

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
December 6, 2000 to June 22, 2001

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
2001

election of higher limits of uninsured motor vehicle coverage.

See title page for effective date.

CHAPTER 110

H.P. 252 - L.D. 288

An Act to Clarify Access to Private Lines in a Public Way

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

Whereas, in order to protect the public health, safety and welfare, it is important to have in place as soon as possible clear standards for the construction of private electric transmission and distribution lines built in public ways; 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. 35-A MRSA §2305, as amended by PL 1999, c. 398, Pt. A, §34 and affected by §§104 and 105, is repealed.

Sec. 2. 35-A MRSA §2305-B is enacted to read:

§2305-B. Construction of transmission and distribution lines

1. Transmission and distribution utilities. A transmission and distribution utility may construct and maintain its lines in, upon, along, over, across or under the roads and streets in any municipality in which it is authorized to supply electricity, subject to the conditions and restrictions provided in this chapter and chapter 25.

2. Persons other than transmission and distribution utilities. A person other than a transmission and distribution utility may not construct or maintain electric lines, including poles or other related structures, in, upon, along, over, across or under a road, street or other public way unless:

A. The person satisfies the requirements of section 2503;

B. The person or the person's contractor hired to construct the line provides to the applicable licensing authority a performance bond;

(1) In the amount of the value of the line, including poles or other related structures, to be located in the public way; and

(2) That is enforceable for one year from the date the line is energized;

C. Prior to constructing the line, the person notifies the transmission and distribution utility in whose service territory the line is proposed to be built of the proposed location of the line; and

D. If a public utility objects to the line on the basis that it may constitute a duplication of existing transmission or distribution facilities or may interfere with the adequate and safe delivery of electricity to others, the commission issues a finding that the line is not a duplication of existing transmission or distribution facilities and does not interfere with the adequate and safe delivery of electricity to others. A finding is not required under this paragraph unless a public utility has objected in writing to the applicable licensing authority.

3. Recording. A public utility that enters into any written agreement with the owner of a facility with regard to that facility shall record that agreement in the registry of deeds in the county in which the facility is placed.

4. Maintenance. The owner of a line located in, upon, along, over, across or under a road, street or other public way is responsible for properly maintaining the line and complying with lawful directives of the applicable licensing authority. If the owner of a line fails to maintain a line properly or to comply with directives of the applicable licensing authority and the applicable licensing authority incurs any expense in maintaining the line or pays any damages as a result of the owner's failure to maintain the line properly or to comply with the directives of the licensing authority, the licensing authority may assess the owner of the line the amount of those actual costs. The assessment must be in writing and must specify the amount of the assessment, the basis for the assessment and that a lien will be created on the real estate of the owner of the line if the assessment is not paid within 90 days. If the owner of the line does not pay the assessment within 90 days, a lien is created on the real estate of the owner of the line situated in the municipality to secure the payment of actual costs incurred by the applicable licensing authority. This lien may be treated and enforced in the same manner as a tax lien under Title 36, chapter 105, subchapter IX, article 2. In addition to any other available remedies, a person aggrieved by

a lien imposed or enforced by a licensing authority under this subsection may bring an action in Superior Court for a determination of the validity of the lien.

5. Energizing lines. A transmission and distribution utility may not deliver electricity over any line in, upon, along or under a road, street or other public way if the lines or related structures were constructed by a person other than a transmission and distribution utility unless the transmission and distribution utility is provided with certified copies of applicable permits required under section 2503. A transmission and distribution utility may not refuse to deliver electricity over a line if:

A. The owner of the line reimburses the transmission and distribution utility for the cost of connecting the line to the utility's system; and

B. The line meets the transmission and distribution utility's standards, provided those standards are no different from the standards the utility applies to its own lines.

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

Effective May 9, 2001.

CHAPTER 111

S.P. 71 - L.D. 277

An Act to Amend the Standards Regarding the Endangerment of the Welfare of a Dependent Person

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

Sec. 1. 17-A MRSA §555, sub-§§1 and 2, as amended by PL 1995, c. 110, §1, are further amended to read:

1. A person is guilty of endangering the welfare of a dependent person if that person intentionally, knowingly or recklessly endangers the health, safety or mental welfare of a person who is unable to perform self-care because of advanced age, physical or mental disease, disorder or defect.

2. As used in this section "endangers" includes a failure to act only when the defendant had a legal duty to protect the health, safety or mental welfare of the dependent person. For purposes of this section, a legal duty may be inferred if the defendant has assumed responsibility for the care of the dependent person.

See title page for effective date.

CHAPTER 112

H.P. 267 - L.D. 345

An Act to Include Whole Scallops in the Shellfish Sanitation Program

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

Sec. 1. 12 MRSA §6001, sub-§55 is enacted to read:

55. Whole scallop. "Whole scallop" means a cultured scallop in any form, except when the final product form is the adductor muscle of the scallop only.

Sec. 2. 12 MRSA §6856, sub-§1, as enacted by PL 1977, c. 661, §5, is amended to read:

1. Certified activities. A shellfish certificate authorizes a wholesale seafood license holder or a shellfish transportation license holder to undertake the activities expressly authorized therein, which may include buying and selling, shipping, transporting, shucking or other processing of shellfish or whole scallops. A wholesale seafood license or shellfish transportation license ~~shall~~ is also ~~be~~ necessary to undertake the activities authorized under those licenses.

Sec. 3. 12 MRSA §6856, sub-§4, as amended by PL 1981, c. 462, §6, is further amended to read:

4. Regulations. The commissioner may adopt or amend regulations concerning:

- A. The procedures for issuing certificates and the required qualifications for each type of certificate;
- B. The minimum sanitation standards for establishments and vehicles;
- C. The sanitation and quality control standards for shellfish and whole scallops and their products;
- D. The methods for taking, handling, shipping, transporting and processing of shellfish and whole scallops taken from closed areas;
- E. The records and reports of takings, purchases, processing, sales, shipping and transporting of shellfish and whole scallops;
- F. The labeling or marking of shipments of shellfish and whole scallops; and