commission's consent.~~

**Sec. 3. 35-A MRSA §703, sub-§3-A** is enacted to read:

**3-A. Special contracts.** It is lawful for a public utility to make a contract for a definite term subject to the commission's approval for its product or service, but the published rates may not be changed during the term of the contract without the commission's consent.

**Sec. 4. 35-A MRSA §1309, sub-§9,** as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

**9. Utility refusal or neglect to make refund; court action.** If the utility refuses or neglects to make the refund within 30 days, the party aggrieved may maintain an action in the courts of the State to recover the amount. In the trial the findings of the commission ~~shall be~~ are prima facie evidence of the truth of the facts found by it, and no utility may avail itself of the defense of the action that the service involved was in fact made on the published ~~tariff~~ schedule rate in force at the time it was rendered.

**Sec. 5. 35-A MRSA §2503, sub-§20,** as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

**20. Exclusive method.** Compliance with this section by any person is the exclusive method of obtaining the rights and privileges conferred in this section and no person or cooperative may be required, with respect to the location of its facilities, to comply