

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

SECOND SPECIAL SESSION
April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1998

SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 9, 1998

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

B. The commission, in adopting rules governing customer verification of a change of carrier, shall consider whether customer verification is necessary in the case of customer-initiated calls.

C. The commission shall adopt by rule a definition of those actions that constitute initiation of a change of carrier under this section and a definition of actions that do not constitute the initiation of a change of carrier. The commission shall consider whether actions not constituting the initiation of a change of a customer's carrier include actions of a local exchange carrier to change a customer's carrier:

(1) Undertaken at the direction of a carrier to which the customer's service is changed or with the oral or written authorization of the customer; and

(2) That do not result in the customer being changed to the service of the carrier undertaking the actions or to an affiliate of the carrier undertaking the actions.

D. Notwithstanding subsection 1, paragraph E, if the Federal Communications Commission provides by rule that customers are not responsible for charges of an authorized interstate carrier for the customer's usage during the period the customer was served by an unauthorized interstate carrier, the commission by rule may provide that a customer is not responsible for charges of an authorized local or intrastate carrier for the customer's usage during the period the customer was served by an unauthorized local or intrastate carrier.

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

4. Enforcement. The commission through its own counsel or through the Attorney General may apply to the Superior Court of any county of the State to enforce any lawful order made or action taken by the commission pursuant to this section. The court may issue such orders, preliminary or final, as it considers proper under the facts established before the court.

5. Notice to the Attorney General. If the commission has reason to believe that any carrier has violated any provision of the law for which criminal prosecution is provided and would be in order or any law regarding fraud or consumer protection, the Commission shall notify the Attorney General. The Attorney General shall promptly institute any actions or proceedings the Attorney General considers appropriate.

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

Effective April 3, 1998.

CHAPTER 703

H.P. 1514 - L.D. 2136

An Act to Ensure Access to Confidential Records

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

Sec. 1. 5 MRSA §244-C is enacted to read:

§244-C. Access to confidential records

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Audit working paper" means all documentary and other information acquired, prepared or maintained by the State Auditor during the conduct of an audit or investigation, including all intraagency and interagency communications relating to an audit or investigation and includes draft reports or any portion of a draft report.

B. "Auditor" means the State Auditor or an agent of the State Auditor who is an employee of the Department of Audit.

2. Information available to the Auditor. Notwithstanding any state law relating to the confidentiality of information, all information in the files of any department, commission or agency of the State subject to an audit or investigation by the Auditor must be made available when necessary to the Auditor for performance of the Auditor's official duties.

A. Before beginning an audit or investigation that may require access to records containing confidential or privileged information, the Auditor shall consult with representatives of the department, commission or agency to discuss methods of identifying and protecting privileged or confidential information in those records. During that consultation, the department, commission or agency shall inform the Auditor of all standards and procedures set forth in department, commission or agency policies or agreements to protect information considered by the department, commission or agency to be confidential or privileged. The Auditor shall limit access to information that is privileged or confidential by appropriate methods, which may

include examining records without copying or removing them from the department, commission or agency.

B. In making information available to the Auditor, the department, commission or agency that is subject to the audit or investigation or that provides the information may remove information that identifies individuals or institutions to protect privileged or confidential information, provided the information necessary for the Auditor to fulfill the Auditor's official duties is disclosed to the Auditor. If names are removed, another unique identifier must be inserted to enable verification of audit results.

C. Documentary or other information obtained by the Auditor during the course of an audit or investigation is privileged or confidential to the same extent under law that that information would be privileged or confidential in the possession of the department, commission or agency providing the information. Any privilege or statutory provision, including penalties, concerning the confidentiality or obligation not to disclose information in the possession of any department, commission or agency or their officers or employees applies equally to the Auditor. Privileged or confidential information obtained by the Auditor during the course of an audit or investigation may be disclosed only as provided by law and with the agreement of the department, commission or agency subject to the audit or investigation that provided the information.

D. If the Auditor accesses information classified as privileged or confidential pursuant to department, commission or agency policy or procedures or by agreement, the Auditor shall comply with the department, commission or agency standards or procedures for handling that information. The Auditor may include in the audit working papers only such excerpts from information classified as confidential or privileged as may be necessary to complete the audit, provided the use does not infringe on department policies or procedures applicable to the original provision of information.

3. Confidentiality of audit working papers.

Except as provided in this subsection, audit working papers are confidential and may not be disclosed to any person. Prior to the release of the final audit or investigation report, the Auditor has sole discretion to disclose audit working papers to the department, commission or agency subject to the audit or investigation when such disclosure will not prejudice the audit or investigation. After release of the final

audit or investigation report, working papers may be released as necessary to:

A. The department, commission or agency that was subject to the audit or investigation;

B. Federal agencies providing a grant to the audited entity;

C. Law enforcement agencies for the purpose of criminal law enforcement or investigations; or

D. Other auditors in their work reviewing the Department of Audit.

Sec. 2. 36 MRSA §191, sub-§2, ¶U, as reallocated by RR 1995, c. 2, §91 and as amended by PL 1997, c. 526, §14, is further amended to read:

U. The disclosure by employees of the Bureau of Revenue Services to designated representatives of the Secretary of State of information required by the Secretary of State for the administration of the special fuel tax imposed by chapter 459-;

Sec. 3. 36 MRSA §191, sub-§2, ¶V, as reallocated by RR 1995, c. 2, §92 and as amended by PL 1997, c. 526, §14, is further amended to read:

V. The disclosure by employees of the Bureau of Revenue Services, to designated representatives of the Department of Labor, of all information contained on a joint return or report submitted to the tax assessor and required by the tax assessor and the Commissioner of Labor for the administration of the taxes imposed by Part 8 and by Title 26, chapter 13-; and

Sec. 4. 36 MRSA §191, sub-§2, ¶W is enacted to read:

W. The disclosure by the State Tax Assessor to the State Auditor when necessary to the performance of the State Auditor's official duties.

See title page for effective date.

CHAPTER 704

S.P. 768 - L.D. 2069

An Act to Improve Public Health Protection Against Rabies Infection

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

Sec. 1. 7 MRSA §3907, sub-§30, as enacted by PL 1995, c. 409, §2, is repealed and the following enacted in its place: