

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

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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

A receivership ~~shall~~ may not be terminated in favor of the former or the new licensee, unless ~~such that~~ person assumes all obligations incurred by the receiver and provides collateral or other assurances of payment ~~deemed~~ considered sufficient by the court.

§7937. Court order to have effect of license

An order appointing a receiver under section 7933 ~~shall have~~ has the effect of a license for the duration of the receivership. The receiver ~~shall be~~ is responsible to the court for the conduct of the facility or home health care provider during the receivership, and ~~any~~ a violation of regulations governing the conduct of the facility or home health care provider, if not promptly corrected, ~~shall~~ must be reported by the department to the court.

See title page for effective date.

CHAPTER 621

H.P. 1311 - L.D. 1795

An Act to Clarify the Laws Pertaining to the Regulation of Narcotic Dependency Treatment Programs

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

Sec. 1. 5 MRSA §20053, sub-§5, ¶¶C and D, as enacted by PL 1995, c. 499, §1 and affected by §5, are amended to read:

C. Standards for the distribution of scheduled or prescription drugs and controlled substances and for the security of these drugs and controlled substances consistent with the rules adopted by the Board of Commissioners of the Profession of Pharmacy, including, but not limited to, the use of ~~identifiable~~ appropriately labeled containers in dispensing the drugs and controlled substances;

D. Procedures for the immediate disclosure to regulatory and law enforcement authorities by treatment programs of any lost, missing, stolen ~~or~~, diverted, spilled or contaminated scheduled or prescription drugs or controlled substances;

Sec. 2. 5 MRSA §20053, sub-§7, as enacted by PL 1995, c. 499, §1 and affected by §5, is amended to read:

7. Employees. ~~Except as authorized by the Director of the Office of Substance Abuse, a~~ A person may not be employed by or contract with a treatment program in a capacity in which that person handles or has access to scheduled or prescription drugs or

controlled substances if that person has been convicted of a felony or an offense related to the possession, use, sale or distribution of scheduled or prescription drugs or controlled substances under Title 17-A, chapter 45, or under any law of another jurisdiction. The director may authorize an exception to this employment prohibition if the following circumstances exist:

A. Federal regulations do not prohibit such employment;

B. The prospective employee or contractor has obtained any required waiver from the federal Drug Enforcement Administration; and

C. The director determines that there is no substantial risk to the integrity of the program.

Promptly after authorizing an exception under this subsection, the director shall notify the Maine Drug Enforcement Agency and the law enforcement agency of the county or municipality in which the treatment program is located.

Sec. 3. 22 MRSA §2383-B, sub-§4, as enacted by PL 1995, c. 499, §3 and affected by §5, is repealed.

Sec. 4. 32 MRSA §13723, sub-§7, ¶C, as enacted by PL 1995, c. 499, §4 and affected by §5, is repealed.

See title page for effective date.

CHAPTER 622

H.P. 1268 - L.D. 1743

An Act to Establish Consistency between Federal and State Drinking Water Laws

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

Sec. 1. 22 MRSA §2613, sub-§1, as amended by PL 1979, c. 541, Pt. B, §28, is further amended to read:

1. Variances. The commissioner may grant one or more variances from an applicable state primary ~~water~~ drinking water regulation to a public water system, if the variance will not result in an unreasonable risk to the public health, and if:

A. Because of the characteristics of the raw water sources reasonably available to the systems, the system ~~cannot~~ can not meet the maximum contaminant levels of ~~such~~ the drinking water regulation despite application of the best ~~feasible~~

technology, treatment techniques or other means;
or

B. Where a specified treatment technique for a ~~contaminate~~ contaminant is required by the state primary ~~water~~ drinking water regulation, the system demonstrates to the commissioner's satisfaction that ~~such~~ the treatment technique is not required to protect the public health because of the nature of the raw water source.

Prior to granting a variance, the commissioner shall provide an opportunity for public hearing pursuant to the Maine Administrative Procedure Act on the proposed variance. Variances may be conditioned on monitoring, testing, analyzing or other requirements to ~~insure~~ ensure the protection of the public health; and variances granted under paragraph A, ~~shall~~ must include a compliance schedule under which the public water system will meet each contaminant level for which a variance is granted as expeditiously as is feasible.

Sec. 2. 22 MRSA §2613, sub-§2, as amended by PL 1979, c. 541, Pt. B, §29, is further amended to read:

2. Exemptions. The commissioner may grant one or more exemptions from an applicable state primary ~~water~~ drinking water regulation to a public water system, if:

A. The exemption will not result in an unreasonable risk to the public health;

B. The public water system is unable to comply with the regulation due to compelling factors, which may include economic factors; and

C. The public water system was in operation on the earliest effective date under present or prior law of the contaminant level or treatment technique requirement.

Prior to implementation of a schedule for compliance with contaminant level or treatment technique requirements and for implementation of control measures, the commissioner shall provide notice and opportunity for public hearing pursuant to the requirements of the Maine Administrative Procedure Act. Each exemption ~~shall~~ must also be conditioned on monitoring, testing, analyzing or other requirements to ~~insure~~ ensure the protection of the public health, and ~~shall~~ must include a compliance schedule under which the public water system will meet each contaminant level for which an exemption is granted as expeditiously as is feasible ~~and in any event not later than 7 years after the adoption of the state primary drinking regulation.~~

Sec. 3. 22 MRSA §2613, sub-§4 is enacted to read:

4. Exemption; extended. The exemption is effective for up to one year after the date of the issuance of the exemption.

A. The final date for compliance provided in any schedule in an exemption may be extended for a period not to exceed 3 years after the date of the issuance of the exemption if:

(1) The public water system can not meet the standards without capital improvements that can not be completed within the period of the exemption;

(2) In the case of a public water system that needs financial assistance for the necessary improvements, the system has entered into an agreement to obtain financial assistance; or

(3) The public water system has entered into an enforceable agreement to become part of a regional public water system and the system is taking practicable steps to meet the standards.

B. In the case of a system that does not serve more than 500 service connections and that needs financial assistance for the necessary improvements, an exemption granted may be renewed for one or more additional 2-year periods if the system establishes that it is taking all practicable steps to meet the requirements established in the exemption.

Sec. 4. 22 MRSA §2614, sub-§3 is enacted to read:

3. Boil-water order. For the purposes of this section and section 2615, "boil-water order" means an order issued by the commissioner to protect the health of persons consuming water from a public water system that may be contaminated by pathogenic microorganisms.

The boil-water order may immediately require the supplier of water to complete public notification of the threat to public health pursuant to section 2615.

A boil-water order may be issued when, in the judgment of the commissioner, a threat to the public health may exist from the presence of pathogenic microorganisms in a public water system. A boil-water order may be issued without a prior public hearing and served on the supplier of water by personal service, certified mail or by any other method if receipt is acknowledged by the supplier of water. At the written request of a supplier of water, a public

hearing must be held on the boil-water order within 15 days of the receipt of the request.

Sec. 5. 22 MRSA §2615, sub-§1, as enacted by PL 1975, c. 751, §4, is repealed and the following enacted in its place:

1. Notification. A public water system shall notify the public of the nature and extent of possible health effects as soon as practicable, but not later than the time periods established under subsection 4, if the system:

A. Is not in compliance with a state drinking water rule;

B. Fails to perform monitoring, testing or analyzing or fails to provide samples as required by departmental rules;

C. Is subject to a variance or an exemption granted under section 2613; or

D. Is not in compliance with the terms of a variance or an exemption granted under section 2613.

Public notification under this section must be provided concurrently to the system's local health officer and to the department. When required by law, the department shall forward a copy of the notification to the Administrator of the United States Environmental Protection Agency. The department may require notification to a public water system's individual customers by mail delivery or by hand delivery within a reasonable time, but not earlier than required under federal laws.

Sec. 6. 22 MRSA §2615, sub-§§3 to 5 are enacted to read:

3. Form of notification. In addition to the notification required under subsection 1, a public water system shall provide public notification by furnishing a copy of the information required under subsection 1 in accordance with this subsection. A public water system that may provide notification via newspaper or media may voluntarily provide notification to its customers via mail or hand delivery. Notification must be provided:

A. To a daily newspaper or the communications media covering the territory served by the system; or

B. When a public water system is not served by a daily newspaper or communications media, or when a public water system is a nontransient, noncommunity system, directly to its customers via hand delivery or through continuous posting in conspicuous places reasonably calculated to

reach the customers within the territory served by the system.

4. Timing of notification. A public water system shall provide public notification pursuant to subsection 3 on a notification schedule as follows:

A. When a boil-water order is properly issued to a public water system under section 2614, subsection 3, within 24 hours;

B. When a violation of a maximum contaminant level does not result in an acute risk to public health, when a treatment technique is required or when a schedule is contained within a variance or an exemption, within 14 days;

C. When a violation of a maximum contaminant level results in an acute risk to public health, within 72 hours of the identification of the violation;

D. For minor monitoring violations, as defined by the commissioner by rule, at least once annually;

E. For monitoring violations, other than for minor monitoring violations, within 90 days of the identification of the violation and at least once annually; and

F. For ongoing violations, once notification for a violation under this section has been provided, notification by mail delivery or by hand delivery at least once every 3 months for as long as the violation continues.

5. Rulemaking. The commissioner shall adopt rules establishing the procedures for the provision of public notification as required to comply with state and federal laws. Rules adopted pursuant to this section are minor technical rules as defined in Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 623

H.P. 1285 - L.D. 1765

An Act to Amend the Standards for Appointing the Guardian of a Minor

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

Sec. 1. 18-A MRSA §5-204, as enacted by PL 1979, c. 540, §1, is repealed and the following enacted in its place: