

# 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**

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:

A. Breaks, breaks off, cracks, carves upon, writes or otherwise marks upon or in any manner destroys, mutilates, injures, defaces, removes, displaces, mars or harms any natural material found in a cave;

B. Kills, harms or disturbs plant or animal life found in a cave, except for safety reasons;

C. Disturbs or alters the natural condition of a cave or takes into a cave any aerosol or other container containing paints, dyes or other coloring agents;

D. Stores, dumps, litters, disposes of or otherwise places any refuse, garbage, dead animal, sewage or toxic substance harmful to cave life or humans in a cave;

E. Burns within a cave any material that produces smoke or gas that is harmful to any organism in the cave; or

F. Breaks, forces, tampers with, removes or otherwise disturbs a lock, gate, door, sign or other structure or obstruction designed to prevent entrance to a cave, whether or not entrance is gained.

**2. Forfeiture.** A person who violates the provisions of this subchapter commits a civil violation for which a forfeiture of up to \$1,000 may be adjudged.

**3. Damages may be collected by landowner.** A person who intentionally defaces or damages a cave on private land in violation of subsection 1 is liable to the owner of that land for actual damages recoverable through a civil action.

**Sec. 2. 14 MRSA §159-A, sub-§1, ¶B,** as amended by PL 1995, c. 566, §1, is further amended to read:

B. "Recreational or harvesting activities" means recreational activities conducted out-of-doors, including, but not limited to, hunting, fishing, trapping, camping, environmental education and research, hiking, recreational caving, sight-seeing, operating snow-traveling and all-terrain vehicles, skiing, hang-gliding, dog sledding, equine activities, boating, sailing, canoeing, rafting, biking, picnicking, swimming or activities involving the harvesting or gathering of forest, field or marine products. It includes entry of, volunteer maintenance and improvement of, use of and passage over premises in order to pursue these activities. "Recreational or harvesting activities" does not include commercial agricultural or timber harvesting.

See title page for effective date.

## CHAPTER 114

### S.P. 66 - L.D. 237

#### An Act Concerning Eligibility Requirements for State Employees, Teachers and Participating Local District Employees to Purchase Military Service Credit

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

**Sec. 1. 5 MRSA §17760, sub-§2, ¶A,** as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

A. ~~On~~ Except as provided in paragraph G, on the date of retirement, the member must have at least 15 years of creditable service.

**Sec. 2. 5 MRSA §17760, sub-§2, ¶E,** as amended by PL 1989, c. 907, §3, is further amended to read:

E. ~~A~~ Except as provided in paragraph G, a member who served in the armed forces during any federally recognized period of conflict, as defined in Title 37-B, section 504, subsection 4, paragraph A-1, subparagraph (3), is entitled to service credit under this subsection.

**Sec. 3. 5 MRSA §17760, sub-§2, ¶G** is enacted to read:

G. A member who fails to meet one or more of the terms and conditions required under paragraphs A, D and E may purchase service credit as provided in this paragraph. The member must have at least 5 years of creditable service and, before any retirement benefit becomes effective for that member, must pay into the Members' Contribution Fund, by a single direct payment or annual direct payments to the retirement system, an amount that, together with regular interest on that amount, is the actuarial equivalent, at the effective date of the retirement benefit, of the portion of the retirement benefit based on the additional creditable service. Annual direct payments must be made in accordance with section 17701, subsection 4. Any member who purchases service credit under this paragraph who subsequently, without inclusion of the purchased service credit and prior to retirement, meets the terms and conditions of paragraphs A, D and E is entitled to purchase the service credit under section 17713, subsection 2 and to receive a refund of the amount paid under this paragraph that exceeds the cost to purchase the service credit under section 17713.