

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

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

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Twin City Printery  
Lewiston, Maine  
1987

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

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A. A person may distribute or sell an antifouling paint containing a tributyltin compound with an acceptable release rate to the owner or agent of a commercial boatyard. The owner or agent of a commercial boatyard may purchase, possess and apply an antifouling paint containing tributyltin compounds with an acceptable release rate, if the antifouling paint is applied only within a commercial boatyard and is applied only to vessels exceeding 25 meters in length or that have aluminum hulls.

B. This section does not prohibit the sale, application or possession of an antifouling paint containing a tributyltin compound, if the antifouling paint is in a spray can of 16 ounces or less, is commonly referred to as an outboard or lower drive unit paint and has an acceptable release rate.

Effective September 29, 1987.

## CHAPTER 475

H.P. 1336 — L.D. 1826

### AN ACT to Revise the Laws Concerning Transportation by Water in Casco Bay and to Study Related Issues.

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

Sec. 1. 23 MRSA §4406 is enacted to read:

#### §4406. Radar requirements on vessels operating in Casco Bay

1. Radar device required. Every person, firm or corporation engaged in the transport of 6 or more passengers by vessel, for compensation, between or among the islands of Casco Bay and the mainland, shall provide an operable radar device on each vessel operated by the person or corporation which carries 6 or more passengers and shall provide a person qualified to operate the radar device in accordance with all federal regulations relating to the operation of federally licensed passenger carrying vessels.

2. Standards; promulgation; enforcement; penalty. The Department of Transportation shall adopt rules relating to the use and installation of radar devices in the vessels referred to in section 4410. These rules shall include, but not be limited to, the specification of standards for the radar devices to be carried by the vessels and the qualifications of those persons responsible for the proper operation of the radar devices. Until those rules are adopted, the rules previously adopted by the Public Utilities Commission shall remain in effect.

Sec. 2. 35-A MRSA Pt. 5, as enacted by PL 1987, c. 141, §6, is amended to read:

## PART 5

### WATERBORNE TRANSPORTATION

#### CHAPTER 51

#### REGULATION OF FERRIES IN CASCO BAY

##### §5101. Franchise of Casco Bay Island Transit District and others

No person, except for the Casco Bay Island Transit District, created by Private and Special Law 1981, chapter 22, may, directly, by lease or other arrangement transport passengers or property by vessel, for compensation, between the mainland of Cumberland County and Peak's Island, Great Diamond Island, Little Diamond Island, Long Island, Chebeague Island, ~~Bailey Island~~ or Cliff Island, or between the islands mentioned in this paragraph, without obtaining a certificate of public convenience and necessity from the commission authorizing the transportation. ~~Any~~ The district and any person who must obtain a certificate is a ferry are ferries subject to the jurisdiction of the commission with respect to the service which requires authority. The commission shall specify in the certificate the business and operation of the ferry and shall attach to it at the time of issuance and from time to time after issuance reasonable terms, conditions and limitations as it determines necessary to maintain adequate transportation to these islands. The Casco Bay Island Transit District may assign or subcontract to another person any service for which it has a franchise.

##### §5102. Application of this Title

All ferries are subject to this Title and to the orders and rules adopted and promulgated by the commission under the authority of this Title, provided that ferries are not subject to the jurisdiction of the commission with respect to safety.

1. Authority over ferries. All ferries are subject to this Title and to the orders and rules adopted and promulgated by the commission under the authority of this Title, provided that ferries are not subject to the jurisdiction of the commission with respect to safety.

2. Emergency. Persons providing emergency transportation under this Title are not public utilities subject to the jurisdiction of the commission.

##### §5103. Service, rates and schedules

All ferries shall maintain reasonable and adequate service, rates and schedules to the islands of Casco Bay as set out in section 5101 under rules promulgated by the commission as to rates and schedules.

1. Rates. The rates for transportation of property established by the commission's rules shall be comparable to rates established for the comparable services of other authorized ferries in the State.

2. Schedules. The commission, when promulgating rules as to schedules, shall take into consideration the daily year-round service needs of the inhabitants of the islands of Casco Bay as set out in section 5101.

§5104. Exceptions for ferries carrying commodities in bulk

Nothing in this chapter Part applies to the transportation of commodities in bulk. This exception applies only in case of commodities in bulk which are loaded and carried without wrappers or containers and received and delivered without transportation mark or count, except that carriers of petroleum fuels in bulk may also transport other products and accessories integral to the operation of motor vehicles and boats when they are included as part of the bulk shipment. The transporting transportation of a commodity in motor vehicles, whether commercial or privately owned, upon a vessel may not be construed as a bulk movement of those commodities.

§5105. Medical emergency

In the case of a medical emergency, transportation may be ~~supplied by a~~ obtained from any person who has not been issued a certificate of public convenience and necessity.

§5106. Temporary certificate of public convenience and necessity

Subject to the provisions of this chapter, the commission may issue a temporary certificate of public convenience and necessity to ~~authorize other persons to better serve the needs of the residents of~~ provide services to the islands of Casco Bay as set out in section 5101, when persons authorized under section 5101 are unable to provide a needed service. The commission may attach reasonable terms, conditions and limitations to the temporary certificates.

§5107. Violation of this chapter; penalty

1. Offense. Whoever violates this chapter is guilty of unlawfully operating a ferry in Casco Bay.

2. Penalty. Unlawful operation of a ferry in Casco Bay is a Class E crime.

3. Civil remedy. In addition to any other remedy provided in this chapter for the enforcement of this chapter or any rule, order or decision of the commission issued with relation to the operation of a ferry covered by this chapter, the Superior Court has jurisdiction upon complaint filed by the commission or the Casco Bay Island Transit District to enjoin a person from committing an act prohibited by this chapter or prohibited by a rule, order or decision of the commission in relation to the operation of transportation facilities in Casco Bay. It is the intention of the Legislature that the commission or the Casco Bay Island Transit District may seek an injunction under this section without first resorting to

another form of administrative proceeding proceedings or court procedure procedures as a condition precedent to the granting of the injunction.

§5108. Radar requirements on vessels operating in Casco Bay

~~Every person subject to the rules of the commission in conjunction with the transport of 6 or more passengers by vessel, for compensation, between or among the islands of Casco Bay and the mainland shall, after appropriate action by the commission acting pursuant to section 5109, provide an operable radar device on each vessel operated by the person which carries 6 or more passengers and shall provide a person qualified to operate the radar device in accordance with all federal rules relating to the operation of federally licensed passenger carrying vessels.~~

§5109. Standards; promulgation; enforcement

1. Rules for use of radar devices; standards. ~~The commission shall adopt rules relating to the use and installation of radar devices in the vessels referred to in section 5108. These rules shall include, but need not be limited to, the specification of standards for the radar devices and the qualifications of those persons responsible for the proper operation of the radar devices.~~

2. Time for compliance. ~~The commission, subsequent to the promulgation of those standards, shall allow a reasonable time not to exceed 180 days for initial compliance.~~

3. Enforcement; revocation of certificate of public convenience and necessity. ~~The commission may enforce section 5108 and this section or any of the rules promulgated under them in the same manner and with the same effect as it may enforce this Title.~~

~~The commission may revoke the certificate of public convenience and necessity of any person who does not comply with the commission's order.~~

Sec. 3. P&SL 1981, c. 22, §1 is amended by adding at the end a new sentence to read:

The district shall provide reasonable daily, year-round passenger and freight service, in accordance with the Maine Revised Statutes, Title 35-A, chapter 51, to all the islands that comprise the district.

Sec. 4. P&SL 1981, c. 22, §12, as amended by PL 1985, c. 481, Pt. A, §101, is repealed and the following enacted in its place:

Sec. 12. Regulation.

1. Public Utilities Commission. Nothing in this chapter may be construed to exempt the district from regulation by the Public Utilities Commission. The district shall operate under all the restraints, responsibilities and privileges as have applied to Casco Bay Lines, provided that alterations to rates and tolls by the district shall go into effect after such public notice as the Public Utili-

ties Commission shall by rule prescribe without further action by the Public Utilities Commission, unless 50 ratepayers request in writing an investigation of the alterations, in which case the investigation shall be conducted as prescribed in the Maine Revised Statutes, Title 35-A.

2. Department of Transportation. The district shall maintain safe service in accordance with rules promulgated by the Department of Transportation concerning safety.

The district shall provide on each of its vessels an operable radar device and a person qualified to operate the radar device, in accordance with federal regulations and with state rules promulgated by the Department of Transportation under the Maine Revised Statutes, Title 23, section 4406.

**Sec. 5. State agency study and report to the Legislature.** The Department of Transportation, in cooperation with the Public Utilities Commission and the Public Advocate, shall undertake a study of ferry service in Casco Bay and provide to the Governor and Legislature by January 1, 1989, their report presenting joint conclusions and recommendations, including legislative recommendations.

**1. Scope of study.** The study shall examine:

A. The possible effect on the annual revenues and service of the Casco Bay Island Transit District if the present regulation of entry for all ferry service in Casco Bay were replaced by the deregulation of unscheduled service, such as water taxis and on-demand freight service, while granting an exclusive franchise by law to the Casco Bay Island Transit District for scheduled passenger and freight service;

B. Possible modes of continued regulation of entry for ferry service in Casco Bay, including regulation by the Public Utilities Commission, the Department of Transportation, the Casco Bay Island Transit District, the Cumberland County Commissioners, the City of Portland or other alternatives;

C. The question of whether or not the daily year-round scheduled freight and passenger service in Casco Bay would require a General Fund subsidy and an estimate of the cost of such a subsidy under continued regulation of all ferry service and under deregulation of unscheduled service;

D. The anticipated effect on the annual revenues of the Casco Bay Island Transit District of tour, charter and catering revenues. The study shall recommend a definition to clarify the authority granted by Private and Special Law 1981, chapter 22, to the district to engage in "incidental tour and charter service;"

E. The appropriate limits on the service which can be provided by other carriers, including unscheduled

carriers and tour and charter operators, consistent with the franchise of the district;

F. The anticipated effect on tourism-related revenues in the Portland area of additional tour, taxi and unscheduled service in Casco Bay; and

G. The anticipated effect on state administration of piers and wharves from allowing additional carriers to use them for additional freight and passenger service.

**2. Membership of Inter-agency Study Group.** The Inter-agency Study Group shall consist of the following 3 members:

A. The Commissioner of Transportation, or his designee, who shall serve as chairman;

B. The Public Advocate or his designee; and

C. The Chairman of the Public Utilities Commission or his designee.

**3. Information relevant to the completion of study.** Any person or agency who possesses a certificate of public convenience and necessity from the Public Utilities Commission for the provision of freight or passenger service in Casco Bay shall comply with any reasonable request for information relevant to the completion of this study, shall make documents and records available pursuant to such a request and shall cooperate with the Department of Transportation, the Public Advocate and the Public Utilities Commission in their completion of the study. In support of this provision, the Public Utilities Commission may demand information with the full authority and under the conditions of the Maine Revised Statutes, Title 35-A.

**4. Legislative involvement.** The Joint Standing Committee on Utilities shall monitor the progress of the study, review the findings of the Inter-agency Study Group and make recommendations to the First Regular Session of the 114th Legislature, including legislation if necessary.

Effective September 29, 1987.

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## CHAPTER 476

H.P. 1351 — L.D. 1845

### AN ACT to Amend the Law Relating to Group Life and Health Insurance.

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

Sec. 1. 24-A MRSA §2412, sub-§1, as amended by PL 1973, c. 585, §12, is further amended to read: