

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

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

Twin City Printery
Lewiston, Maine
1988

PUBLIC LAWS

OF THE

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AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
and
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1987

fore July 1, 1987, was used to supply water for bottling and sale, and which is used exclusively for bottling and is sold in its pure form or as a carbonated or flavored beverage product.

Sec. 2. 22 MRSA §2660-A, sub-§3-A is enacted to read:

3-A. Conditions of authorization. Notwithstanding Title 1, section 302, the exceptions authorized in subsection 2 and any authorization granted under subsection 3 shall be subject to future legislative limitations of the right to transport water.

Effective August 4, 1988.

CHAPTER 746

S.P. 800 — L.D. 2101

AN ACT to Include Drugs for Treatment of Chronic Obstructive Lung Disease in the Elderly Low-Cost Drug Program.

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

22 MRSA §254, first paragraph, as amended by PL 1983, c. 290, is repealed and the following enacted in its place:

The Department of Human Services may conduct a program to provide low-cost prescription and non-prescription drugs, medication and medical supplies to disadvantaged, elderly individuals. In any year in which this program is conducted, it shall include any prescription drugs used for the treatment of chronic obstructive lung disease. To fund the addition of drugs for this ailment, the amount that a recipient pays toward the cost of any covered purchase shall be \$3. If the initial projections for expenditures in the chronic obstructive lung disease program indicate that funding for the total program will be inadequate for the remainder of the fiscal year, that part of the program dealing with chronic obstructive lung disease shall be discontinued for the remainder of the fiscal year. The department shall keep cost and utilization records necessary to evaluate the chronic obstructive lung disease program and report on this program to the Legislature by January 1989.

In any year in which this program is conducted, it shall also include antiarthritic drugs and the amount that a recipient pays toward the cost of any such covered purchase shall be \$10.

The commissioner shall provide for sufficient personnel to ensure efficient administration of the program. The extent and the magnitude of the program shall be determined by the commissioner on the basis of the calculated need of the recipient population and the available funds. The department may not spend more

on this program than is available through appropriations from the General Fund, dedicated revenue, federal or other grants and other established and committed funding sources. The commissioner may accept, for the purposes of carrying out this program, federal funds appropriated under any federal law relating to the furnishing of free or low-cost drugs to disadvantaged, elderly individuals and may take such action as is necessary for the purposes of carrying out that federal law and may accept from any other agency of government, individual, group or corporation such funds as may be available to carry out this chapter.

Effective August 4, 1988.

CHAPTER 747

S.P. 761 — L.D. 2024

AN ACT to Prohibit the Sale of the Substances Butyl Nitrite and Isobutyl Nitrite, Commonly Referred to as "Rush" or "Lockerroom."

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the use of butyl nitrite and isobutyl nitrite as aphrodisiacs, stimulants and psychedelic agents is a serious problem in Maine and causes unhealthful side effects, including nosebleeds and headaches, and is also psychologically addictive; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 17-A MRSA §1102, sub-§4, ¶C, as enacted by PL 1975, c. 499, §1, is amended to read:

C. All nonprescription drugs other than those included in schedules W, X or Y as the Board of Pharmacy shall duly designate;

Sec. 2. 17-A MRSA §1102, sub-§4, ¶D is enacted to read:

D. Butyl nitrite or isobutyl nitrite.

Sec. 3. 22 MRSA §2383, as repealed and replaced by PL 1975, c. 499, §51, is repealed and the following enacted in its place:

§2383. Possession

1. Marijuana. Possession of a usable amount of marijuana is a civil violation for which a forfeiture of not more than \$200 may be adjudged.

2. Butyl nitrite and isobutyl nitrite. Possession of a usable amount of butyl nitrite or isobutyl nitrite is a civil violation for which a forfeiture of not more than \$200 may be adjudged.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect 30 days after approval.

Effective May 20, 1988.

CHAPTER 748

H.P. 1701 — L.D. 2338

AN ACT to Give the Commissioner of Transportation Power to Condemn Existing Rail Lines for Transfer to Safe, Reliable and Efficient Rail Operators.

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

23 MRSA c. 615 is enacted to read:

CHAPTER 615

ACQUISITION OF RAILROAD LINES

§7151. Legislative findings; declaration of policy

1. Legislative findings. The Legislature finds that safe, efficient and reliable rail service is essential to the economy of the State, the economic livelihood of industries located in the State, conservation and protection of the environment and the quality of life of the citizens of the State. The Legislature further finds that safe and efficient railroad service is essential to the State's public safety and the continued health and well-being of its citizens, particularly because of railroad transportation of bulk cargoes and hazardous and toxic substances, and the significant dangers that result from mishandling those and other cargoes.

2. Declaration of policy. It is declared to be the policy of the State that the State and its agencies shall cooperate with the Congress of the United States and the appropriate federal agencies to assure the development and maintenance of safe, efficient and reliable rail service for the State. For any railroad line acquired under this chapter, it is the intent of the Legislature that the State may acquire the railroad line, but the State may not be an operator of the railroad or a rail carrier under federal law.

§7152. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Financially responsible person. "Financially responsible person" means a financially responsible person as defined in the United States Code, Title 49, Section 10910(a) and who intends to acquire, lease or contract to operate all or part of the railroad line in question.

2. Person. "Person" means a natural person, corporation, partnership or state agency.

3. Railroad line. "Railroad line" means the right-of-way, track, track appurtenances, ties, bridges, station houses, sidings, terminals, and other appurtenant structures of a railroad.

§7153. Hearings and report

1. Request for hearing. The department shall hold a hearing with regard to a railroad line if requested by any of the following:

A. A shipper or shippers whose traffic on the railroad line totaled 500 tons in the year immediately preceding the application;

B. Any municipality having a siding, terminal, station or agency station of the railroad line within its bounds; or

C. A financially responsible person.

2. Notice, testimony at hearing. Not less than 14 days prior to holding a hearing the department shall send written notice of the date and location to the parties requesting a hearing as well as the affected railroad company. In addition, the department shall publish 2 notices of the hearing in a newspaper of general circulation in the area of the state affected. Testimony received at the hearing may include the following:

A. Whether the railroad has adequate rail service to fulfill public convenience and necessity;

B. Whether the operator of the railroad is providing safe, efficient and reliable rail service;

C. Whether the rail service over the railroad has substantially impaired the ability of the shippers or municipalities that depend upon it;

D. Whether the operation of the railroad has endangered the lives or property of the citizens of this State, including railroad employees;

E. Whether the operator of the railroad has refused or failed within a reasonable time to make necessary improvement to provide safe, efficient and reliable rail service; and

F. Other relevant issues.

3. Report. Upon conclusion of the hearing, the department shall issue a report concerning the operation