

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION

December 12, 1991 to January 7, 1992

SECOND REGULAR SESSION

January 8, 1992 to March 31, 1992

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SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1992

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
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

A. No municipal commercial license may be issued unless the applicant has a current shellfish license, as provided in section 6601. A municipality may issue licenses under this section regardless of whether or not the area has been closed by the commissioner. A person taking shellfish from a closed area for depuration under a depuration certificate issued by the commissioner is not required to hold a municipal shellfish license.

Sec. 2. 12 MRSA §6856, sub-§§7 and 8 are enacted to read:

7. Resident depuration harvesters. When harvesting soft-shelled clams under a depuration certificate, the person holding the certificate shall, to the extent possible, employ one person who is a resident of the municipality as harvester for every person employed as harvester who is not a resident of that municipality.

8. Payments to municipalities. A person holding a depuration certificate shall pay each municipality an amount equal to 50¢ for each bushel of soft-shelled clams taken in that municipality under that depuration certificate. When submitting payment to a municipality under this subsection, the depuration certificate holder shall include a copy of the applicable record and report of takings submitted to the department pursuant to rules adopted under subsection 4.

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

Effective April 6, 1992.

CHAPTER 832

H.P. 1722 - L.D. 2408

An Act to Implement the Recommendations of the Advisory Committee on Medical Education

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

Sec. 1. 5 MRSA §12004-I, sub-§7, as enacted by PL 1987, c. 786, §5, is amended to read:

7.	Advisory Committee on Medical Education	Not Authorized	20-A MRSA §11807 §12106
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Sec. 2. 10 MRSA §1017, as enacted by PL 1989, c. 698, §10, is repealed.

Sec. 3. 20-A MRSA §11614, sub-§1, as enacted by PL 1989, c. 559, §10, is amended to read:

1. Priority for awards of scholarships. ~~Full-time students~~ Students with the lowest expected family contributions ~~shall~~ must be given priority over all other eligible students for the awards of scholarships.

Sec. 4. 20-A MRSA §11804-A, as amended by PL 1991, c. 612, §5, is further amended to read:

§11804-A. Agreement for contract students after July 1, 1981 and prior to January 1, 1993

1. Agreement. Any state contract student commencing professional education on or after July 1, 1981; and prior to January 1, 1993 shall, as a condition precedent to the commencement of the education, enter into an agreement with the State under which the student shall agree:

A. To pay tuition to the institution; and

B. Upon the conclusion of professional education, including internship, residency, fellowship, obligated public health service and obligated national service, to pay the State an amount of money equal to the difference between the nonresident tuition at the institution being attended by the state contract student and the tuition charged the state contract student.

(1) This amount is payable at 9% simple annual interest over a period not to exceed 10 years; however, students may extend the repayment period by one to 10 years with the approval of the chief executive officer for a total repayment period not to exceed 20 years.

(2) These installment payments ~~shall~~ commence upon conclusion of the state contract student's professional education under rules ~~promulgated~~ adopted by the authority.

~~After the effective date of this paragraph March 16, 1990, the agreement provided for in this subsection must be entered into by the student and the authority.~~

2. Forgiveness. Any student who, upon the conclusion of the student's professional education, including, if applicable, internship, residency, fellowship, obligated public health service and obligated national service, elects to serve as a practitioner of allopathic medicine, dentistry, optometry or veterinary medicine in a designated, underserved area in the State is forgiven 25% of the original outstanding indebtedness for each year of that practice.

A. Any student electing to complete an entire residency at any family practice residency program in the State is forgiven 50% of the original outstanding indebtedness upon completion.

B. Any student electing to serve as a practitioner of allopathic medicine or any other underserved specialty area established by rule under this chapter who practices in an underserved geographic area is forgiven the larger of 25% of the original outstanding indebtedness or \$10,000 for each year of that practice.

Any student who elects to practice in the State and receives the benefits of these provisions shall provide a reasonable level of service to all patients regardless of their ability to pay, including Medicare and Medicaid patients, and participate in public health clinics where necessary.

This subsection applies to all contract students commencing their professional education on or after July 1, 1981 and prior to January 1, 1993.

3. Determination. The Commissioner of Human Services shall determine underserved areas for the practice of allopathic medicine, dentistry and optometry.

The Commissioner of Agriculture, Food and Rural Resources shall determine underserved areas for the practice of veterinary medicine.

4. Deferment. Contract students under this section who, during the repayment period, either return to a Maine practice and then leave the State or who initially remain outside the State and then return to a Maine practice may seek a deferment of the annual principal and interest payments while outside the State for a period of time not to exceed 3 years. Interest must be assessed during this time and the student's total debt to the authority, including principal and interest, must be repaid either through return service or cash payments as established by the chief executive officer. Requests for deferments must be made to the chief executive officer, who shall make a determination on a case-by-case basis. The decision of the chief executive officer is final.

Sec. 5. 20-A MRSA §11805, as amended by PL 1991, c. 572 and c. 612, §6, is repealed.

Sec. 6. 20-A MRSA §11806, sub-§2, as amended by PL 1985, c. 455, §§7, 8 and 11, is repealed.

Sec. 7. 20-A MRSA §11806, sub-§3, as amended by PL 1989, c. 698, §22 and affected by §76, is repealed.

Sec. 8. 20-A MRSA §11807, as amended by PL 1989, c. 698, §23 and affected by §76, is repealed.

Sec. 9. 20-A MRSA §12005, as amended by PL 1991, c. 612, §§10 and 11, is further amended to read:

§12005. Agreement for osteopathic loan students after July 1, 1981 and prior to January 1, 1993

1. Agreement. Any osteopathic loan student commencing professional education on or after July 1, 1981; and prior to January 1, 1993 shall, as a condition precedent to receiving the loan, enter into an agreement with the ~~Commissioner of Education~~ authority stating that following completion of professional education including internship, residency, fellowship, obligated public health service or obligated national service the student will pay the State an amount of money equal to the loan received.

~~After March 16, 1990, the agreement provided for in this subsection must be entered into by the student and the authority.~~

2. Repayment. This amount is payable at 9% simple annual interest over a period not to exceed 10 years; however, students may extend the repayment period by one to 10 years with the approval of the chief executive officer for a total repayment period not to exceed 20 years. These payments commence at such time as the student concludes professional education under rules ~~promulgated~~ adopted by the authority.

3. Deferment. Any student who has received a loan under this section who, during the repayment period, either returns to a Maine practice and then leaves the State or who initially remains out of state and then returns to a Maine practice may seek a deferment of the annual principal and interest payments while outside the State for a period of time not to exceed 3 years. Interest must be assessed during this time and the student's total debt to the authority, including principal and interest, must be repaid either through return service or cash payments within 10 years from the date that marks the beginning of the repayment period. Requests for deferments must be made to the chief executive officer, who shall make a determination on a case-by-case basis. The decision of the chief executive officer is final.

4. Forgiveness. Any student who, upon the conclusion of the student's professional education, including, if applicable, internship, residency, fellowship, obligated public health service; and obligated national service; as defined in section 11802, subsection 7, elects to serve as a practitioner of osteopathic medicine in a designated, underserved area, as determined by the Commissioner of Human Services and as defined in section 11802, subsection 6, in the State is forgiven 25% of the original outstanding indebtedness for each year of that practice.

A. Any student electing to complete an entire residency at any family practice residency program in the State is forgiven 50% of the original outstanding indebtedness upon completion.

B. Any student who practices osteopathic medicine in an underserved geographic area is forgiven the larger of 25% of the original outstanding indebtedness or \$10,000 for each year of that practice.

Any student who elects to practice in the State and receive the benefits of these provisions shall provide a reasonable level of service to all patients regardless of their ability to pay, including Medicare and Medicaid patients, and participate in public health clinics where necessary.

Sec. 10. 20-A MRSA c. 424 is enacted to read:

CHAPTER 424

MEDICAL EDUCATION AND RECRUITMENT

§12101. Definitions

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

1. Authority. "Authority" means the Finance Authority of Maine.

2. Chief executive officer. "Chief executive officer" means the Chief Executive Officer of the Finance Authority of Maine.

3. Clinical education. "Clinical education" means any on-location teaching environment ranging from a one-to-one training between a physician and a medical student to a training in a health clinic or hospital with or without a residency program.

4. Health professional shortage area. "Health professional shortage area" means an area in the State lacking in medical professionals as designated by the Commissioner of Human Services.

5. Insufficient veterinary services. "Insufficient veterinary services" means an insufficient number of practitioners of veterinary medicine in either a veterinary specialty or a geographic area, as determined by the Commissioner of Agriculture, Food and Rural Resources.

6. Maine resident. "Maine resident" means a person who has been a resident of the State for a minimum of one year as determined by rule of the authority who shall consider:

A. Length of residence in Maine for other than tuition purposes;

B. Secondary school attended;

C. Legal residence of parents;

D. Place of voting registration, if registered to vote;

E. Place where taxes are paid; and

F. Other indicators established by the authority.

7. Nonresident tuition. "Nonresident tuition" means tuition charged to persons who are not residents in the state where an institution of allopathic or osteopathic medical education with which the authority has a contract is located. If the institution makes no distinction between the tuition charged resident and nonresident students, then "nonresident tuition" means the tuition charged all students.

8. Primary health care. "Primary health care" means the practice of general or family medicine, internal medicine, pediatrics, and obstetrics and gynecology.

9. Underserved group. "Underserved group" means a population group in the State receiving insufficient primary health care, as determined by the Commissioner of Human Services.

10. Underserved specialty. "Underserved specialty" means a medical specialty in which there are insufficient practitioners either throughout the State or within a designated geographic area of the State, as determined by rule of the Commissioner of Human Services.

§12102. Comprehensive programs

The chief executive officer shall administer the comprehensive programs established in this chapter to address the shortage of primary health care professionals in underserved areas of the State. With the assistance of the Advisory Committee on Medical Education, established by Title 5, section 12004-I, subsection 7, the chief executive officer shall plan, evaluate and update the programs to ensure that Maine residents have access to medical education and to primary health care.

§12103. Access to Medical Education Program

1. Positions. The Access to Medical Education Program is established under this section. Under this program, the chief executive officer shall secure up to 20 positions annually for Maine students at schools of allopathic or osteopathic medical education up to an aggregate of 80 positions. Five positions are for students of osteopathic medicine and 15 positions are for students of allopathic medicine. If there is an insufficient number of qualified applicants for positions in either discipline, the chief executive officer may increase or decrease the number of positions available in either discipline. The positions are available only to eligible students commencing professional education on or after January 1, 1993.

2. Application process. Students shall apply directly to an institution of allopathic or osteopathic medical education with which the authority has a contract to secure positions.

3. Requirements. Each student obtaining a position in an institution of allopathic or osteopathic medical education shall enter into an agreement with the authority by which the student agrees during the student's medical education to complete clinical education in rural areas and health professional shortage areas of this State as provided in the contract between the institutions of medical education and the authority.

4. Repayment of tuition differential. A student receiving a position secured by the authority shall enter into an agreement with the authority promising to pay back to the authority any amounts expended by the authority that reduce the nonresident tuition to be paid by the student. Such an agreement must be on the same terms and conditions as the agreement required by section 12104.

§12104. Loans for medical education

The Health Professions Loan Program, referred to in this section as the "program," is established and is administered by the authority.

1. Eligibility. Loans are available to Maine residents pursuing allopathic, osteopathic, optometric, veterinary and dentistry education who meet eligibility criteria, established by rule of the authority, which at a minimum must require:

A. That the student show financial need for a loan; and

B. That priority be given to students:

(1) Who have previously received a loan pursuant to this section and who exhibit financial need as determined by the authority; or

(2) Who are participants in the access to medical education program established in this chapter.

Loans under this section are available only to eligible students on or after January 1, 1993.

2. State contract students. Students who entered into agreements pursuant to section 11804-A and who are otherwise eligible are eligible for a loan under this program. Any amount the authority paid on behalf of a state contract student under section 11804-A that is not directly used to secure a position at a school of medicine is deemed a loan for purposes of determining the maximum loan amount a student may receive under this section.

3. Maximum loan amount. The chief executive officer may establish the maximum loan amount and may provide for a different maximum loan amount for applicants in different categories.

4. Allocation of loan fund. The loan fund must be allocated as follows.

A. Ninety percent of the loan fund designated for loans must be available for students of allopathic medicine and osteopathic medicine.

B. Up to 10% of the loan fund designated for loans is available for Maine residents studying optometry, veterinary and dental medicine.

5. Loan agreement. The student shall enter into a loan agreement that provides for the following.

A. Upon completion of professional education the student shall repay the loan in accordance with the following schedule.

(1) A loan recipient who does not obtain loan forgiveness pursuant to this section shall repay the entire principal portion of the loan plus simple interest at a rate to be determined by rule of the authority. Interest does not begin to accrue until the loan recipient completes medical education, including residency and internship. The authority may establish differing interest rates to encourage loan recipients to practice primary health care medicine in the State.

(2) Primary health care physicians and dentists practicing in a designated health professional shortage area, any physician practicing in an underserved specialty or any physician providing services to a designated underserved group are forgiven the larger of 25% of the original outstanding indebtedness plus any accrued interest or \$7,500 for each year of practice.

(3) Veterinarians providing services to Maine residents with insufficient veterinary services are forgiven the larger of 25% of the original outstanding indebtedness plus any accrued interest or \$7,500 for each year of practice.

(4) Any student electing to complete an entire residency at any family practice residency program in the State is forgiven 50% of the original outstanding indebtedness for each year of practice in a designated health professional shortage area or as a physician practicing in an underserved specialty or as a physician providing services to an underserved group.

B. Loans must be repaid over a term no greater than 10 years, except that the chief executive officer may extend an individual's term as necessary

to ensure repayment of the loan. Repayment must commence when the loan recipient completes, withdraws from or otherwise fails to continue medical education.

C. Any loan recipient requesting forgiveness or an interest rate reduction under this section, excluding veterinarians, shall report annually to the Department of Human Services, Office of Rural Health the following:

- (1) The number of Medicaid patients served by the loan recipient and the percentage of the loan recipient's overall service provided to Medicaid patients;
- (2) The number of instances in which a loan recipient accepted a Medicare assignment and the number of and basis for any rejections during the period of the report; and
- (3) The amount of time devoted by the loan recipient to practice in a public health clinic during the period of the report.

The Department of Human Services, Office of Rural Health and the Finance Authority of Maine shall determine whether the level of service provided by the loan recipient to Medicaid and Medicare patients and in public health clinics was reasonable. If the Office of Rural Health and the Finance Authority of Maine determine that the level of service provided was not reasonable or if the loan recipient fails to provide the report by the date required, the loan recipient is not entitled to any loan forgiveness or interest rate reduction under this section for the year of the report.

6. Deferments. Deferments may be granted for causes established by rule of the authority. Interest at a rate to be determined by rule of the authority must be assessed during the deferment. The student's total debt to the authority, including principal and interest, must be repaid either through return service or cash payments. The chief executive officer shall make determinations of deferment on a case-by-case basis. The decision of the chief executive officer is final.

§12105. Nonlapsing fund

1. Fund created. A nonlapsing, interest-earning, revolving fund under the jurisdiction of the authority is created to carry out the purposes of this chapter. Any unexpended balance in the fund carries over for continued use under this chapter. The authority may receive, invest and expend, on behalf of the fund, money from gifts, grants, bequests and donations, in addition to money appropriated or allocated by the State. Loan repayments under this chapter or other repayments to the authority must be invested by the authority, as provided by law,

with the earned income to be added to the fund. Money received by the authority on behalf of the fund, except interest income, must be used for the designated purpose; interest income may be used for the designated purpose or to pay student financial assistance administrative costs incurred by the authority.

2. Separate account authorized. The authority may divide the fund into separate accounts it determines necessary or convenient for implementing this chapter, including, but not limited to, accounts reserved for the purchase of positions and accounts reserved for loans.

3. Allocation of repayments. The authority may allocate a portion of the annual loan repayments for the purpose of recruiting primary health care physicians for designated health professional shortage areas. That portion may be used:

A. To generate additional matching funds for recruitment of physicians for designated health professional shortage areas; or

B. In accordance with criteria established by the authority, to encourage primary health care physicians to practice medicine in health professional shortage areas.

§12106. Advisory Committee on Medical Education

1. Committee. The Advisory Committee on Medical Education, established pursuant to Title 5, section 12004-I, subsection 7, shall assist the chief executive officer in evaluating and improving the programs established by this chapter.

2. Members. The Advisory Committee on Medical Education consists of the following 21 members:

A. Ten members appointed by the chief executive officer and subject to approval by the joint standing committee of the Legislature having jurisdiction over education matters. Of these members:

(1) One must be a representative of a major statewide agency representing allopathic physicians;

(2) One must be a representative of a major statewide agency representing osteopathic physicians;

(3) One must be a representative of a major statewide agency representing family physicians;

(4) One must be a member of the major statewide agency representing hospitals;

(5) One must be a representative of the major statewide agency representing community health centers;

(6) One must be a representative of a non-profit hospital medical services organization;

(7) One must be a representative of an association of commercial health insurance companies doing business in the State;

(8) One must be a representative of a statewide area health education center program; and

(9) Two must be at-large members;

B. The Commissioner of Human Services or the commissioner's designee;

C. The Executive Director of the Maine Health Care Finance Commission or the executive director's designee;

D. Three at-large members from areas of the State lacking reasonable access to health care: one appointed by the Governor; one appointed by the President of the Senate; and one appointed by the Speaker of the House of Representatives, all of whom are subject to approval by the joint standing committee of the Legislature having jurisdiction over education matters; and

E. Six nonvoting members to be appointed by the chief executive officer and subject to approval by the joint standing committee of the Legislature having jurisdiction over education matters. These members must include:

(1) A chief executive of a family practice residency in the State;

(2) A representative of an institution of allopathic medical education at which the authority secures positions for students;

(3) A representative of an institution of osteopathic medical education at which the authority secures positions for students;

(4) A Maine student who has obtained a position secured by the authority at an institution of allopathic medical education;

(5) A Maine student who has obtained a position secured by the authority at an institution of osteopathic medical education; and

(6) A representative of a major teaching hospital in the State.

3. Vacancies. In the case of vacancies or resignations, appointments must be made as for a new member to fill the vacancies until the expiration of the terms.

4. Terms. The terms of office for all appointees is 2 years.

§12107. Rules

The authority shall establish rules necessary to implement this chapter. The Commissioner of Human Services shall develop rules for determining health professional shortage areas for the practice of primary health care medicine and dentistry, for determining the reasonableness of the service provided by loan recipients to Medicaid and Medicare patients and participation by loan recipients in public health clinics, for determining underserved groups and for determining underserved specialties. The Commissioner of Agriculture, Food and Rural Resources shall develop rules for the determination of insufficient veterinary services. The rules authorized by this section must be adopted in accordance with Title 5, chapter 375, subchapter II.

Sec. 11. Request for proposals. The Finance Authority of Maine shall prepare and publicize a request for proposals designed to select one or more institutions of allopathic medical education and one or more institutions of osteopathic medical education with education programs that will increase the likelihood of Maine students receiving the benefits of the Access to Medical Education Program to select primary health care specialties and to practice in rural areas of the State. In evaluating institutions of medical education, the authority shall at a minimum consider: whether the institution has a formal department of family medicine; whether the institution is affiliated with primary teaching hospitals with a family practice or general internal medicine residency; the history of the institution of graduating students who practice in rural areas or areas experiencing a shortage in health care professionals; the cost of the program; the special tuition arrangements offered for Maine residents; whether the program requires primary health care rotations in the State; whether the program offers meaningful rural clinical education that includes goals, objectives and specific outcomes; whether the program utilizes existing educational systems within the State; whether the program has any relationship with Maine residency programs; whether the institution will include an admission committee member from Maine; and whether the admission process will allow for a preference for students from rural areas and students demonstrating a serious interest in entering primary health care practice. The authority shall review responses to the request and enter into a contract with each institution selected. The contracts may be on such terms and conditions as determined expedient or necessary by the Chief Executive Officer of the Finance Authority of Maine to carry out the purposes of the program. The contracts may include a process to provide priority for students demonstrating a spe-

cial interest in entering into primary health care practice in the State.

Sec. 12. Funds transferred. On January 1, 1993, any funds remaining in the revolving fund established under the Maine Revised Statutes, Title 20-A, section 11808 and in the State Osteopathic Loan Fund established under Title 20-A, section 12002-A are transferred to and repayments required to be made to either one of those funds on or after January 1, 1993, must be paid to the fund established under Title 20-A, section 12105.

Sec. 13. Effect of repeal. The repeal of the Maine Revised Statutes, Title 20-A, section 11805 accomplished in this Act is not intended to affect contracts existing on or before December 31, 1992 that were entered into pursuant to Title 20-A, chapter 421.

Sec. 14. Effective date. The following sections of this Act take effect January 1, 1993: the section that repeals the Maine Revised Statutes, Title 20-A, section 11805; the sections that repeal Title 20-A, section 11806, subsections 2 and 3; and the section that repeals Title 20-A, section 11807.

See title page for effective date,
unless otherwise indicated.

CHAPTER 833

S.P. 967 - L.D. 2446

An Act Regarding Plastic Rings and Other Plastic Holding Devices

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

Sec. 1. 7 MRSA §18, sub-§2, as enacted by PL 1991, c. 415, §1, is repealed.

Sec. 2. 7 MRSA §18, sub-§2-A is enacted to read:

2-A. Exceptions. Notwithstanding subsection 1, a person may sell or offer to sell products in containers connected to each other with a plastic holding device that decomposes by photodegradation, chemical degradation or biodegradation within a reasonable period of time upon exposure to the elements and that:

A. Is designed or manufactured to be broken when a container is removed;

B. Breaks simultaneously with the removal of the container; or

C. Is approved for sale by the commissioner as an experimental device. The commissioner may ap-

prove a device as experimental under this paragraph only if the commissioner determines that the device conforms with the intent of this subsection. The commissioner shall notify in writing each member of the joint standing committee of the Legislature having jurisdiction over energy and natural resources matters immediately upon receiving a request for approval of an experimental device. Such notification must include the date the request was received, the name of the person or business requesting approval and a brief description of the device.

This subsection is repealed on October 1, 1993.

Sec. 2. Legislative intent. The purpose of this Act is to allow manufacturers of plastic holding devices sufficient time to develop a plastic holding device that breaks simultaneously with the removal of the container. It is the intent of the Legislature that, after October 1, 1993, the sale of products in containers connected by plastic rings or other plastic holding devices be prohibited or, if the Legislature determines under the provisions of this Act that an acceptable product will be commercially available by that date, that the sale of plastic holding devices be limited to plastic holding devices that break simultaneously with the removal of each container.

Sec. 3. Report; manufacturers and distributors. Those persons who are manufacturers or distributors of products sold in the State in containers connected by plastic holding devices shall report to the joint standing committee of the Legislature having jurisdiction over energy and natural resource matters by May 1, 1993. That report must include a demonstration of a plastic holding device that breaks simultaneously with the removal of each container. If the device demonstrated to the committee is a prototype device that is not in commercial distribution, the report must indicate when the device could be commercially distributed in the State.

Sec. 4. Report; Maine Waste Management Agency. The Maine Waste Management Agency shall report to the joint standing committee of the Legislature having jurisdiction over energy and natural resource matters by May 1, 1993 on the types of devices used to connect products sold in containers. The report must list and describe connecting devices made of plastic, paper or other materials that are produced by manufacturers based in the United States and are distributed in the United States or elsewhere. To the extent possible, the report must describe connecting devices under development but not yet in commercial distribution. In presenting its report, the agency shall clearly highlight any commercially distributed or prototype plastic holding devices identified by the agency that break simultaneously upon the removal of a container. In preparing the report, the agency may seek assistance from the University of Maine System.