

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)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

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

J.S. McCarthy Company
Augusta, Maine
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

person who violates Title 17-A, chapter 45, or Title 22, section 2383, and is adjudicated pursuant to this chapter to have committed a juvenile crime.

The court shall give notice of suspension and take physical custody of an operator's license or permit as provided in Title 29, section 2241-H. The court shall immediately forward the operator's license and a certified abstract of suspension to the Secretary of State.

Sec. 2. 17-A MRSA §1103, sub-§2, ¶A, as amended by PL 1989, c. 344, §1, is further amended to read:

A. A Class B crime if the drug is a schedule W drug ~~or~~, if it is marijuana in a quantity of 20 pounds or more or if it is marijuana and the person grows or cultivates 500 or more plants;

Sec. 3. 17-A MRSA §1103, sub-§2, ¶B, as amended by PL 1977, c. 647, §2, is further amended to read:

B. A Class C crime if the drug is a schedule X drug ~~or~~, if it is marijuana in a quantity of more than 2 pounds or if it is marijuana and the person grows or cultivates 100 or more plants; or

Sec. 4. 37-B MRSA §181, sub-§1-A is enacted to read:

1-A. By proclamation of the Governor. For periods of up to one year, renewable unless withdrawn by subsequent executive order, the Governor by proclamation may order state military forces to active service to support federal drug enforcement operations under the National Defense Authorization Act of 1989 when members of the National Guard are not ordered to federal service.

See title page for effective date.

CHAPTER 851

H.P. 1710 - L.D. 2361

An Act to Establish Guidelines and an Advisory Council for Continuous Telecommunications Relay Services for Deaf, Hearing Impaired or Speech Impaired Persons Who Must Rely on Special Telecommunications Equipment for Telecommunications

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

Whereas, deaf, hearing impaired and speech impaired persons rely on teletypewriters to make telephone calls; and

Whereas, the only means for deaf, speech impaired and hearing impaired persons to engage in vocal

telephone communications is through telecommunications relay services; and

Whereas, the telecommunications relay service presently provided in Maine is limited in nature and should be upgraded; and

Whereas, without telephone relay services deaf, hearing impaired and speech impaired persons lack a primary means of obtaining fire, police, medical and other emergency services and obtaining information about and access to government programs and services; 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. 3 MRSA §927, sub-§7, ¶B, as enacted by PL 1989, c. 483, Pt. A, §§4 and 62, is amended to read:

B. Independent agencies:

- (1) Maine Sardine Council;
- (2) Atlantic Sea Run Salmon Commission;
- (3) Public Utilities Commission;
- (4) Atlantic States Marine Fisheries Commission;
- (5) Maine Development Foundation;
- (6) Board of Directors, Maine Municipal and Rural Electrification Cooperative Agency;
- (7) Lobster Advisory Council;
- (8) Board of Environmental Protection; ~~and~~
- (9) Board of Underground Oil Storage Tank Installers; and
- (10) Telecommunications Relay Services Advisory Council.

Sec. 2. 5 MRSA §12004-I, sub-§74-A-1 is enacted to read:

<u>74-A-1.</u>	<u>Telecom-</u>	<u>Not</u>	<u>35-A</u>
<u>Public Utilities</u>	<u>munica-</u>	<u>Authorized</u>	<u>MRSA</u>
	<u>tions</u>		<u>§8704</u>
	<u>Relay</u>		
	<u>Services</u>		
	<u>Advisory</u>		
	<u>Council</u>		

Sec. 3. 22 MRSA §3601, sub-§1, as amended by PL 1981, c. 584, §4, is repealed.

Sec. 4. 22 MRSA §3601, sub-§1-A is enacted to read:

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

A. "Department" means the Department of Human Services.

B. "Deaf person" means a person whose sense of hearing is nonfunctional for the purpose of ordinary communication.

C. "Hearing impaired person" means a person whose sense of hearing is defective, but still functional, with or without amplification.

D. "Speech impaired person" means a person whose speech is nonfunctional or defective for the purpose of ordinary communication.

E. "TDD system" means the network of telecommunications devices for the deaf used for telephone communications to or by deaf, hearing impaired or speech impaired persons.

F. "Telecommunications device for the deaf" or "TDD" means a teletypewriter or other telecommunication equipment used by deaf, hearing impaired or speech impaired people to conduct telephone communications.

G. "Telecommunications relay service" means a service transmitting messages and information between a person using standard telephone equipment for spoken communications and a deaf, hearing impaired or speech impaired person using a telecommunications device for the deaf.

Sec. 5. 22 MRSA §3601, sub-§2, as enacted by PL 1979, c. 546, §1, is amended to read:

2. Telecommunications relay services. The Department of Human Services shall administer a statewide program to provide telephone telecommunications relay services for deaf and hearing impaired or speech impaired persons who must rely on teletypewriter equipment a TDD for telephone communications telecommunications. The program relay services shall, to the extent possible, provide for 24-hour emergency relay services. The department shall terminate the services provided by this subsection when the same or similar services are available through telecommunications relay services established pursuant to Title 35-A, chapter 87.

Sec. 6. 22 MRSA §3602, as enacted by PL 1987, c. 141, Pt. A, §1, is amended to read:

§3602. Telecommunication equipment for the deaf, hearing impaired and speech impaired

1. Money for telecommunication equipment. The Bureau of Rehabilitation within the Department of Human Services, pursuant to any appropriation of money to the bureau for special telecommunication typewriters equipment for the deaf, hearing impaired and speech impaired, shall, upon request, provide up to 50% of the cost of special telecommunication typewriters equipment to any organization or municipality that makes available the remaining funds for this equipment in a manner satisfactory to the Director of the Bureau of Rehabilitation.

2. Telecommunications Equipment Fund. A Telecommunications Equipment Fund is established. The Division of Deafness in the Bureau of Rehabilitation may accept any gifts or grants for the purposes of this section. These, and any authorized appropriations shall, must be deposited in the fund, and disbursed in accordance with this section. The fund may be used for purchase, lease, upgrading, installation, maintenance and repair of special telecommunications equipment for the deaf, hearing impaired or speech impaired. The Division of Deafness under the Bureau of Rehabilitation may draw on the fund in accordance with the Telecommunications Equipment Plan required under subsection 3.

3. Telecommunications equipment plan. The Division of Deafness shall develop a plan to make special telecommunications equipment available to deaf, hearing impaired and or speech impaired persons and to distribute money from the Telecommunications Equipment Fund. The plan shall must be developed by the Division of Deafness annually, not later than January 1st, in accordance with the rule-making procedures in Title 5, chapter 375. The plan shall must provide for the expenditure of money from the fund for the benefit of deaf, hearing impaired and or speech impaired persons for the purchase, lease, upgrading, installation, maintenance and repair of special telecommunications equipment capable of serving their needs. Persons who are profoundly deaf or speech impaired so that they cannot are unable to use the telephone for expressive or receptive communications, as verified by a written report from an otologist, audiologist or physician, are eligible for the assistance from the fund. The plan shall must include specific criteria that will govern govern the priorities assigned to various persons who need this equipment. The criteria shall must take into account household income, degree of impairment, need for emergency communications, living arrangements and other factors deemed determined relevant by the Division of Deafness.

Sec. 7. 35-A MRSA c. 87 is enacted to read:

CHAPTER 87

TELECOMMUNICATIONS RELAY SERVICES

§8701. Findings

The Legislature finds and declares that it is in the public interest to establish an effective statewide system to provide continuous telecommunications relay services to facilitate communication between deaf, hearing impaired or speech impaired persons who must rely on telecommunications devices for the deaf and persons using standard telephone equipment.

§8702. Definitions

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

1. Advisory council. "Advisory council" means the Telecommunications Relay Services Advisory Council.

2. Blockage level. "Blockage level" means the proportion of placed calls that fail to reach a relay operator.

3. Deaf person. "Deaf person" means a person whose sense of hearing is nonfunctional for the purpose of ordinary communication.

4. Hearing impaired person. "Hearing impaired person" means a person whose sense of hearing is defective, but still functional, with or without amplification.

5. Speech impaired person. "Speech impaired person" means a person whose speech is nonfunctional or defective for the purpose of ordinary communication.

6. Telecommunications device for the deaf or TDD. "Telecommunications device for the deaf" or "TDD" means a teletypewriter or other telecommunication equipment used by deaf, hearing impaired or speech impaired people to conduct telephone communications.

7. Telecommunications relay service. "Telecommunications relay service" means a service transmitting messages and information between a person using standard telephone equipment for spoken communications and a deaf, hearing impaired or speech impaired person using a telecommunications device for the deaf.

§8703. Requirements

Telecommunications relay services must conform to the following requirements.

1. Geographic availability. Services must be available on a statewide basis.

2. Temporal availability. Services must be available 24 hours a day for every calendar day of the year.

3. Accessibility. Relay service operators may not refuse calls or limit the length of calls.

4. Blockage level. The allowable blockage level for the telecommunications relay services must be reasonable. Complaints relating to the reasonableness of the blockage level may be brought to the commission by the advisory council or by 10 or more aggrieved persons pursuant to section 1302, subsection 1.

5. Confidentiality. Relay service communications must be confidential.

6. User fee prohibited. A separate fee for telecommunications relay services may not be assessed to users of the services.

7. Recovery of expenses and costs. The costs for telecommunications relay services must be recovered in the same manner as any other costs for the provision of services by local exchange carriers. Nothing in this section limits the ability of the commission to determine the reasonableness of the costs for providing these services.

8. Advisory council. The providers of telecommunications relay services must take into consideration any comments from the advisory council.

9. Restrictions. Upon request, the providers of telecommunications relay services shall make known to users of the services any restrictions on the types of calls handled such as collect calls and automated information services.

10. Notification of rates or charges. Upon request, the providers of telecommunications relay services shall make known to users any rates or charges for the services.

§8704. Advisory council

The Telecommunications Relay Services Advisory Council, as established by Title 5, section 12004-I, subsection 74-A-1, shall evaluate telecommunications relay services in this State and provide advice to providers of telecommunications relay services.

1. Membership. The advisory council consists of 11 members as follows:

A. The Director of the Division of Deafness, Department of Human Services, or a designee;

B. The Chair of the Advisory Committee to the Division of Deafness established by Title 5, section 12004-I, subsection 40, or a designee;

C. One member from the Public Utilities Commission, appointed by the commissioners;

D. One member from the office of the Public Advocate, appointed by the Public Advocate; and

E. Seven members appointed by the Governor as follows:

(1) One member from the Governor Baxter School for the Deaf;

(2) One member from a statewide association for the deaf;

(3) One member from a center on deafness;

(4) One member from a company providing telecommunications relay service in this State;

(5) One member of a telephone association in this State; and

(6) Two members from the general public who must rely on TDD's for telecommunications.

2. Compensation. Compensation is not authorized.

3. Technical assistance. The commission shall provide technical assistance to the advisory council.

4. Appointment of chair and vice-chair. The members shall annually elect a chair and a vice-chair from among the membership. The vice-chair shall serve as acting chair in the absence of the chair. The council shall meet at the call of the chair but no fewer than 4 times during the calendar year. The chair may delegate, as necessary, duties to members to carry out the functions of the council.

5. Powers and duties. The advisory council shall evaluate telecommunications relay services in this State and shall advise providers of telecommunications relay services regarding telecommunications relay service matters, including, but not limited to, the development of training standards and an evaluation of the service being provided, including the quality and availability of that service.

Sec. 8. Transition clause. In order to accomplish a smooth transition without an interruption in service between the current telecommunications relay services administered by the State pursuant to the Maine Revised Statutes, Title 22, chapter 961 and an effective, continuous, statewide telecommunications relay system operated by other service providers, the Public Utilities Commission shall periodically notify the Department of Human Services of the development and implementation of any telecommunications relay services. The first meeting of the Telecommunications Relay Services Advisory Council must be called by the Chair of the Advisory Committee to the Division of Deafness.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 17, 1990.

CHAPTER 852

H.P. 1708 - L.D. 2357

An Act to Amend the Laws Applicable to Medicare Supplement Insurance Policies

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

Whereas, this Act authorizes and directs the Superintendent of Insurance to adopt rules to protect purchasers of Medicare supplement insurance policies, as required by federal law; and

Whereas, the rule-making process must begin immediately to permit Maine's rules and laws regarding Medicare supplement policies to comply with federal standards; 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. 24-A MRSA §5003, sub-§1, as enacted by PL 1981, c. 234, §4, is amended to read:

1. Issuance of rules. The superintendent shall issue reasonable rules to establish minimum standards for benefits, claims payments, marketing practices, compensation arrangements and reporting practices under Medicare supplement policies and contracts.

Sec. 2. 24-A MRSA §5004, sub-§3, as enacted by PL 1989, c. 27, §4, is repealed.

Sec. 3. Effective date. Section 2 of this Act takes effect 90 days after adjournment of the Second Regular Session of the 114th Legislature.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved, except as otherwise indicated.

Effective April 17, 1990, unless otherwise indicated.

CHAPTER 853

H.P. 1728 - L.D. 2387

An Act to Clarify the Appointment of County Jail Administrators

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