

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2005

E. Marking by an underground facility operator of the location of an underground facility in a reckless or negligent manner; or

F. Failure of an excavator to comply with the requirements of subsection 5-C, 5-D or 5-E.

The commission shall establish by rule standards for when and at what level penalties must be assessed under this subsection. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. 23 MRSA §3360-A, sub-§§13 and 14 are enacted to read:

13. Rules. The Public Utilities Commission may adopt rules necessary to implement this section. Except as otherwise specified in this section, rules adopted under this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

14. Discovered facilities. When an underground facility is discovered during an excavation and the location of that facility was, prior to the discovery, unknown or unclear to the underground facility operator, the Public Utilities Commission may direct that operator to determine and map the location of the facility for a reasonable distance, as determined by the commission, from the point of discovery.

Sec. 4. Existing rules. Rules adopted by the Public Utilities Commission relating to the subject matter of the Maine Revised Statutes, Title 23, section 3360-A prior to the effective date of this Act remain in effect and do not require further authorization by the Legislature. Any changes to such existing rules are subject to the major substantive rule requirements of Title 5, chapter 375, subchapter 2-A.

Sec. 5. Rules concerning penalty standards. In adopting rules to establish standards for when and at what level penalties must be assessed pursuant to the Maine Revised Statutes, Title 23, section 3360-A, subsection 6-C, the Public Utilities Commission shall consider the requirement of that subsection that before imposing any penalties under that subsection, the commission shall consider evidence of the record of the violator, including, to the extent applicable, the number of successful excavations undertaken by the violator or the number of locations successfully marked by the violator during the prior 12 months. The commission shall also consider the seriousness of the violation and its impact on those served by the underground facility.

See title page for effective date.

CHAPTER 335

S.P. 342 - L.D. 1002

An Act To Transfer Responsibility from the Potato Marketing Improvement Committee to the Maine Potato Board

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

Sec. 1. 5 MRSA §12004-H, sub-§10, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 2. 7 MRSA §972, as amended by PL 2001, c. 125, §1, is repealed.

Sec. 3. 7 MRSA §972-A is enacted to read:

§972-A. Advisory role of Maine Potato Board

The Maine Potato Board, established in Title 36, section 4603 and referred to in this article as "the board," shall advise the commissioner on the development and implementation of programs and activities that improve the economic viability of the potato industry. The board shall also advise the commissioner concerning the funding and expenditures of the Potato Marketing Improvement Fund created pursuant to Title 10, section 1023-N. The board shall make recommendations to the commissioner on authorized uses of the fund and activities relating to the fund other than activities relating to the processing of loan applications or the servicing and administration of loans.

Sec. 4. 7 MRSA §974-A, sub-§1, ¶D, as enacted by PL 1987, c. 319, §4, is amended to read:

D. Other terms and conditions prescribed by rule by the commissioner upon consultation with the ~~Potato Marketing Improvement Committee board.~~

Sec. 5. 7 MRSA §975-A, as amended by PL 1997, c. 388, §3, is further amended to read:

§975-A. Interest on Potato Marketing Improvement Fund balance

All or any portion of the interest earned or accruing on the cash balance of the Potato Marketing Improvement Fund may be used for grants to partially or fully fund research projects to study and assess technical problems experienced with new and retrofitted storage facilities and to develop means of dealing with such problems, or to examine, monitor and develop new technologies for the production, storage and handling of potatoes or to fund programs

and activities that improve the economic viability of the potato industry.

Sec. 6. 7 MRSA §976, as enacted by PL 1989, c. 502, Pt. B, §6, is amended to read:

§976. Aroostook County office

The department shall maintain or arrange for the maintenance of an office in Aroostook County located in a town most convenient to the largest number of potential users of the Potato Marketing Improvement Fund and sufficiently close to any local office of the ~~Maine Potato Board~~ board as to foster a close working relationship and provide a convenience to farmers who wish to visit both agencies. This office ~~shall~~ must be staffed by ~~—a— one or more~~ business development ~~specialist~~ specialists whose responsibilities ~~shall be~~ are as defined by the department. The business development ~~specialist~~ specialists shall be available in the Aroostook County office on a regular basis.

Should the performance of the functions of the business development ~~specialist~~ specialists be contracted for, this contract ~~shall~~ must be made by the agency managing the fund and ~~shall~~ must be awarded through competitive bidding.

Sec. 7. 10 MRSA §1023-N, first ¶, as enacted by PL 2001, c. 125, §6, is amended to read:

There is created a fund known as the Potato Marketing Improvement Fund, referred to in this section as the "fund." The fund must be deposited with and maintained by the authority to be used solely for investment in the Maine potato industry. The fund must be administered by the Commissioner of Agriculture, Food and Rural Resources in accordance with Title 7, chapter 103, subchapter ~~10~~ 10. All money received by the authority from any source for the development and implementation of ~~—an— improved storage, packing and marketing program and programs~~ and activities that improve the economic viability of the potato industry must be credited to the fund. Any money credited to the fund from the issuance of bonds on behalf of the State for agricultural development may be used only for the purposes of state loans as prescribed by Title 7, section 974-A to provide assistance to potato farmers for the design, construction, improvement, support and operation of storage, packing and marketing facilities; for programs and activities that improve the economic viability of the potato industry; and to pay the administrative costs of processing loan applications and servicing and administering the fund and loans and grants made therein, to the extent that the costs exceed the fee for administrative costs established by Title 7, section 974-A, subsection 2. Repayment of these loans and interest on the loans must be credited to the fund to be available for making additional state loans for the

same purposes, except that any interest earned on the cash balance of the fund may be used for the grants authorized by Title 7, section 975-A. In order to provide additional amounts for loans, the Commissioner of Agriculture, Food and Rural Resources, at the commissioner's discretion, may take such actions and enter into such agreements as may be necessary to sell or assign up to \$2,000,000 in the aggregate principal amount of loans and undivided interests in a pool of loans and assign or pledge any mortgage or other security to the authority, under the terms and conditions the commissioner considers advisable. The assignment and related transactions may not result in indebtedness of the State. The proceeds of the sale or assignment must be credited to the fund and used for the purposes authorized in this section.

See title page for effective date.

CHAPTER 336

S.P. 595 - L.D. 1613

An Act To Promote the Use of Public Safety Telecommunications Equipment by the Deaf and Hard-of-hearing Community

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

Sec. 1. 26 MRSA §1419-A, sub-§2, as amended by PL 2003, c. 553, Pt. A, §3, is further amended to read:

2. Communications Equipment Fund. There is established the Communications Equipment Fund to be used by the Division of Deafness within the Bureau of Rehabilitation Services. The fund is nonlapsing. The fund receives money transferred by the Public Utilities Commission from the universal service fund pursuant to Title 35-A, section 7104. The Division of Deafness may accept gifts or grants, including, but not limited to, federal grants, for the purposes of this section. Funds transferred from the universal service fund pursuant to Title 35-A, section 7104 and all gifts and grants and authorized appropriations must be deposited in the Communications Equipment Fund and disbursed in accordance with this section. The Communications Equipment Fund may be used for purchase, lease, distribution, upgrading, installation, maintenance and repair of specialized customer communications equipment for deaf, hard-of-hearing or speech-impaired persons and persons with disabilities and for training in the use of such equipment, except that funds received for the purposes of subsection 6 pursuant to Title 35-A, section 7104 may be used only in accordance with subsection 6. The Division of Deafness may draw on the Communica-