

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

CHAPTER 115**H.P. 92 - L.D. 116****An Act to Amend the Law Regarding
Fog Lights****Be it enacted by the People of the State of
Maine as follows:**

Sec. 1. 29-A MRSA §2067, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Dimming. When a vehicle equipped with multiple-beam road lights approaches an oncoming vehicle within 500 feet or follows a vehicle within 300 feet, the operator shall dim the headlights or switch to a low beam and shall turn off a fog or auxiliary light allowed by section 2054, subsection 2, paragraph E that exceeds 20,000 candlepower.

See title page for effective date.

CHAPTER 116**S.P. 45 - L.D. 155****An Act to Amend the Laws
Regarding Hunting from a Public
Paved Way****Be it enacted by the People of the State of
Maine as follows:**

Sec. 1. 12 MRSA §7406, sub-§7, as amended by PL 1993, c. 212, §1, is further amended to read:

7. Hunting from or across a public paved way. A person is guilty of hunting from or across a public paved way if that person hunts any wild animal or wild bird from any public paved way or within 10 feet of the edge of the pavement of the public paved way or from within the right-of-way of any controlled access highway or discharges any firearm across a public paved way. Nothing in this subsection prohibits a person who has a valid permit to carry a concealed weapon from possessing such a weapon on or near a public paved way as long as it is not used for hunting wild animals or wild birds or discharged in violation of this subsection.

Sec. 2. 12 MRSA §7946, as amended by PL 1993, c. 212, §2, is further amended to read:

§7946. Possession of firearm on public paved way

Possession of a loaded firearm on a public paved way or within 10 feet of the edge of the pavement of a

public paved way or within the right-of-way of any controlled access highway, except as provided in section 7406, subsection 7, is prima facie evidence of hunting.

See title page for effective date.

CHAPTER 117**S.P. 78 - L.D. 217****An Act to Amend the Optometry
Licensing Laws and to Allow Maine
Citizens to Fill Contact Lens
Prescriptions through the Mail****Be it enacted by the People of the State of
Maine as follows:**

Sec. 1. 32 MRSA §2417, sub-§4-A, as amended by PL 1993, c. 600, Pt. A, §146, is further amended to read:

4-A. Release of contact lens prescription. After contact lenses have been adequately fitted and the patient released from immediate follow-up care by the optometrist, the patient may request a copy of the contact lens specifications from the optometrist. Upon patient request, the optometrist shall provide a copy of the prescription, at no cost, which must contain the information necessary to properly duplicate the current prescription. The contact lens prescription must contain an expiration date not to exceed 24 months from the date of issue. The prescription may contain fitting guidelines and may also contain specific instructions for use by the patient.

The prescribing optometrist is not liable for an injury or condition to a patient that results from negligence in packaging, manufacturing or dispensing lenses by anyone other than the prescribing optometrist.

The dispensing party may dispense contact lenses only upon receipt of a written prescription, except that an optometrist may fill a prescription of another optometrist or a physician without a copy of the prescription. ~~Except in the case of a physician who has previously seen the wearer, a contact lens prescription may not be filled by mail but must be filled by being personally dispensed to the contact lens wearer.~~ Mail order contact lens suppliers must be licensed by and register with the Board of Commissioners of the Profession of Pharmacy pursuant to section 13751, subsection 3-A and are subject to discipline by that board for violations of that board's rules and the laws governing the board. An individual who fills a contact lens prescription shall maintain a file of that prescription for a period of 6 5 years. An individual, corporation or other entity, other than a mail order contact lens supplier, that improperly fills a contact lens prescrip-

tion or fills an expired prescription commits a civil violation for which a forfeiture of not less than \$250 nor more than \$1,000 may be adjudged.

An individual may file a complaint with the board seeking disciplinary action concerning violations of this subsection. The board shall investigate or cause to be investigated and shall resolve a complaint in a timely fashion on its own motion or upon receipt of a written complaint. The board shall conduct its actions in accordance with the Maine Administrative Procedure Act.

Sec. 2. 32 MRSA §2420, as enacted by PL 1995, c. 606, §5, is amended to read:

§2420. Notification to Board of Commissioners of the Profession of Pharmacy

Every year at the completion of the license renewal cycle, the board shall provide to the Board of Commissioners of the Profession of Pharmacy a current listing of all licensees designating licensees who may prescribe pharmaceuticals pursuant to therapeutic or advanced therapeutic licensure and the pharmaceuticals those licensees may prescribe.

Sec. 3. 32 MRSA §2423, sub-§1, as amended by PL 1995, c. 606, §7, is further amended to read:

1. Annual renewal. Every licensed optometrist practicing in the State shall pay annually, before the first day of April, to the board a license renewal fee not in excess of \$200 as established by the board under section 2417. ~~Beginning July 1, 1999, therapeutic licenses are not renewable.~~

Sec. 4. 32 MRSA §2425, as amended by PL 1993, c. 600, Pt. A, §156, is further amended to read:

§2425. Display of license

Every individual to whom a license is granted shall display the license in a conspicuous part of the office where the licensee practices. An optometrist awarded credentials by the board in the use of diagnostic ~~and~~ therapeutic or advanced therapeutic pharmaceuticals shall affix current documentation of these privileges to that optometrist's license as provided by the board upon annual renewal.

Sec. 5. 32 MRSA §2600, first ¶, as enacted by PL 1991, c. 675, §4, is amended to read:

After contact lenses have been adequately fitted and the patient released from immediate follow-up care by the physician, the patient may request a copy of the contact lens specifications from the physician. The physician shall provide a copy of the prescription, at no cost, which must contain the information necessary to properly duplicate the current prescrip-

tion. The contact lens prescription must contain an expiration date not to exceed 24 months from the date of issue. The prescription may contain fitting guidelines and may also contain specific instructions for use by the patient.

Sec. 6. 32 MRSA §2600, 3rd ¶, as amended by PL 1993, c. 600, Pt. A, §195, is further amended to read:

The dispensing party may dispense contact lenses only upon receipt of a written prescription, except that a physician may fill a prescription of an optometrist or another physician without a copy of the prescription. ~~Except in the case of a physician who has previously seen the wearer, a contact lens prescription may not be filled by mail, but must be filled by being personally dispensed to the contact lens wearer.~~ Mail order contact lens suppliers must be licensed by and register with the Board of Commissioners of the Profession of Pharmacy pursuant to section 13751, subsection 3-A and are subject to discipline by that board for violations of that board's rules and the laws governing the board. An individual who fills a contact lens prescription shall maintain a file of that prescription for a period of 6 5 years. An individual, corporation or other entity, other than a mail order contact lens supplier, that improperly fills a contact lens prescription or fills an expired prescription commits a civil violation for which a forfeiture of not less than \$250 nor more than \$1,000 may be adjudged.

Sec. 7. 32 MRSA §3300, first ¶, as enacted by PL 1991, c. 675, §5, is amended to read:

After contact lenses have been adequately fitted and the patient released from immediate follow-up care by the physician, the patient may request a copy of the contact lens specifications from the physician. The physician shall provide a copy of the prescription, at no cost, which must contain the information necessary to properly duplicate the current prescription. The contact lens prescription must contain an expiration date not to exceed 24 months from the date of issue. The prescription may contain fitting guidelines and may also contain specific instructions for use by the patient.

Sec. 8. 32 MRSA §3300, 3rd ¶, as amended by PL 1993, c. 600, Pt. A, §227, is further amended to read:

The dispensing party may dispense contact lenses only upon receipt of a written prescription, except that a physician may fill a prescription of an optometrist or another physician without a copy of the prescription. ~~Except in the case of a physician who has previously seen the wearer, a contact lens prescription may not be filled by mail, but must be filled by being personally dispensed to the contact lens~~

wearer. Mail order contact lens suppliers must be licensed by and register with the Board of Commissioners of the Profession of Pharmacy pursuant to section 13751, subsection 3-A and are subject to discipline by that board for violations of that board's rules and the laws governing the board. An individual who fills a contact lens prescription shall maintain a file of that prescription for a period of 6 5 years. An individual, a corporation or any other entity, other than a mail order contact lens supplier, that improperly fills a contact lens prescription or fills an expired prescription commits a civil violation for which a forfeiture of not less than \$250 nor more than \$1,000 may be adjudged.

Sec. 9. 32 MRSA §13702, sub-§12-A is enacted to read:

12-A. Mail order contact lens supplier. "Mail order contact lens supplier" means a person or entity, other than an optometrist or physician licensed in this State, that fills contact lens prescriptions by mail or carrier for a patient who resides in this State.

Sec. 10. 32 MRSA §13751, sub-§1, as enacted by PL 1987, c. 710, §5, is amended to read:

1. Registration. All drug outlets, manufacturers or, wholesalers and mail order contact lens suppliers shall annually register with the board.

Sec. 11. 32 MRSA §13751, sub-§3-A is enacted to read:

3-A. Mail order contact lens suppliers. In order to meet the board's minimum licensure requirements, a mail order contact lens supplier must:

- A. Apply for a license annually, if filling contact lens prescriptions by mail or carrier for a patient that resides in this State;
- B. Pay the license fee, which may not exceed \$200;
- C. Provide the name and address of the owner, partners or corporation and its officers;
- D. Fill only written contact lens prescriptions containing expiration dates that do not exceed 24 months from the date of issue;
- E. Maintain a record of every contact lens prescription filled for a period of 5 years; and
- F. Supply, upon request, all information needed by the board to ensure compliance with this subchapter.

The board may adopt rules establishing additional licensure requirements and disciplinary actions for violation of this subchapter and board rules. Rules

adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 118

S.P. 82 - L.D. 262

An Act to Permit the Public Utilities Commission to Exempt Certain Telephone Utilities from Obtaining Approval to Serve

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

Sec. 1. 35-A MRSA §2102, sub-§3 is enacted to read:

3. Exemption for certain telephone utilities. The commission by rule may exempt a specified telephone utility or group of telephone utilities from obtaining the approval required by subsection 1 if the commission finds that the exemption will not result in unjust or unreasonable rates or inadequate service for any telephone utility customers. The commission may limit the exemption to specified geographic areas. For good cause, as provided in the rule establishing the exemption, the commission may revoke an exemption in whole or in part, including an exemption granted to a single telephone utility. A telephone utility that is exempt from the approval requirement of subsection 1:

- A. Before commencing service, shall notify the commission of its intent to commence the exempted service and provide any other information the commission may require;
- B. Shall obtain the approval of the commission under subsection 1 to provide any service other than the services specified in the exemption granted by the commission under this subsection; and
- C. Remains subject to any other applicable provisions of this Title and commission rules.

Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and must be submitted to the Joint Standing Committee on Utilities and Energy by January 1, 1998.

See title page for effective date.
