

# 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**

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

Effective June 12, 1997.

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## CHAPTER 512

H.P. 703 - L.D. 967

### An Act to Clarify the Laws Relating to Backyard Burning

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

**Sec. 1. 12 MRSA §9321, sub-§1, ¶¶G and H,** as enacted by PL 1979, c. 545, §3, are amended to read:

G. The presence or availability of sufficient force and equipment to control the burning; ~~and~~

H. Experience and capability of the permittee in the safe use and control of the proposed burning; ~~and~~

**Sec. 2. 12 MRSA §9321, sub-§1, ¶I** is enacted to read:

I. In issuing a permit under section 9325, subsection 1, paragraph E, any prior convictions for violating that paragraph or section 9324, subsection 7.

**Sec. 3. 12 MRSA §9321-A, sub-§1,** as enacted by PL 1987, c. 618, §2, is amended to read:

**1. Possession and production of permit in organized territory.** Any person, firm or corporation ~~which that~~ engages in out-of-door burning in any municipality, plantation or village corporation as permitted by this article shall possess the permit at the scene of the burning and shall produce the permit on the demand of authorized persons, including fire chiefs, town forest fire wardens or their designated agents, state forest rangers, municipal code enforcement officers and any law enforcement officer as defined in Title 17-A.

**Sec. 4. 12 MRSA §9324, sub-§6,** as enacted by PL 1983, c. 504, §4, is repealed.

**Sec. 5. 12 MRSA §9324, sub-§7** is enacted to read:

**7. Trash.** Out-of-door burning of highly combustible trash is prohibited where municipal trash collection service is available and will accept those materials. Out-of-door burning of plastics, rubber,

styrofoam, metals, food wastes or chemicals is prohibited in all areas of the State.

For purposes of this subsection, the following terms have the following meanings.

A. "Highly combustible trash" means wooden boxes or other wood material, paper and cardboard.

B. "Municipal trash collection service" means any curbside trash collection service that is operated or contracted for by the municipality or that is required by municipal ordinance.

**Sec. 6. 12 MRSA §9325, sub-§1, ¶E,** as enacted by PL 1991, c. 36, §4, is repealed and the following enacted in its place:

E. Residential out-of-door burning of highly combustible trash as defined in section 9324, subsection 7 in open or enclosed incinerators where municipal trash collection service as defined in section 9324, subsection 7 is not available or will not accept those materials. The incinerator must have been inspected and approved by a municipal fire chief, town forest fire warden or forest ranger using minimum criteria established by the director for safe operation;

**Sec. 7. Department of Environmental Protection to Study Backyard Burning.** The Department of Environmental Protection shall, within its existing budgeted resources, examine the following issues:

1. The extent of backyard burning in the State and a comparison of the extent of and issues involved with backyard burning in urban, suburban and rural areas;

2. The impact of cultural influences and economic incentives on backyard burning;

3. The impact of backyard burning on local air quality and the level of human exposure to pollutants. Existing data may be used to examine these issues;

4. The state solid waste management and recycling infrastructure and its impact on backyard burning, including existing disincentives to recycle or dispose of trash properly;

5. Alternative solid waste management strategies that may reduce backyard burning;

6. Where backyard burning should be prohibited or restricted; and

7. The impact of prohibiting backyard burning on municipalities, including island communities, and on the costs of solid waste management.

In examining these issues, the department may analyze the results of a survey distributed with new out-of-door burning permits.

**Sec. 8. Report and recommendations.**

The Department of Environmental Protection shall submit a report of its findings and recommendations with any implementing legislation to the Joint Standing Committee on Natural Resources no later than January 1, 1998. The report must include specific recommendations on whether to prohibit or further restrict backyard burning, with an explanation of the implications of such action.

**Sec. 9. Educational outreach.**

The Department of Environmental Protection, in consultation with the Executive Department, State Planning Office and the Department of Conservation, Bureau of Forestry, shall undertake an educational outreach program to inform the public about the health and environmental effects of backyard burning. The Department of Environmental Protection shall include in the report required in section 8 an update on implementation of the educational outreach program.

See title page for effective date.

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**CHAPTER 513**

**S.P. 193 - L.D. 611**

**An Act to Ensure Funding for  
Snowmobile Law Enforcement  
Activities**

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

**Sec. 1. 12 MRSA §7017, sub-§7** is enacted to read:

**7. Snowmobile enforcement expenditures not to diminish.** In every fiscal year, the department shall budget from appropriations to the enforcement operations program an amount for snowmobile enforcement activities that is not less than the average General Fund expenditures from that program for those purposes over the previous 2 fiscal years. Expenditures from the Snowmobile Enforcement Fund, established in section 7824-G, may not be included in calculating average expenditures.

**Sec. 2. 12 MRSA §7824, sub-§3, ¶B,** as amended by PL 1997, c. 24, Pt. I, §9, is further amended to read:

B. The registration fee for nonresidents is credited as follows.

(1) ~~Twenty-five~~ Eighteen percent is credited to the General Fund as undedicated revenue.

(1-A) Seven percent is credited to the Snowmobile Enforcement Fund established under section 7824-G.

(2) The remainder is credited to the Snowmobile Trail Fund of the Department of Conservation, Bureau of Parks and Lands.

**Sec. 3. 12 MRSA §7824-G** is enacted to read:

**§7824-G. Snowmobile Enforcement Fund**

The Snowmobile Enforcement Fund is established in the department's Bureau of Warden Service and in this section referred to as the "fund." All funds credited to the fund are available for use by the Game Warden Colonel of the Bureau of Warden Service only for the purposes established in this section. Money in the fund may be used only to supplement other funds appropriated to the enforcement operations program. Money in the fund at the end of each fiscal year does not lapse and must be carried forward to the next fiscal year.

The Game Warden Colonel may use money in the fund only for the following purposes:

**1. Snowmobile law enforcement.** Regular or overtime personnel services costs of the warden service related to enforcement of snowmobile laws;

**2. Education and training.** Safety or other education programs conducted by the department or authorized by the department that are related to the operation of snowmobiles; or

**3. Other related uses.** Other purposes, including the purchase of equipment or machinery, determined by the Game Warden Colonel as necessary for effective snowmobile safety and enforcement activities.

**Sec. 4. Transfer of funds.** Notwithstanding any other provision of law, no later than 30 days after the effective date of this Act, the State Controller shall transfer \$42,000 from the Inland Fisheries and Wildlife carrying balances account to the Snowmobile Enforcement Fund established under the Maine Revised Statutes, Title 12, section 7824-G. Notwithstanding Title 12, section 7824-G, funds transferred under this section may be used by the Bureau of Warden Service only to reimburse the warden service for snowmobile enforcement expenditures by the warden service that were in excess of the amount budgeted by the warden service for snowmobile