

# 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**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

**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**  
**2001**

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.

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**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.

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**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

G. Other regulations necessary to the public health.

The regulations ~~shall~~ must be based on the particular operational requirements of each activity, the most recently adopted federal sanitation standards and the most recent generally accepted research data, in a manner so as to protect the public health and safety while allowing reasonable use of the ~~state's~~ State's shellfish and whole scallops.

**Sec. 4. 12 MRSA §6856, sub-§6**, as enacted by PL 1977, c. 661, §5, is amended to read:

**6. Products embargoed and condemned.** The commissioner, or ~~his~~ the commissioner's agent, shall indefinitely embargo, condemn or order to be destroyed any shellfish ~~or~~ shellfish product or whole scallop in any establishment whenever it is determined that the product is of unsound quality, contains any filthy, decomposed or putrid substance, or may be poisonous or deleterious to health, or otherwise unsafe. The commissioner and ~~his~~ the commissioner's agent shall cooperate with those state and federal agencies, having similar responsibility, in the protection of public health and in enforcing the order to embargo, condemn or destroy.

In the event that any shellfish ~~or~~ shellfish product or whole scallop in any establishment is embargoed, condemned or ordered destroyed, the commissioner, or ~~his~~ the commissioner's agent, shall, as soon thereafter as practical, notify the owner in writing of the amount and kind of shellfish ~~or~~ shellfish product or whole scallop embargoed, condemned or destroyed.

See title page for effective date.

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## CHAPTER 113

H.P. 439 - L.D. 560

### An Act to Establish the Maine Cave Protection Act

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

**Sec. 1. 12 MRSA c. 201-A, sub-c. I-A** is enacted to read:

#### SUBCHAPTER I-A

#### MAINE CAVE PROTECTION ACT

##### §544-I. Short title

This subchapter may be known and cited as the "Maine Cave Protection Act."

##### §544-J. Definitions

As used in this subchapter, unless the context otherwise indicates, the following words have the following meanings.

**1. Cave.** "Cave" means any naturally occurring void, cavity, recess, sinkhole or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge that is large enough to permit a person to enter. "Cave" includes natural subsurface water and drainage systems, but does not include any mine, tunnel or other artificial excavation.

**2. Cave life.** "Cave life" means any life-form normally found in a cave.

**3. Natural material.** "Natural material" means stalactite, stalagmite, helictite, anthodite, gypsum flower or needle, flowstone, drapery, column, tufa dam, clay or mud formation or concretion or other similar crystalline mineral formation found in any cave.

**4. Owner.** "Owner" means a person who owns title to land where a cave is located.

##### §544-K. Prior written consent of owner

A person must obtain the prior written permission of the owner to excavate or remove an archaeological, paleontological, prehistoric or historic feature of a cave.

##### §544-L. Field investigations, explorations and recovery operations

All field investigations, explorations and recovery operations in a cave must ensure that the ability to recover and preserve historic, scientific, archaeological and educational information is not impeded. The excavation or removal of an artifact, object, specimen or material from a cave on state-controlled land, as those terms are defined in Title 27, section 373-A, is subject to the provisions governing excavation and removal of state-owned objects and specimens under Title 27, chapter 13.

##### §544-M. Liability of owners

Recreational caving is a recreational or harvesting activity for the purposes of limited liability of landowners under Title 14, section 159-A.

##### §544-N. Prohibited acts

**1. Defacing or damaging cave prohibited.** A person may not deface or damage a cave. A person defaces or damages a cave if the person, without the prior written permission of the owner: