

# 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**

**Sec. 15. 12 MRSA §7315, sub-§1-A**, as enacted by PL 1993, c. 258, §1, is amended to read:

**1-A. Mandatory revocation.** The commissioner shall revoke for a period of 3 years the guide's license of a guide who is convicted of violating a provision of this Part punishable by a mandatory fine of not less than \$1,000 and at least 3 days in jail. The commissioner shall provide notice of revocation as provided in ~~section 7077, subsection 7~~ section 7077-C. A person whose license has been revoked under this subsection may, within 30 days of the effective date of the revocation, petition the commissioner for a hearing to show cause why the license should not have been revoked. If, after the hearing, the commissioner finds that the person has not been convicted or that the conditions of this subsection do not apply, the revocation is rescinded. If the commissioner finds that the person has been convicted and that the conditions of this subsection apply, the revocation remains in effect.

**Sec. 16. 12 MRSA §7907**, as enacted by PL 1979, c. 420, §1, is repealed and the following enacted in its place:

**§7907. Seizure of fish, wildlife and equipment**

**1. Seizure; filing libel.** All fish or wildlife hunted, trapped, fished, bought, sold, carried, transported or found in possession of any person in violation of chapters 701 to 721, and all equipment, including firearms, possessed or used in violation of chapters 701 to 721 are contraband and subject to seizure by any officer authorized to enforce chapters 701 to 721. Except for property exempted from libel under subsection 2, an officer making such a seizure shall file, within a reasonable time, with the court a libel against that property. The libel must describe the property seized and the date and place of that seizure, cite the provision of law that is alleged to have been violated and request a decree of forfeiture. The libel proceedings and disposal of property are governed by section 7909.

**2. Exemption from libel proceedings.** The following property may be lawfully seized under this section but is not subject to the libel requirements of this section:

A. Unless reasonable doubt exists as to ownership, property having a value less than \$10;

B. Any firearm seized in connection with a violation of:

(1) Section 7406, subsection 5;

(2) Section 7077, subsection 1-A; or

(3) Section 7077-A;

C. Any fishing equipment that is contraband under this section and is seized in connection with a violation of section 7077, subsection 1-B; and

D. Any fish or wildlife that is contraband under this section and is seized in connection with any violation of chapters 701 to 721.

Property seized by the commissioner that is exempt from libel under this subsection must be retained by the commissioner pending disposition of criminal proceedings and is forfeited to the State upon conviction.

Property forfeited to the State under this section may be disposed of by the commissioner in any manner considered appropriate by the commissioner.

**Sec. 17. Application.** This Act does not apply to violations that occurred prior to the effective date of this Act.

See title page for effective date.

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**CHAPTER 347**

**S.P. 347 - L.D. 952**

**An Act to Ensure Consistency  
Between State and Federal  
Environmental Requirements**

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

**Sec. 1. 38 MRSA §341-D, sub-§1**, as amended by PL 1993, c. 328, §1, is further amended to read:

**1. Rulemaking.** Subject to the Maine Administrative Procedure Act, the board shall adopt, amend or repeal reasonable rules and emergency rules necessary for the interpretation, implementation and enforcement of any provision of law that the department is charged with administering. The board shall also adopt, amend and repeal rules as necessary for the conduct of its business.

The department shall identify in its regulatory agenda, ~~where~~ when feasible, a proposed rule or provision of a proposed rule that is anticipated to be more stringent than the federal ~~standard statute or regulation~~, if an applicable federal ~~standard statute or regulation~~ exists.

During the consideration of any proposed rule by the board, ~~where~~ when feasible, and using information available to it, the department shall identify provisions of the proposed rule that the department believes would impose a regulatory burden more stringent than the burden imposed by the corresponding federal

standard statute or regulation, if such a federal standard statute or regulation exists, and shall explain in a separate section of the basis statement the justification for the difference between the agency rule and the federal standard statute or regulation.

This subsection is repealed January 1, 1998.

**Sec. 2. 38 MRSA §341-D, sub-§§1-A and 1-B** are enacted to read:

**1-A. Stay.** Except to the extent the department determines that a proposed rule implements a state law that is more stringent than the corresponding federal statute or regulation, any provision of the proposed rule that is determined by the department to be more stringent than the corresponding federal statute or regulation must be stayed for 60 days following adoption. During this 60-day period, interested persons may petition the board to have the Legislature review those provisions of the proposed rule that have been determined to be more stringent. The filing with the board of petitions from 5 or more interested persons stays the effective date of those provisions of the rule until 60 days after the filing, if the Legislature is then in session. If the Legislature is not then in session and is not scheduled to convene within the next 60 days, then those provisions of the rule that have been determined to be more stringent are stayed for 60 days after filing of the petitions to permit consultation between the legislative committee of jurisdiction, the department and other interested persons. Copies of the petitions that are filed, along with a statement from the department outlining the provisions of the rule that have been determined to be more stringent and the accompanying basis statement, must be submitted by the department to the Executive Director of the Legislative Council pursuant to Title 5, section 8053-A, subsection 3 upon receipt of the petitions. This subsection applies to new rules that are adopted by the board after the effective date of this subsection.

This subsection is repealed January 1, 1998.

**1-B. Rulemaking.** Subject to the Maine Administrative Procedure Act, the board shall adopt, amend or repeal reasonable rules and emergency rules necessary for the interpretation, implementation and enforcement of any provision of law that the department is charged with administering. The board shall also adopt, amend and repeal rules as necessary for the conduct of its business.

The department shall identify in its regulatory agenda, when feasible, a proposed rule or provision of a proposed rule that is anticipated to be more stringent than the federal standard, if an applicable federal standard exists.

During the consideration of any proposed rule by the board, when feasible, and using information available to it, the department shall identify provisions of the proposed rule that the department believes would impose a regulatory burden more stringent than the burden imposed by the federal standard, if such a federal standard exists, and shall explain in a separate section of the basis statement the justification for the difference between the agency rule and the federal standard.

This subsection takes effect January 1, 1998.

**Sec. 3. 38 MRSA §480-H, first ¶,** as repealed and replaced by PL 1991, c. 66, Pt. A, §16, is amended to read:

In fulfilling its responsibilities to adopt rules pursuant to section 341-D, ~~subsection 1~~, the board, to the extent practicable, shall adopt performance and use standards for activities regulated by this article. These standards at a minimum must include:

See title page for effective date.

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## CHAPTER 348

H.P. 894 - L.D. 1247

### An Act to Create the Overhead High-voltage Line Safety Act

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

**Sec. 1. 35-A MRSA c. 7-A** is enacted to read:

#### CHAPTER 7-A

#### OVERHEAD HIGH-VOLTAGE LINE SAFETY ACT

##### **§751. Short title**

This Act may be known and cited as the "Overhead High-voltage Line Safety Act."

##### **§752. Definitions**

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

**1. Covered equipment or items.** "Covered equipment or items" means any mechanical equipment, hoisting equipment, antenna or boat mast or rigging, any part of which is capable of vertical, lateral or swinging motion that causes any portion of the equipment or item to come within 10 feet of an overhead high-voltage line during erection, construc-