

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

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

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Lewiston, Maine
2003

provider agreement, such as material changes to fee schedules or material changes to procedural coding rules specified in the manual, policy or procedure document, the carrier shall provide 60 days' notice to the provider. After the 60-day notice period has expired, the amendment to a manual, policy or procedure document becomes effective and binding on both the carrier and the provider subject to any applicable termination provisions in the provider agreement, except that the carrier and provider may mutually agree to waive the 60-day notice requirement. This subsection may not be construed to limit the ability of a carrier and provider to mutually agree to the proposed change at any time after the provider has received notice of the proposed amendment.

10. Limits on retrospective denials. A carrier offering a health plan in this State may not impose on any provider any retrospective denial of a previously paid claim or any part of that previously paid claim unless:

A. The carrier has provided the reason for the retrospective denial in writing to the provider; and

B. The time that has elapsed since the date of payment of the previously paid claim does not exceed 18 months. The retrospective denial of a previously paid claim may be permitted beyond 18 months from the date of payment only for the following reasons:

(1) The claim was submitted fraudulently;

(2) The claim payment was incorrect because the provider or the insured was already paid for the health care services identified in the claim;

(3) The health care services identified in the claim were not delivered by the provider;

(4) The claim payment was for services covered by Title XVIII, Title XIX or Title XXI of the Social Security Act;

(5) The claim payment is the subject of adjustment with another insurer, administrator or payor; or

(6) The claim payment is the subject of legal action.

For purposes of this subsection, "retrospective denial of a previously paid claim" means any attempt by a carrier to retroactively collect payments already made to a provider with respect to a claim by requiring repayment of such payments, reducing other payments currently owed to the provider, withholding or setting

off against future payments or reducing or affecting the future claim payments to the provider in any other manner. The provider has 6 months from the date of notification under this subsection to determine whether the insured has other appropriate insurance that was in effect on the date of service. Notwithstanding the terms of the provider agreement, the carrier shall allow for the submission of a claim that was previously denied by another insurer because of the insured's transfer or termination of coverage.

See title page for effective date.

CHAPTER 219

S.P. 128 - L.D. 352

An Act To Encourage Energy Efficiency and Security

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

Sec. 1. 35-A MRSA §3211-A, sub-§2, as enacted by PL 2001, c. 624, §4, is amended by amending the first paragraph to read:

2. Programs. The commission shall develop and, to the extent of available funds, implement conservation programs in accordance with this section. The commission shall establish and, on a schedule determined by the commission, revise objectives and an overall energy strategy for conservation programs. Conservation programs implemented by the commission must be consistent with the objectives and an overall energy strategy developed by the commission and be cost effective, as defined by the commission by rule or order. In defining "cost effective," the commission may consider the extent to which a program promotes sustainable economic development or reduces environmental damage to the extent the commission can quantify or otherwise reasonably identify such effects. Consistent with the other requirements of this section, the commission, in adopting and implementing conservation programs, shall seek to encourage efficiency in electricity use, provide incentives for the development of new, energy-efficient business activity in the State and take into account the costs and benefits of energy efficiency and conservation to existing business activity in the State.

Sec. 2. Report. The Public Utilities Commission shall undertake an investigation to identify rate designs, mechanisms or other means that provide incentives for transmission and distribution utilities to promote energy efficiency and that promote the security and robustness of the electric grid by appropriately compensating transmission and distribu-

tion utilities for constructing and maintaining additional infrastructure that the commission determines necessary to ensure the security and robustness of the grid in underserved areas of the State. In conducting its investigation, in addition to any other issues the commission determines appropriate, the commission shall consider:

1. Rate design mechanisms that encourage efficiency in electric use, provide incentives for the development of new energy-efficient business activity in the State and take into account the costs and benefits of energy efficiency and conservation to existing business activity in the State;
2. Financial and other incentives for transmission and distribution utilities or their customers that may support the goals of this section;
3. The impact of achieving the goals of this section on the revenues and rates of return of transmission and distribution utilities;
4. Methods available pursuant to the Maine Revised Statutes, Title 35-A, sections 3195 and 3211-A to accomplish the purposes of this section;
5. The impact of achieving the goals of this section on transmission and distribution utility rate levels and rate stability; and
6. The impact of electricity generation and consumption on air and water quality.

By February 1, 2004, the commission shall submit a report of the results of its investigation under this section to the Joint Standing Committee on Utilities and Energy.

See title page for effective date.

CHAPTER 220

S.P. 487 - L.D. 1459

**An Act To Bring the State into
Conformity with the National
Organic Program**

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

Sec. 1. 7 MRSA c. 103, sub-c. 1-A is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER 1-A

LABELING OF WATER

Sec. 2. 7 MRSA §551, as amended by PL 1985, c. 329, §1, is repealed.

Sec. 3. 7 MRSA §552, as amended by PL 1999, c. 547, Pt. B, §78 and affected by Pt. B, §80, is repealed.

Sec. 4. 7 MRSA §553, as amended by PL 1989, c. 756, §§1 and 2, is repealed.

Sec. 5. 7 MRSA §§554 and 555, as enacted by PL 1979, c. 240, §§1 and 2, are repealed.

Sec. 6. 7 MRSA §556, as amended by PL 1991, c. 57, §1, is repealed.

Sec. 7. 7 MRSA §557, as amended by PL 1979, c. 731, §19, is repealed.

Sec. 8. 7 MRSA §§558, 560 and 561, as enacted by PL 1979, c. 240, §§1 and 2, are repealed.

Sec. 9. 7 MRSA §562-A, sub-§2, as enacted by PL 1991, c. 57, §4, is amended to read:

2. Violation notices. The department shall issue notices to ~~growers, manufacturers or sellers~~ bottlers and distributors alleged to have violated any provision of this subchapter. A person who violates this subchapter commits a civil violation for which a ~~forfeiture fine~~ fine not to exceed \$1,000 may be adjudged. The department may also recover costs of investigation, with the limitation that the total ~~forfeiture fine and costs~~ fine assessed for a violation may not exceed \$1,000.

See title page for effective date.

CHAPTER 221

H.P. 856 - L.D. 1159

**An Act To Reduce Mercury Use in
Measuring Devices and Switches**

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

Sec. 1. 38 MRSA §1661, sub-§3-A is enacted to read:

3-A. Mercury relay. "Mercury relay" means a mercury-added product or device that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. "Mercury relay" includes mercury displacement