

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

of a comparable assistive device must be provided to the consumer as soon as feasible at no charge. In the case of a lease, lease payments must be suspended during any part of the repair period that a comparable assistive device has not been provided.

§1500-C. Replacement of defective devices; refunds

1. Reasonable attempt to repair. A reasonable attempt to repair an assistive device to conform it to the express warranty is deemed to have been undertaken if:

A. The same conformity has been subject to repair 3 or more times by the manufacturer or its agents or authorized dealers within the express warranty term and the nonconformity continues; or

B. The assistive device is out of service for a cumulative total of 30 days or more because of warranty nonconformity.

2. Refund and replacement. If, after a reasonable attempt to repair the nonconformity, the nonconformity is not repaired, the manufacturer must accept return of the assistive device and, at the option of the consumer, refund the full purchase price to the consumer after satisfaction of any applicable perfected security interests or replace the assistive device with a comparable new assistive device. If the assistive device was purchased with public funds or insurance coverage on behalf of the consumer, the manufacturer shall notify the funder and, at the option of the consumer, replace the assistive device with a comparable new assistive device or refund to the funder the total reimbursement amount so that another suitable device may be purchased.

§1500-D. Disclosure at time of resale

An assistive device that is returned to the manufacturer under section 1500-C may not be sold without clear written disclosure to any subsequent purchaser, whether that purchaser is a consumer or a dealer, that the assistive device was returned to the manufacturer under this chapter and a written description of the nonconformity for which the assistive device was returned.

§1500-E. Other remedies

1. Rights. This section may not be construed to limit rights or remedies available to a consumer under any other law.

2. Enforcement. A consumer may bring an action to recover for damages caused by a violation of this chapter. The court shall award a consumer who prevails in such an action twice the amount of any

pecuniary loss, plus reasonable costs and attorney's fees.

It is a valid defense to an action brought under this subsection if, at the time of sale, the dealer had no reasonable way of knowing that the device was intended to be used within manufacturer specifications by the consumer as an assistive device as defined by section 1500, subsection 1.

§1500-F. Waiver

Any waiver of rights under this chapter by a consumer is void.

See title page for effective date.

CHAPTER 236

H.P. 1112 - L.D. 1555

An Act to Create the River Flow Advisory Commission within the Department of Defense and Veterans' Services

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

Sec. 1. 5 MRSA §12004-G, sub-§13-D is enacted to read:

<u>13-D.</u>	<u>River Flow</u>	<u>Expenses</u>	<u>37-B</u>
<u>Environment/</u>	<u>Advisory</u>	<u>Only</u>	<u>MRSA</u>
<u>Natural</u>	<u>Commission</u>		<u>§1080</u>
<u>Resources</u>			

Sec. 2. 37-B MRSA §1080 is enacted to read:

§1080. Establishment of commission

1. Establishment of commission. The River Flow Advisory Commission, as established by Title 5, section 12004-G, subsection 13-D and referred to in this section as the "commission," shall act as a technical advisory commission to the Department of Defense and Veterans' Services and the Governor's office on issues of flow of the State's rivers and streams. The commission shall also facilitate communication of river flow data between dam operators, river basin managers, state agencies, the United States Geological Survey and the National Weather Service during floods and droughts and shall administer the State's hydrologic monitoring program in cooperation with the United States Geological Survey.

2. Membership. The commission is composed of these members:

A. The Commissioner of Defense and Veterans' Services or the commissioner's designee;

B. The State Geologist or the State Geologist's designee;

C. The Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee;

D. The Commissioner of Environmental Protection or the commissioner's designee;

E. The Commissioner of Inland Fisheries and Wildlife or the commissioner's designee;

F. The Commissioner of Marine Resources or the commissioner's designee;

G. The Director of the State Planning Office or the director's designee;

H. The Commissioner of Transportation or the commissioner's designee;

I. The District Chief of the United States Geological Survey Water Resources Division Maine District Office;

J. The Meteorologist-in-Charge of the National Weather Service Forecast Office in this State or the designee of the Meteorologist-in-Charge;

K. Representatives from the major hydroelectric power generators, as determined by the cochairs of the commission; and

L. A representative of the public, appointed by the Governor.

3. Chair. The District Chief of the United States Geological Survey Water Resources Division Maine District Office and the Commissioner of Defense and Veterans' Services or the commissioner's designee shall act as cochairs of the commission.

4. Terms of office. The term of office of the public member is 5 years. The public member may be removed from office for cause by the Governor. Members from State Government or Federal Government shall serve a term coincident with their governmental position. The term of a representative from the major hydroelectric power generators is 5 years.

5. Voting. A quorum of at least 7 members must be present for voting.

6. Administrative provision. The Maine Emergency Management Agency shall administer the affairs and activities of the commission.

7. Records. The commission shall keep accurate records of its proceedings and shall file them with the Maine Emergency Management Agency.

8. Compensation. Members of the commission are not entitled to receive compensation.

9. Meetings. The commission shall meet at least once per calendar year at the call of either of the cochairs to review hydrologic conditions prior to the spring snowmelt and runoff for the purpose of issuing an advisory statement on the potential for major river flooding. Either of the cochairs may call additional meetings as needed.

10. Powers and duties. The commission has the power and duty only to:

A. Advise the Department of Defense and Veterans' Services and the Governor on issues of flow within the State's rivers and streams;

B. Assist in communication of river flow data between dam operators, river basin managers, state agencies and federal agencies; and

C. Administer the State's cooperative hydrologic monitoring program in cooperation with the United States Geological Survey.

See title page for effective date.

CHAPTER 237

S.P. 173 - L.D. 502

An Act to Require Fair Compensation for Ratepayer Assets Used by a Subsidiary or an Affiliate of a Utility

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

Sec. 1. 35-A MRSA §707, sub-§3, ¶G is enacted to read:

G. For any contract or arrangement expected to involve the use by an affiliated interest of utility facilities, services or intangibles, including good will or use of a brand name, the commission shall determine the value of those facilities, services or intangibles. When its facilities, services or intangibles are used by the affiliated interest, the utility's costs must be charged to and received from the affiliated interest based upon this value. The commission shall also determine the proper allocation of costs for shared facilities, services or intangibles. If the commission is unable to make the value determinations required by this paragraph within the time limits imposed by paragraph A, the commission may approve the contract or arrangement without making the determinations, except that the commission shall make the determinations within 60 days of approving the contract or arrangement.