

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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33

Date: 2/27/2008 majority

TRANSPORTATION

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “**A**” to H.P. 1406, L.D. 2022, Bill, “An Act To Designate Certain Rules of the Bureau of State Police as Major Substantive Rules”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

‘Sec. 1. 29-A MRSA §555, sub-§2, as amended by PL 2005, c. 679, §1, is further amended to read:

2. Adoption of federal regulations. The bureau may adopt rules to incorporate by reference federal regulations in 49 Code of Federal Regulations, Parts 40, 382, 383, 385, 390, 391, 392, 393, 395 and 396, as amended, and may adopt amendments to those federal regulations. The following provisions apply to the adoption of federal regulations under this section.

A. ~~The~~ Except as provided in paragraph A-1, the Maine Administrative Procedure Act does not apply to the adoption by reference of federal regulations under this subsection.

A-1. A rule adopted by the bureau under this subsection is a major substantive rule as defined in Title 5, chapter 375, subchapter 2-A if it:

(1) Adopts by reference any provision of the federal regulations described under this subsection that would result in a modification of the substance or effect of any amendment to the federal regulations adopted by the bureau and in effect on the effective date of this paragraph; or

(2) Adopts an amendment to any federal regulation described under this subsection.

C. For every rule adopted under this subsection:

- (1) The bureau shall file with the Secretary of State:
 - (a) A certified copy of the rule;

COMMITTEE AMENDMENT

1 (b) A published copy of the federal regulation or amendment as printed in
2 the Federal Register; and

3 (c) Annually, a published copy of the updated volume of the Code of Federal
4 Regulations containing the federal regulation.

5 The bureau shall make available for inspection at no charge, and for copying at actual
6 cost, a current published copy of the referenced federal regulations.

7 D. The Secretary of State shall publish, pursuant to Title 5, section 8053, subsection
8 5, a notice containing the following information:

9 (1) A statement that the rule has been adopted and its effective date;

10 (2) A brief description of the substance of the rule and the referenced federal
11 regulation or amendment; and

12 (3) The addresses at which copies of the rule and the federal regulation or
13 amendment may be obtained.

14 E. The Secretary of State shall maintain and make available at the Secretary of
15 State's office for inspection at no charge, and for copying or purchase at actual cost,
16 current copies of these rules and include them within the compilations subject to Title
17 5, section 8056, subsection 3, paragraphs A-1 and B. The Secretary of State shall
18 also make available for inspection at no charge and for copying at actual cost a
19 current published copy of the referenced federal regulations and amendments.

20 F. A rule adopted under this section may not take effect until at least 5 days after
21 filing with the Secretary of State, except that, if the bureau finds that immediate
22 adoption of the rule is necessary to avoid an immediate threat to public health, safety
23 or general welfare, the bureau may adopt the rule as an emergency rule in accordance
24 with Title 5, section 8054, and that rule takes effect immediately.

25 **Sec. 2. 29-A MRSA §555, sub-§4, ¶B,** as enacted by PL 1993, c. 683, Pt. A, §2
26 and affected by Pt. B, §5, is amended to read:

27 B. Notwithstanding Title 5, section 10051, the Secretary of State may suspend a
28 license for lack of sufficient insurance.

29 A suspension continues until the Secretary of State is satisfied that the carrier has
30 obtained adequate insurance.

31 Notice and an opportunity for hearing are as provided by the Maine Administrative
32 Procedure Act.'

33 **SUMMARY**

34 This amendment, which is the majority report of the Joint Standing Committee on
35 Transportation, replaces the bill.

36 Current law provides that the Department of Public Safety, Bureau of State Police
37 may adopt rules to incorporate by reference Federal Motor Carrier Safety Administration
38 regulations and that the Maine Administrative Procedure Act does not apply to the

COMMITTEE AMENDMENT "A" to H.P. 1406, L.D. 2022

1 adoption by reference of federal motor carrier safety regulations in the Maine Revised
2 Statutes, Title 29-A, section 555.

3 The amendment provides that a rule adopted by the bureau is a major substantive rule
4 if it adopts by reference any provision of certain Federal Motor Carrier Safety
5 Administration regulations that would result in a modification of the substance or effect
6 of any amendment to federal motor carrier safety regulations adopted by the bureau and
7 in effect on the effective date of the bill or adopts an amendment to those federal motor
8 carrier safety regulations.

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



Approved: 02/22/08 *MAC*

123rd MAINE LEGISLATURE

LD 2022

LR 2970(02)

An Act To Designate Certain Rules of the Bureau of State Police as Major Substantive Rules

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

Committee: Transportation

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund and Highway Fund

Fiscal Detail and Notes

Additional costs to the Bureau of State Police within the Department of Public Safety associated with rule-making can be absorbed within existing budgeted resources.