

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1737

6
7 H.P. 1230

House of Representatives, December 26, 1985

8 Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 26.

9 Received by the Clerk of the House on December 26, 1985. Referred to
the Committee on Utilities and 1,600 ordered printed pursuant to Joint Rule
10 14.

EDWIN H. PERT, Clerk

Presented by Representative Vose of Eastport.

11 Cosponsored by Representative Clark of Millinocket, Representative
Paradis of Old Town and Representative Nicholson of South Portland.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SIX
16

17 AN ACT to Clarify the Confidentiality of
18 Accident Reports.
19

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

22 35 MRSA §141, as amended by PL 1977, c. 341, §3,
23 is further amended to read:

24 §141. Accidents investigated; reports

25 In the event of an accident resulting in the loss
26 of human life occurring upon the premises of any public
27 utility or directly or indirectly arising from or
28 connected with its maintenance or operation, the commission
29 shall cause an investigation thereof to be
30 made forthwith. In the event of any such accident resulting
31 in personal injury or damage to property, the
32 commission may make such investigation if in its
33 judgment the public interest requires it, which investigation
34 shall be held in the locality of the accident, unless for the greater
35 convenience of those

1 concerned it shall order such investigation to be
2 held at some other place. Such investigation may ad-
3 journ from place to place as may be found necessary
4 and convenient. The commission shall seasonably noti-
5 fy the public utility of the time and place of the
6 investigation, and such public utility may then be
7 heard; and the commission shall have power to make
8 such order or recommendation with respect thereto as
9 in its judgment may seem just and reasonable. Every
10 public utility is required to file with the commis-
11 sion, under such rules and regulations as the commis-
12 sion may prescribe, reports of accidents so occur-
13 ring, in the manner and form designated by the com-
14 mission. In case of accidents resulting in loss of
15 human life, such reports shall be made immediately by
16 telephone or telegraph followed by a detailed written
17 report. ~~Neither the order nor recommendation of the~~
18 ~~commission nor any accident report filed with the~~
19 ~~commission shall be admitted as evidence in any ac-~~
20 ~~tion for damages based on or arising out of the loss~~
21 ~~of life or injury to person or property referred to~~
22 ~~in this section.~~

23 No reports, commission correspondence, memoranda,
24 investigations, orders, recommendations or any other
25 materials in the commission's file pertaining to ac-
26 idents or prepared pursuant to a report or investi-
27 gation under this section may be discoverable under
28 the Maine Rules of Civil Procedure or admissible as
29 evidence in any action for damages based on or aris-
30 ing out of the loss of life or injury to person or
31 property referred to in this section. Any reports,
32 commission correspondence, memoranda, investigations,
33 orders, recommendations or any other materials in the
34 commission's file pertaining to such accidents or
35 prepared pursuant to a report or investigation under
36 this section shall be considered confidential within
37 the meaning of Title 1, section 402, subsection 3,
38 paragraph A.

39 Railroad companies shall not be subject to the
40 provisions of this section.

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STATEMENT OF FACT

2 This bill clarifies that any materials or infor-
3 mation prepared by a utility pursuant to the accident
4 reporting requirements will not be discoverable in a
5 subsequent civil action. Currently, the law pro-
6 vides that that information is inadmissible in a
7 court of law, however, because it is not clear that
8 that information is also not discoverable in the
9 course of litigation, the public policy behind the
10 Maine Revised Statutes, Title 35, section 141, is vi-
11 olated. The purpose of the reporting requirement for
12 accidents is to inform the Public Utilities Commis-
13 sion in order that the Public Utilities Commission
14 may investigate and act to prevent the recurrence of
15 future accidents of a similar nature. If the report
16 prepared by the utility were to become public, a
17 utility's efforts to fulfill its obligations under
18 the Maine Revised Statutes, Title 35, section 141,
19 could be used to its detriment in a subsequent civil
20 action arising from the accident. In making these
21 reports inadmissible, the Legislature was attempting
22 to ensure that the Public Utilities Commission would
23 receive full and candid reports from utilities not
24 colored by the threat that those reports would be
25 available to an opposing party in litigation. The
26 possibility that the information may become public
27 and available in subsequent legal action introduces
28 a chilling effect on the preparation of the report.
29 Utilities should not be put in the position of pre-
30 paring detailed accident reports if those reports
31 will later be used to a utility's detriment in costly
32 civil litigation.

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