

# 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 electronic originals  
(may include minor formatting differences from printed original)

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

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 7, 1994 to June 30, 1995**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 29, 1995**

**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**  
**1995**

**Sec. O-9. 24-A MRSA §4230**, as enacted by PL 1989, c. 345, §2, is repealed.

**Sec. O-10. 24-A MRSA §4231, sub-§3**, as enacted by PL 1989, c. 842, §18, is repealed.

**Sec. O-11. 24-A MRSA §4233, sub-§1**, as enacted by PL 1993, c. 313, §36, is repealed.

### PART P

**Sec. P-1. 24-A MRSA §2671, sub-§1**, as enacted by PL 1985, c. 704, §4, is amended to read:

1. "Administrator" means any person, partnership or corporation, other than an insurer, health maintenance organization or nonprofit health service organization, that arranges, contracts with or administers contracts with a provider ~~whereby~~ in which beneficiaries are provided an incentive to use the services of that provider.

### PART Q

**Sec. Q-1. Bureau of Insurance report required.** The Bureau of Insurance shall report to the joint standing committee of the Legislature having jurisdiction over banking and insurance matters on or before January 1, 1996 on the alternatives for clarifying the guaranteed issuance requirement for small group health plans under the Maine Revised Statutes, Title 24-A, section 2808-B. The committee may then report out legislation based on the bureau's report.

See title page for effective date.

---



---

## CHAPTER 333

### S.P. 383 - L.D. 1060

#### **An Act to Correct Errors and Inconsistencies with Regard to the Restructuring of Maine Government to Conform with the Provisions of the Texas Compact**

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

**Whereas**, this legislation corrects inadvertent errors and inconsistencies in legislation previously enacted to streamline the regulatory functions of the State and alter the regulation of radioactive waste in the State; and

**Whereas**, the changes would be beneficial to the State if made immediately; 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. 22 MRSA §679-B, sub-§2**, as enacted by PL 1993, c. 664, §10, is amended to read:

**2. Service fee; ceiling.** Except for waste that is exempt in accordance with subsection 4, the department shall assess annually by September 1st each low-level radioactive waste generator a service fee on all low-level radioactive waste generated in this State that is shipped to a low-level radioactive waste disposal facility, stored awaiting disposal at such a facility or stored for any other purpose. The service fee must be based 50% on the volume and 50% on the radioactivity of the waste disposed in a disposal facility in the previous calendar year or placed in storage in the previous calendar year if the State did not have access to a disposal facility for that year, but each generator must be assessed a minimum of \$100 annually. Each generator must pay this service fee within 30 days, except that any generator may choose to make quarterly payments instead. Any radioactive waste for which a service fee was assessed and collected under this section can not be reassessed for the purposes of this section. The radiation control program within the Division of Health Engineering shall adopt rules in accordance with the Maine Administrative Procedure Act concerning the calculation of the fee and the exemptions to the fee, consistent with this section. The revenue from this service fee each year must amount to ~~\$260,000~~ \$135,000 and must be credited to the fund established in subsection 1 and used to carry out the purposes of this section and of Title 38, section 1453-A. If the Advisory Commission on Radioactive Waste, as established in Title 38, section 1453-A is dissolved, the service fee ceiling must be lowered by the amount of the budget of that commission.

**Sec. 2. 22 MRSA §679-B, sub-§5**, as enacted by PL 1993, c. 664, §10, is amended to read:

**5. Allocation from fund.** Money in the Radioactive Waste Fund established by this section must be allocated from time to time by the Legislature for the following purposes: to the Radioactive Waste Advisory Commission Fund as established in Title 38, section 1454-A to fund the activities of the Advisory Commission on Radioactive Waste as described in Title 38, section 1453-A for advisory and public information activities; and to the department for administrative and regulatory activities as described in

this section. These amounts become available in accordance with Title 5, chapters 141 to 155.

The department may receive and expend federal grants and payments for the purpose of carrying out its duties set out in section 679-A, subsection 2. ~~The money received by the department from federal sources may not be counted toward the ceiling established in subsection 2.~~

**Sec. 3. 38 MRSA §1453-A, sub-§2**, as enacted by PL 1993, c. 664, §15 and affected by §21, is amended to read:

**2. Membership; appointment.** The commission consists of 16 members, appointed as follows:

A. The commissioner or the commissioner's designee;

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

C. The State Geologist or a designee;

D. One person from a commercial nuclear power facility situated in the State, appointed by the Governor;

E. Two persons from organizations that hold licenses issued by the State for the use of radioactive material, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives;

F. Three Senators, appointed by the President of the Senate, 2 belonging to the political party holding the largest number of seats in the Senate and one belonging to the political party holding the 2nd largest number of seats in the Senate;

G. Three members of the House of Representatives, appointed by the Speaker of the House of Representatives, 2 belonging to the political party holding the largest number of seats in the House of Representatives and one belonging to the political party holding the 2nd largest number of seats in the House of Representatives; and

H. Four members of the general public with a knowledge of and interest in the management of radioactive materials and radioactive waste, 2 of whom are appointed by the Governor, one of whom is appointed by the President of the Senate and one of whom is appointed by the Speaker of the House of Representatives.

The terms of the legislative members expire the first Wednesday in December of even-numbered years. The terms of the public member appointed by the President of the Senate, one public member appointed by the Governor and the licensee member appointed

by the Speaker of the House of Representatives expire ~~December 31st of odd-numbered 31, 1997 and every 2 years thereafter.~~ The terms of the public member appointed by the Speaker of the House of Representatives, the licensee member appointed by the President of the Senate and one public member appointed by the Governor expire ~~December 31st of even-numbered 31, 1996 and every 2 years thereafter.~~ Notwithstanding this subsection, any public member or licensee member may be removed by the appointing authority at the pleasure of the appointing authority and a new member may be appointed to complete the term of the preceding appointee. Members may continue to serve until their replacements are designated. Vacancies must be filled by the appointing authority to complete the term of the preceding appointee. The commission shall elect the chair and vice-chair from its membership by majority vote of all members present.

**Sec. 4. 38 MRSA §1453-A, sub-§6**, as enacted by PL 1993, c. 664, §15 and affected by §21, is amended to read:

**6. Staff assistance.** ~~The department~~ Department of Human Services shall provide assistance to the commission in the conduct of its business. The State Nuclear Safety Advisor and the Public Advocate shall provide consultation as requested.

**Sec. 5. 38 MRSA §1454-A, sub-§§1, 2, 4 and 5**, as enacted by PL 1993, c. 664, §17, are amended to read:

**1. Establishment.** There is established the Radioactive Waste Advisory Commission Fund to be used to carry out the purposes of this chapter. Money allocated to the commission ~~and to the Department of Environmental Protection~~ from this fund must be administered by the Commissioner of ~~Environmental Protection~~ Human Services in accordance with established budgetary procedures and this section. The commissioner may accept state, federal and private funds to be used as appropriate to carry out the functions of the Advisory Commission on Radioactive Waste as set forth in section 1453-A.

**2. Allocation.** Money in the fund established by this section must be allocated from time to time by the Legislature to the ~~department~~ Department of Human Services to fund advisory and public information activities of the commission. These amounts ~~shall~~ become available in accordance with Title 5, chapters 141 to 155.

The commission may receive and expend federal grants and payments for the purpose of carrying out its duties.

**4. Financial reports.** ~~The commissioner~~ Commissioner of Human Services shall report quarterly to the Advisory Commission on Radioactive

Waste and annually, before February 1st, to the joint standing committee of the Legislature having jurisdiction over natural resource matters on the expenditures from the Radioactive Waste Advisory Commission Fund for the previous fiscal year and on the budget for the coming year. Those reports must include line item detail on expenditures, including in-state travel and out-of-state travel, printing, mailing and hearings, personnel, consultant services, general operating expenses, supplies and overhead for the commission and transfers of funds under subsection 5.

**5. Transfer of funds.** Notwithstanding Title 5, section 1585, funds allocated under this section may be transferred as necessary to accomplish the purposes of this chapter from the Department of ~~Environmental Protection~~ Human Services to other agencies, including the Department of Environmental Protection, Maine Geological Survey, Maine Land Use Regulation Commission, Division of Health Engineering and the State Planning Office.

**Sec. 6.** 38 MRSA §§1546 to 1550 are enacted to read:

**§1546. Policy and findings**

The Legislature declares and finds that there are numerous facilities in the State that generate low-level radioactive waste for commercial, research, medical, educational and defense purposes and that these facilities currently do not have access to a commercial low-level radioactive waste disposal facility. The Legislature further finds that loss of disposal capacity will present economic, environmental and public health and safety risks when existing generators of low-level radioactive waste exhaust on-site storage capacity. It is the purpose of this chapter to:

**1. Comply with federal law.** Comply with the federal Low-Level Radioactive Waste Policy Amendments Act of 1985, authorizing states to combine in the formation of an interstate compact to provide for the disposal of low-level radioactive waste generated within their borders;

**2. Comply with legislative intent.** Fulfill the intent of section 1474;

**3. Enact an interstate compact.** Enact an interstate compact for the disposal of all low-level radioactive waste generated in the State that is not a federal responsibility under the federal Low-Level Radioactive Waste Policy Amendments Act of 1985; and

**4. Ensure equitable funding.** Ensure that the funding of the compact enacted by this chapter is borne by the generators of this waste.

**§1547. Member of commission**

The Governor shall appoint a person to represent the State on the commission established by Article III of the Texas Low-Level Radioactive Waste Disposal Compact, referred to in this chapter as the "compact." The Governor may appoint an alternate for the commission member appointed under this section.

**§1548. Term of commission member**

The commission member serves for a term of 6 years and until a successor is appointed and qualified. If there is a vacancy in the commission member's office, the Governor shall appoint a replacement to fill the unexpired term.

**§1549. Compensation of commission member**

The commission member is entitled to compensation at the rate established for legislative per diem in Title 5, section 12002 and for reimbursement for actual and necessary expenses incurred in the performance of the commission member's duties. If a state employee is appointed as a commission member, that state employee is not entitled to the legislative per diem.

**§1550. Nondiscrimination in access**

A generator of low-level radioactive waste in this State that existed on the effective date of this chapter, including any nuclear plant, may not be discriminated against with respect to access to disposal capacity at the compact facility.

**Sec. 7. Transition.** The Department of Environmental Protection shall transfer to the Department of Human Services all personal property, equipment and files, account balances and any other liabilities and obligations consistent with the support of the Radioactive Waste Advisory Commission. The Department of Environmental Protection must be reimbursed or otherwise made whole by the Radioactive Waste Advisory Commission Fund for any costs associated with the transfer of staffing responsibilities, including but not limited to costs associated with the layoff of staff, the termination of leases and the resolution of any other obligations.

**Sec. 8. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1995-96	1996-97
---------	---------

ENVIRONMENTAL  
PROTECTION,  
DEPARTMENT OF

Advisory Commission on  
Radioactive Waste

Positions - Other Count	(-2.0)	(-2.0)
Personal Services	(\$84,718)	(\$93,265)
All Other	(42,166)	(43,356)

Deallocates funds to reflect the transfer of the staffing responsibility for the Advisory Commission on Radioactive Waste from the Department of Environmental Protection to the Department of Human Services.

<b>DEPARTMENT OF ENVIRONMENTAL PROTECTION</b>		
<b>TOTAL</b>	(126,884)	(136,621)

**HUMAN SERVICES, DEPARTMENT OF**

**Health - Bureau of**

All Other	10,000	10,000
-----------	--------	--------

Allocates funds to reflect the transfer of the staffing responsibility for the Advisory Commission on Radioactive Waste from the Department of Environmental Protection to the Department of Human Services.

<b>DEPARTMENT OF HUMAN SERVICES</b>		
<b>TOTAL</b>	10,000	10,000

<b>TOTAL ALLOCATIONS</b>	(\$116,884)	(\$126,621)
--------------------------	-------------	-------------

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

Effective June 27, 1995.

---

**CHAPTER 334**

**H.P. 100 - L.D. 135**

**An Act Relating to Telephone Solicitation**

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

**Sec. 1. 10 MRSA c. 225** is amended by repealing the chapter headnote and enacting the following in its place:

**CHAPTER 225**

**TELEPHONE SOLICITATION**

**Sec. 2. 10 MRSA §1499**, as amended by PL 1993, c. 589, §1, is repealed and the following enacted in its place:

**§1499. Telephone solicitation**

**1. Prohibition.** A person or entity may not initiate a solicitation call to a residential telephone subscriber in this State who has notified that person or entity, pursuant to Federal Communications Commission Regulations, 47 Code of Federal Regulations, Part 64, Section 64.1200, Paragraph e, as in effect on January 1, 1995, of the subscriber's wish not to receive solicitation calls made by or on behalf of that person or entity.

**2. Civil action.** A person within this State who has received within any 12-month period more than one telephone call in violation of subsection 1 by or on behalf of the same person or entity may bring an action in an appropriate state court for either or both of the following:

A. An injunction to stop future calls; or

B. Recovery of actual monetary losses from each violation or up to \$500 in damages for each violation, whichever is greater.

It is an affirmative defense in any action brought under this subsection that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of subsection 1.

If the court finds that the defendant willfully or knowingly violated subsection 1, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under paragraph B.

**3. Attorney General action.** Whenever the Attorney General has reason to believe that any person within this State has engaged or is engaging in a pattern or practice of telephone calls in violation of subsection 1, the Attorney General may bring a civil action on behalf of consumers for either or both of the following:

A. An injunction to stop future calls; or

B. Recovery of actual monetary losses from each violation or up to \$500 in damages for each violation.

If the court finds the defendant willfully or knowingly violated subsection 1, the court may, in its discretion, increase the amount of the award to an amount equal