

# MAINE STATE LEGISLATURE

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

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

**SECOND SPECIAL SESSION**  
**September 5, 1996 to September 7, 1996**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 1996 to March 27, 1997**

**FIRST SPECIAL SESSION**  
**March 27, 1997 to June 20, 1997**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 26, 1997**

**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 1997**

**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**  
**1997**

**2. Superior Court proceeding.** In a probation revocation proceeding in the Superior Court, a person whose probation is revoked may not appeal as of right. The time, manner and specific conditions for taking that appeal to the Law Court are as the Supreme Judicial Court provides in the Maine Rules of Criminal Procedure.

**3. Assignment and withdrawal of counsel.** Assignment and withdrawal of counsel must be in accordance with the Maine Rules of Criminal Procedure.

See title page for effective date.

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## CHAPTER 274

S.P. 450 - L.D. 1424

### **An Act to Allow ATV Use on Public Lands Not Specifically Designated as Primitive-use Land**

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

**Sec. 1. 12 MRSA §602, sub-§20,** as amended by PL 1991, c. 354, §1, is further amended to read:

**20. Management of ATV's.** To administer the ATV Recreational Management Fund, established under section 7854, subsection 4, for the purposes given in that subsection. The bureau may ~~promulgate~~ adopt rules, in accordance with Title 5, chapter 375, subchapter II, for the issuance of grants-in-aid from the fund and to further define alpine tundra areas pursuant to section 7851, subsection 5 ~~2-A.~~ 2-A. The bureau shall establish a policy in which the prudent use of ATV's is allowed and guidelines are set for the limited use of ATV's on certain public lands that are not specifically designated or set aside as primitive-use lands pursuant to law or through rulemaking by the department or set aside for other uses incompatible with the use of ATV's. The policy must be in place no later than June 1, 1998; and

See title page for effective date.

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## CHAPTER 275

S.P. 399 - L.D. 1294

### **An Act to Clarify the Jurisdiction of the Public Utilities Commission over Telecommunication Utilities' Special Rate Contracts**

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

**Sec. 1. 35-A MRSA §9102,** as enacted by PL 1993, c. 638, §2, is amended to read:

#### **§9102. Adoption of alternative form of regulation**

The commission may adopt, after public hearings and other processes the commission determines appropriate, an alternative form of regulation for any telephone utility in the State. The alternative form of regulation must conform to the requirements of chapters 71, 73, 75, 87 and 89, but need not conform with chapter 3 to the extent that the provisions of chapter 3 require the use of rate-base, rate-of-return or any other specific form of regulation of the rates of a telephone utility or to the extent that the provisions of chapter 3 give any party, including the telephone utility, the right to petition to change rates for telecommunications services. In addition, the alternative form of regulation need not conform with section 703. This chapter may not be construed to limit the authority of the commission under section 1322.

See title page for effective date.

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## CHAPTER 276

H.P. 544 - L.D. 735

### **An Act to Permit the Public Utilities Commission to Suspend Rate Regulation of Certain Telephone Utilities**

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

**Sec. 1. 35-A MRSA §307-A** is enacted to read:

#### **§307-A. Exemption for certain telephone utilities**

The commission may adopt by rule standards and procedures for granting exemptions from all or specified portions of section 307 and for suspending its powers of suspension and investigation under section 310 with respect to a telephone utility, a specified group of telephone utilities or specified services offered by one or a group of telephone utilities. Any determination granting an exemption or suspension pursuant to the rule must be accompanied by a finding that the utility or group of utilities does not exercise significant power over pricing in the markets for the specified services and that the determination will not result in unjust or unreasonable rates for any customers in the markets for those services. The commission may limit its determination

to specific geographic areas. A utility whose rates or terms and conditions are subject to a determination made pursuant to a rule adopted under this section remains subject to other applicable provisions of this Title and commission rules.

For good cause, as defined by the commission by rule, the commission may revoke any determination made pursuant to this section. A revocation may be in whole or in part and may be specific to a single telephone utility or a single utility service.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 2. 35-A MRSA §912** is enacted to read:

**§912. Exemption for certain telephone utilities**

The commission may adopt by rule standards and procedures for granting exemptions to a telephone utility or a specified group of telephone utilities from all or specified portions of this chapter. Any exemption granted pursuant to the rule must be accompanied by a finding that the application of this chapter or portions of this chapter to the telephone utility or group of telephone utilities will not further the public interest. The commission may limit an exemption to specific geographic areas. A utility granted an exemption pursuant to a rule adopted under this section remains subject to other applicable provisions of this Title and commission rules.

For good cause, as defined by the commission by rule, the commission may revoke any exemption granted pursuant to this section. A revocation may be in whole or in part and may be specific to a single telephone utility or a single utility service.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 3. 35-A MRSA §1105** is enacted to read:

**§1105. Exemption for certain telephone utilities**

The commission may adopt by rule standards and procedures for granting exemptions to a telephone utility or a specified group of telephone utilities from all or specified portions of this chapter. Any exemption granted pursuant to the rule must be accompanied by a finding that the application of this chapter or portions of this chapter to the telephone utility or group of telephone utilities will not further the public interest. The commission may limit an exemption to specific geographic areas. A utility granted an exemption pursuant to a rule adopted under this section remains subject to other applicable provisions of this Title and commission rules.

For good cause, as defined by the commission by rule, the commission may revoke any exemption granted pursuant to this section. A revocation may be in whole or in part and may be specific to a single telephone utility or a single utility service.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 4. Application.** The Public Utilities Commission may not grant any exemption or suspend any of its powers pursuant to rules adopted under the Maine Revised Statutes, Title 35-A, section 307-A, 912 or 1105 before February 1, 1998.

**Sec. 5. Report.** By December 1, 1997, the Public Utilities Commission shall report to the Joint Standing Committee on Utilities and Energy on any actions taken pursuant to this Act. The report must include at a minimum the following:

1. Copies and summaries of any rules adopted or proposed to be adopted pursuant to the Maine Revised Statutes, Title 35-A, section 307-A, 912 or 1105;
2. Identification of all entities that have applied for exemptions or that the commission expects to apply for exemptions pursuant to Title 35-A, section 307-A, 912 or 1105;
3. An explanation of how the commission will assess the effect of granting exemptions pursuant to Title 35-A, section 307-A, 912 or 1105 on local exchange service providers and intrastate interexchange service providers and their customers and how the commission will ensure customers are not affected in a negative manner by the granting of exemptions;
4. A detailed evaluation of how telecommunications laws in this State do or do not conform to the requirements and policies of the federal Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56 and whether further changes to the laws of this State should be considered in the context of that federal law and changes that are occurring in the telecommunications industry; and
5. Draft legislation to accomplish any changes to laws in this State that the commission believes the Legislature should consider in light of the commission's evaluation pursuant to subsection 4.

**Sec. 6. Authorization to report legislation.** The Joint Standing Committee on Utilities and Energy may report out legislation concerning the regulation or deregulation of telecommunications service providers

to the Second Regular Session of the 118th Legislature.

See title page for effective date.

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## CHAPTER 277

### H.P. 374 - L.D. 519

#### An Act to Promote Water Skiing in the State

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** these changes to the laws pertaining to water-skiing events must take effect prior to the start of the water-skiing season; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 12 MRSA §7802, sub-§3** is enacted to read:

**3. Sanctioned water-skiing courses.** The prohibition in subsection 1 does not apply to watercraft towing a water-skier on a water-skiing course for slalom, jump or trick events operated under a permit issued by the commissioner under this subsection. The commissioner may issue a permit for a water-skiing course that is located in whole or in part in the water safety zone if the commissioner determines that:

A. The course meets the following minimum dimensional requirements:

(1) Eight hundred and fifty feet in length, plus 500 feet at each end for turning and other maneuvers;

(2) Seventy-five feet in width, except that the course must be at least 125 feet in width if a jump is combined with a slalom or trick ski course; and

(3) A five-foot water depth throughout the course; and

B. The applicant has obtained the written permission of any landowner whose property is less than 75 feet from any course buoy.

The commissioner may issue a permit under this subsection only if notice of the permit application is given to all municipalities that have jurisdiction over the body of water.

All buoys used to mark the water-skiing course must prominently display the permit number. Buoys marking a course may be placed no earlier than April 1st and must be removed no later than November 1st of each year. The number of buoys for any water-skiing course may not exceed 40. Buoys that are part of a permitted course are granted the same legal protection from vandalism as navigational buoys under Title 38, section 329.

Water-skiing tow boats utilizing the course may not travel within 100 feet of the shore at any time. The commissioner, after giving a 10-day advance notice to an applicant, may suspend the use of the water-skiing course for up to 3 days for other permitted events, such as bass tournaments.

A course permitted under this subsection may be used for practice without a permit under section 7797. That use does not violate the provisions of section 7801, subsection 4. A permit under section 7797 is required for any water-skiing exhibition or tournament conducted at a course permitted under this subsection. The provisions of section 7801, subsection 5 do not apply to a course permitted under this subsection unless that course is also permitted under section 7797.

The commissioner may suspend or revoke a permit issued under this subsection if the commissioner determines that the presence of the course creates a safety concern or constitutes a nuisance.

The annual fee for a permit issued under this subsection is \$25.

This subsection is repealed March 31, 1999.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective May 27, 1997.

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## CHAPTER 278

### H.P. 376 - L.D. 521

#### An Act to Encourage Collaboration and Cooperation among Agencies in the Interests of Juveniles within the Juvenile Court System

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