

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 (EMERGENCY)
2 (After Deadline)

3 FIRST REGULAR SESSION
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE
6

7 Legislative Document

No. 1159

9 H.P. 894

House of Representatives, March 10, 1983

10 Approved for Introduction by a majority of the Legislative Council
11 pursuant to Joint Rule 27.

12 Referred to the Committee on Public Utilities, sent up for concurrence
and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative McGowan of Pittsfield.

Cosponsor: Representative Vose of Eastport.

14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-THREE
18

19 AN ACT to Improve the Price and
20 Availability of Radio Paging Services.
21

22 Emergency preamble. Whereas, Acts of the Legis-
23 lature do not become effective until 90 days after
24 adjournment unless enacted as emergencies; and

25 Whereas, radio paging services are of great bene-
26 fit to the public health and welfare by enabling one-
27 way communication to be made to individuals who can-
28 not be reached by normal commercial telephone commu-
29 nication; and

30 Whereas, the regulation of radio paging services
31 by the Public Utilities Commission discourages entry
32 into the radio paging services business which
33 unnecessarily restricts consumer choice of those ser-

1 vices and results in higher prices to consumers of
2 those services; and

3 Whereas, the regulatory jurisdiction of the
4 Public Utilities Commission should be removed immedi-
5 ately by clarifying the intent of the Legislature
6 that radio paging services are not intended to be
7 subject to that jurisdiction and that consumers
8 should be allowed immediate, unrestricted access to
9 radio paging services; and

10 Whereas, in the judgment of the Legislature,
11 these facts create an emergency within the meaning of
12 the Constitution of Maine and require the following
13 legislation as immediately necessary for the preser-
14 vation of the public peace, health and safety; now,
15 therefore,

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

18 Sec. 1. 35 MRSA §15, sub-§13, as amended by PL
19 1981, c. 469, §6, is further amended to read:

20 13. Public utility. "Public utility" includes
21 every gas company, natural gas pipeline company,
22 electrical company, telephone company, telegraph com-
23 pany, water company, public heating company,
24 wharfinger and warehouseman, as those terms are de-
25 fined in this section, and each thereof is declared
26 to be a public utility and to be subject to the
27 jurisdiction, control and regulation of the commis-
28 sion, and to chapters 1 to 17. "Public utility" does
29 not include the operation of a radio paging service
30 as that term is defined in this section. Nothing in
31 this subsection precludes the jurisdiction, control
32 and regulation by the commission pursuant to private
33 and special Act of the Legislature.

34 Sec. 2. 35 MRSA §15, sub-§13-A is enacted to
35 read:

36 13-A. Radio paging service. "Radio paging ser-
37 vice" is a service provided by a communication common
38 carrier engaged in rendering signal communications,
39 which includes the following types of communications.

1 A. An optical readout paging service consists of
2 a communication of a message to a receiver which
3 displays the message on an optical or tactical
4 readout, either in a permanent form or a tempo-
5 rary form.

6 B. A tone only paging service is designed to ac-
7 tivate an aural, visual, or tactile signaling
8 device when received.

9 C. A tone/voice paging service is one on which a
10 tone is transmitted to activate a signaling
11 device and audio circuit in the addressed
12 receiver, following which a voice-grade signal is
13 transmitted, to be amplified by the audio
14 circuitry.

15 Sec. 3. 35 MRSA §15, sub-§18 is amended to read:

16 18. Telegraph line. "Telegraph line" includes
17 all conduits, ducts, poles, wires, cables, instru-
18 ments and appliances and all other real estate, fix-
19 tures and personal property owned, controlled, oper-
20 ated or managed in connection with or to facilitate
21 communication by telegraph, whether such that commu-
22 nication is had with or without the use of transmis-
23 sion wires. "Telegraph line" does not include the
24 equipment used for the operation of a radio paging
25 service as that term is defined in this section.

26 Sec. 4. 35 MRSA §15, sub-§20 is amended to read:

27 20. Telephone line. "Telephone line" includes
28 all conduits, ducts, poles, wires, cables, instru-
29 ments and appliances and all other real estate, fix-
30 tures and personal property owned, controlled, oper-
31 ated or managed in connection with or to facilitate
32 communication by telephone, whether such that commu-
33 nication is had with or without the use of transmis-
34 sion wires. "Telephone line" does not include the
35 equipment used for the operation of a radio paging
36 service as that term is defined in this section.

37 Sec. 5. 35 MRSA §2301, first ¶, as amended by PL
38 1971, c. 439, §19, is further amended to read:

1 Corporations for the operation of telegraphs or
2 telephones, and corporations for the operation of
3 both telegraphs and telephones, and corporations for
4 the purpose of making, generating, selling, distrib-
5 uting and supplying gas or electricity, or both, for
6 lighting, heating, manufacturing or mechanical pur-
7 poses, in any city or town, or 2 or more adjoining
8 cities or towns, within the State, or for either or
9 any of such those purposes, may be organized under
10 Title 13-A. No corporation for either or any of such
11 those purposes, whether organized or authorized to do
12 business under this section or by special Act of the
13 Legislature, or any person, association or
14 cooperative organized under chapters 221 to 227 ~~shall~~
15 may have authority without the consent of the Public
16 Utilities Commission to furnish its service in or to
17 any city or town in or to which another corporation,
18 person, association or cooperative is furnishing or
19 is authorized to furnish a similar service. No con-
20 sent from ~~said~~ that commission ~~shall~~ may be required
21 for any corporation, person, association or
22 cooperative to furnish service in any city or town in
23 which such that corporation, person, association or
24 cooperative is furnishing service on October 8, 1967.
25 No consent may be required for the operation of a
26 radio paging service. Any corporation authorized to
27 make, generate, sell, distribute and supply electric-
28 ity may sell and distribute electricity to any other
29 corporation similarly authorized.

30 **Emergency clause.** In view of the emergency
31 cited in the preamble, this Act shall take effect
32 when approved.

33 STATEMENT OF FACT

34 Radio paging services provide an extension of the
35 service provided by telephone answering services to
36 facilitate communication with individuals who do not
37 have immediate access to commercial telephone sys-
38 tems. The paging service provides a one-way radio
39 communication to a portable radio receiver carried by
40 the individual which provides the individual with a
41 visual or audio signal that the paging service has
42 received a message for him. The individual can then
43 contact the service to receive the message. The

1 radio paging service is particularly valuable to
2 doctors and other medical personnel who do not have
3 immediate access to telephones but who must be con-
4 tacted in the event of medical emergency. The ser-
5 vice is also valuable to other individuals who do not
6 have immediate access to commercial telephone service
7 including business executives, traveling
8 salespersons, distributors, traveling maintenance
9 personnel, and others whose duties require that they
10 be absent from a commercial telephone station.

11 Because the service involves the transmission of
12 messages by radio, radio paging services are licensed
13 and regulated by the Federal Communications Commis-
14 sion. This regulation is necessary to minimize
15 interference and disruption of radio frequencies.

16 Since 1975 the Public Utilities Commission has
17 asserted jurisdiction to regulate radio paging ser-
18 vices. The Public Utilities Commission has concluded
19 that the operation of a radio paging system consti-
20 tutes the operation of a "telephone line" and that
21 companies which operate radio paging services are
22 "telephone companies" within the meaning of the stat-
23 ute. See Matter of New Dawn Communications, Inc.,
24 Public Utilities Commission Decision U #3023, dated
25 March 6, 1975. Public utilities regulators and
26 courts in other states have differed as to whether
27 the essentially one-way radio communication provided
28 by a radio paging service can fairly be compared with
29 the 2-way communication provided by normal commercial
30 telephone service, and courts have concluded that
31 radio paging services are not "telephone companies"
32 subject to state public utilities regulation. See
33 Ats Mobile Tele. Inc. v. General Communications Co.,
34 204 Neb. 181, 282 N.W. 2d 16 (1979).

35 Regulation of radio paging services by the Public
36 Utilities Commission is time consuming and costly and
37 constitutes an unnecessary barrier to companies
38 seeking to enter the radio paging service business.
39 Not only do the direct costs of regulation result in
40 higher costs to consumers of radio paging services
41 but, by discouraging new competitors from entering
42 the business, state regulation limits the choices of
43 consumers and suppresses price competition. State
44 regulation therefore results in higher costs to the
45 consumers of radio paging services.

