

# MAINE STATE LEGISLATURE

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H. of S.

L.D. 1483

DATE: 5-13-03

(Filing No. H-342)

MAJORITY  
UTILITIES AND ENERGY

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
121ST LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1088, L.D. 1483, Bill, "An Act To Improve the Ability of the Public Utilities Commission To Enforce State Laws, Rules and Requirements"

Amend the bill in section 21 in that part designated "~~§1507-A.~~" in the first paragraph in the 4th and 5th lines (page 5, lines 33 and 34 in L.D.) by striking out the following: "~~or misleading~~" and in the last line (page 5, line 35 in L.D.) by striking out the following: "~~or misleading~~"

Further amend the bill by striking out all of section 23 and inserting in its place the following:

Sec. 23. 35-A MRSA §1508-A is enacted to read:

§1508-A. Administrative penalty

1. Penalty. Unless otherwise specified in law, the commission may, in an adjudicatory proceeding, impose an administrative penalty as specified in this section.

A. For willful violations of this Title, a commission rule or a commission order by a public utility or a competitive electricity provider, the commission may impose an administrative penalty for each violation in an amount that does not exceed \$5,000 or .25% of the annual gross revenue that the public utility or the competitive electricity provider received from sales in the State, whichever amount

11.01.02  
2 is lower. Each day a violation continues constitutes a  
3 separate offense. The maximum administrative penalty for  
4 any related series of violations may not exceed \$500,000 or  
5 5% of the annual gross revenue that the public utility or  
6 the competitive electricity provider received from sales in  
7 the State, whichever amount is lower.

8 B. For a violation in which a public utility or a  
9 competitive electricity provider was explicitly notified by  
10 the commission that it was not in compliance with the  
11 requirements of this Title, a commission rule or a  
12 commission order and that failure to comply could result in  
13 the imposition of administrative penalties, the commission  
14 may impose an administrative penalty that does not exceed  
15 \$500,000.

16 C. The commission may impose an administrative penalty in  
17 an amount that does not exceed \$1,000 on any person that is  
18 not a public utility or a competitive electricity provider  
19 and that violates this Title, a commission rule or a  
20 commission order. Each day a violation continues  
21 constitutes a separate offense. The administrative penalty  
22 may not exceed \$25,000 for any related series of violations.

23 D. In addition to the administrative penalties authorized  
24 by this subsection, the commission may require disgorgement  
25 of profits or revenues realized as a result of a violation  
26 of this Title, a commission rule or a commission order.

27 2. Considerations. In determining the amount of an  
28 administrative penalty under this section, the commission shall  
29 take into account:

30 A. The severity of the violation, including the intent of  
31 the violator and the nature, circumstances, extent and  
32 gravity of the prohibited act;

33 B. The reasonableness of the violator's belief that the  
34 violator's action or lack of action was in conformance with  
35 this Title, a commission rule or a commission order;

36 C. The violator's history of previous violations;

37 D. The amount necessary to deter future violations;

38 E. The violator's good faith attempts to comply after  
39 notification of a violation; and

40 F. Such other matters as justice requires.'  
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Further amend the bill by inserting after section 27 the following:

'Sec. 28. 35-A MRSA §2102, sub-§1, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

**1. Approval required.** Except as provided in subsection 2 and in section 4507, ~~no~~ a public utility may not furnish any of the services set out in section 2101 in or to any municipality in or to which another public utility is furnishing or is authorized to furnish a similar service without the approval of the commission. The commission may condition approval upon the submission of a bond or other financial security if the commission determines that such a requirement is necessary to ensure that a public utility has the financial ability to meet its obligations under this Title.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

### SUMMARY

This amendment is the majority report of the Joint Standing Committee on Utilities and Energy.

The amendment changes the section of the bill that authorizes the Public Utilities Commission to impose administrative penalties, in cases in which no other penalty is provided, for violations of the Maine Revised Statutes, Title 35-A or commission rules or orders. It provides that in the case of a violation by a public utility or a competitive electricity provider, the violation must be willful, and it lowers the maximum per violation amount to the lesser of \$5,000 or .25% of the annual gross revenue of the violator. It clarifies that a provision allowing the commission to impose administrative penalties of a lower amount applies to persons that are not public utilities or competitive electricity providers. It adds an additional standard to those to be considered by the commission in setting the amount of administrative penalties. It adds a provision providing that in addition to the administrative penalties, the commission may require disgorgement of profits or revenues realized as a result of the violation.

COMMITTEE AMENDMENT "A" to H.P. 1088, L.D. 1483

2           The amendment also adds a provision authorizing the  
4           commission to condition its approval of a public utility to  
6           provide service on the submission of a bond to ensure the utility  
8           has the financial ability to meet its obligations.

**FISCAL NOTE REQUIRED**  
**(See attached)**

**COMMITTEE AMENDMENT**



**121st Maine Legislature**  
**Office of Fiscal and Program Review**

**LD 1483**

**An Act To Improve the Ability of the Public Utilities Commission To  
Enforce State Laws, Rules and Requirements**

**LR 1461(02)**

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Utilities and Energy**

**Fiscal Note Required: Yes**

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**Fiscal Note**

Undetermined current biennium cost increase - General Fund

Undetermined current biennium revenue increase - General Fund

Undetermined current biennium revenue increase - Other Special Revenue Funds

**Correctional and Judicial Impact Statements**

Establishes new Class C crimes; increases correctional and judicial costs

**Fiscal Detail and Notes**

This bill will also increase the collection of administrative penalties by the Public Utilities Commission in an amount that can not be determined at this time.