

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

other than conventional gasoline, diesel or reformulated gasoline that, when compared to conventional gasoline, diesel or reformulated gasoline, results in lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide or particulates or any combination of these. "Clean fuel" includes, but is not limited to, compressed natural gas; liquefied natural gas; liquefied petroleum gas; hydrogen; hythane, which is a combination of compressed natural gas and hydrogen; dynamic flywheels; solar energy; alcohol fuels containing not less than 85% alcohol by volume; and electricity.

2. Credit allowed. A taxpayer is allowed a credit against the tax imposed by this Part in an amount equal to the qualifying percentage of expenditures paid or incurred by the taxpayer for the construction or installation of or improvements to any filling or charging station for the purposes of providing clean fuels to the general public for use in motor vehicles, as calculated pursuant to subsection 4.

3. Limitation; carry-over. The credit allowed under subsection 2 may not reduce the tax otherwise due under this Part below zero and the credit may not exceed the tax liability for income that is earned by the taxpayer from the sale of clean fuels sold for use in motor vehicles. Any unused portion of the credit may be carried over to the following year or years until exhausted.

4. Qualifying percentage. For purposes of calculating the credit, the qualifying percentage is:

A. Fifty percent for expenditures made from January 1, 1999 to December 31, 2001; and

B. Twenty-five percent for expenditures made from January 1, 2002 to December 31, 2005.

This section is effective for tax years beginning on or after January 1, 1999 and is repealed for tax years ending on or after January 1, 2006.

Sec. A-4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

1998-99

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Air Quality

All Other (\$1,500)
Provides for the deappropriation of funds to

offset a General Fund revenue loss from the sales tax exemption on the differential cost of clean fuel vehicles.

PART B

Sec. B-1. Alternative fuels study. The Commissioner of Environmental Protection shall evaluate the effectiveness of low emission vehicle incentives and shall develop recommendations regarding alternative fuels to reformulated gasoline with methyl tertiary butyl ether that would meet the requirements of the federal Clean Air Act, Section 182, 42 United States Code, Section 7511a(b)(1). In developing these recommendations, the commissioner shall consult with members of the joint standing committee of the Legislature having jurisdiction over natural resource matters, members of the public, the Bureau of Health within the Department of Human Services, the United States Environmental Protection Agency, representatives of the oil industry and other interested parties. The commissioner shall hold at least one public hearing prior to developing the interim report required under section 2.

Sec. B-2. Recommendations; report. The Commissioner of Environmental Protection shall submit a report, including the findings from the evaluation and recommendations regarding alternative fuels, to the joint standing committee of the Legislature having jurisdiction over natural resource matters by January 15, 2000. The commissioner shall submit an interim progress report to the joint standing committee of the Legislature having jurisdiction over natural resource matters by January 15, 1999.

See title page for effective date.

CHAPTER 792

H.P. 1305 - L.D. 1848

An Act to Create the Consumer Health Care Division within the Bureau of Insurance

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

Sec. 1. 5 MRSA §12004-I, sub-§50-A is enacted to read:

<u>50-A.</u>	<u>Consumer</u>	<u>Expenses</u>	<u>24-A MRSA</u>
<u>Insurance</u>	<u>Health</u>	<u>Only</u>	<u>@4322</u>
<u>Health Care</u>	<u>Care</u>		
	<u>Division</u>		
	<u>Advisory</u>		
	<u>Council</u>		

Sec. 2. 24-A MRSA c. 56-A, as amended, is further amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 56-A

HEALTH PLAN IMPROVEMENT ACT

SUBCHAPTER I

HEALTH PLAN REQUIREMENTS

Sec. 3. 24-A MRSA c. 56-A, sub-c. II is enacted to read:

SUBCHAPTER II

CONSUMER HEALTH CARE DIVISION

§4321. Consumer Health Care Division

1. Division established. The Consumer Health Care Division, referred to in this section as the "division," is established within the Bureau of Insurance. The division shall work in coordination with other bureau sections and staff to accomplish the duties set forth in subsection 4.

2. Director. The Director of the Consumer Health Care Division, referred to in this section as the "director," is the head of the Consumer Health Care Division. The director is appointed by the superintendent in consultation with the Consumer Health Care Division Advisory Council and is subject to the approval of the Commissioner of Professional and Financial Regulation. The director is subject to the Civil Service Law.

3. Staff. The superintendent may hire or assign personnel as determined necessary to perform the duties of the division subject to the approval of the Commissioner of Professional and Financial Regulation and subject to the Civil Service Law. The personnel are supervised by the director in consultation with the superintendent. The qualifications of those personnel must reflect the needs and responsibilities relating to the division's duties under this subchapter.

4. Duties. The duties of the division include:

A. Providing access to the division through a toll-free number;

B. Providing information to consumers regarding health care plan options and obtaining health care coverage and services. The division may not make any specific recommendations regarding commercially offered products;

C. Assisting enrollees to understand their rights and responsibilities under health care plans;

D. Providing information to consumers on health care plan performance by distributing materials and utilizing existing resources relating to health care plan performance;

E. Providing assistance to enrollees with complaints relating to health care plans, when appropriate. The division may assist enrollees with quality-of-care complaints by coordinating with the appropriate state health professional licensing boards and other appropriate state and federal oversight bodies with authority over quality-of-care complaints. The division shall defer any issues of professional competence to the appropriate state health professional licensing boards;

F. Collecting and disseminating information regarding health care plans, quality assurance programs and quality improvement and coordinating information with other public entities or agencies involved in the delivery, funding or regulation of health care;

G. Acting as an information resource in the development of policies and programs that protect consumer interests and rights under health care plans by:

(1) Analyzing, evaluating and monitoring the development and implementation of federal, state and local laws, regulations, rules and other governmental policies and actions that pertain to the health, safety, welfare and rights of health care consumers; and

(2) Identifying practices and policies that may affect access to quality health care, including, but not limited to, practices relating to marketing of health care plans and accessibility of services and resources for under-served areas and vulnerable populations. The division may refer these issues to the appropriate state or federal regulatory agency with jurisdiction over these practices and policies;

H. Promoting coordination between the division and other organizations that assist consumers, including, but not limited to, legal assistance providers serving low-income health care consumers and other health care consumers, health insurance counseling assistance programs, the long-term care ombudsman program pursuant to Title 22, section 5106, subsection 11-C and assistance programs for individuals with disabilities established under federal or state law;

I. Collecting and disseminating information regarding the activities of the division;

J. Submitting an annual report by January 1st of each year to the Commissioner of Professional and Financial Regulation, the Consumer Health Care Division Advisory Council and the joint standing committee of the Legislature having jurisdiction over insurance matters describing the activities carried out by the division in the year for which the report is prepared, analyzing the data available to the division and evaluating the problems experienced by consumers; and

K. Performing other duties as the superintendent may prescribe.

§4322. Consumer Health Care Division Advisory Council

1. Establishment. The Consumer Health Care Division Advisory Council, referred to in this section as the "council," as established pursuant to Title 5, section 12004-I, subsection 50-A consists of the following members:

A. Three members of the public, appointed by the President of the Senate, representing consumers of health care services;

B. Three members of the public, appointed by the Speaker of the House, representing consumers of health care services;

C. Two members of the joint standing committee of the Legislature having jurisdiction over insurance matters, one appointed by the President of the Senate and one appointed by the Speaker of the House;

D. The Commissioner of Professional and Financial Regulation, or the commissioner's designee;

E. The Commissioner of Human Services, or the commissioner's designee; and

F. The Director of the Consumer Health Care Division, who is an ex-officio, nonvoting member of the council.

The members of the public appointed by the President of the Senate and the Speaker of the House must be appointed for staggered terms not to exceed 2 years. One member must be appointed for a one-year term, and 2 members must be appointed for 2-year terms. If a member's term expires and a successor has not been appointed, the member may continue as a member until a successor is appointed.

2. Chair. The members of the council shall elect a chair from among themselves.

3. Meetings. The council shall meet at least twice annually. Meetings must be called by the chair, and at least 2-weeks prior notice of council meetings must be given to the public.

4. Compensation. Members of the council are compensated according to the provisions of Title 5, chapter 379, except that members of the council who are Legislators are entitled to receive the legislative per diem as defined in Title 3, section 2 and reimbursement for travel and other necessary expenses for attendance at meetings of the council.

5. Functions. The functions of the council are to consult with and to advise the Director of the Consumer Health Care Division concerning the division's performance of the duties under this subchapter and to make recommendations to the superintendent on issues concerning the protection of consumer interests and rights under health care plans.

Sec. 4. Transfer of funds. The Department of Professional and Financial Regulation shall transfer sufficient funds from the Bureau of Insurance to the Legislature to pay the travel and other necessary expenses of legislative members of the Consumer Health Care Division Advisory Council.

Sec. 5. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1998-99

LEGISLATURE

Study Commissions - Funding

Personal Services \$220

Provides funds for the per diem of legislative members of the Consumer Health Care Division Advisory Council.

Sec. 6. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1998-99

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Bureau of Insurance

Positions - Legislative Count (3,000)

Personal Services \$192,280

All Other	71,760
Capital Expenditures	9,000
Allocates funds for one Division Director position, one Staff Attorney position, one Nurse V position and operating costs necessary to establish a Consumer Health Care Division, including the expenses of the Consumer Health Care Division Advisory Council.	

**DEPARTMENT OF
PROFESSIONAL AND
FINANCIAL
REGULATION
TOTAL**

\$273,040

Sec. 7. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1998-99

LEGISLATURE

Study Commissions - Funding

All Other	\$200
Provides funds for the travel and other necessary expenses of the legislative members of the Consumer Health Care Division Advisory Council.	

See title page for effective date.

CHAPTER 793

H.P. 1225 - L.D. 1737

**An Act to Provide for Confidentiality
of Health Care Information**

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

PART A

Sec. A-1. 22 MRSA §1711, as enacted by PL 1977, c. 122, is amended to read:

§1711. Patient access to hospital medical records

If a patient of an institution licensed as a hospital by the State, after discharge from such institution, makes written request for copies of ~~his or her~~ the patient's medical records, the copies ~~shall~~ must, if available, be made available to the patient within a reasonable time unless, in the opinion of the hospital, it would be detrimental to the health of the patient to obtain the records. If the hospital is of the opinion that release of the records to the patient would be detrimental to the health of the patient, the hospital shall advise the patient that copies of the records ~~shall~~ will be made available to the patient's authorized representative upon presentation of a proper authorization signed by the patient. The hospital may exclude from the copies of medical records released any information related to a clinical trial sponsored, authorized or regulated by the federal Food and Drug Administration.

If an authorized representative for a patient requests, in writing, that a hospital provide the authorized representative with a copy of the patient's medical records and presents a proper authorization from the patient for the release of the information, copies ~~shall~~ must be provided to the authorized representative within a reasonable time.

A written request or authorization for release of medical records under this section satisfies the requirements of section 1711-C, subsection 3.

A patient may submit to a hospital an addition to the patient's medical records, which must be retained with the medical record by the hospital. If the hospital adds to the medical record a statement in response to the submitted addition, the hospital shall provide a copy to the patient.

Reasonable costs incurred by the hospital in making and providing copies of medical records and additions to medical records, ~~shall~~ must be borne by the requesting person and the hospital may require payment prior to responding to the request.

Release of a patient's medical records to a person other than the patient is governed by section 1711-C.

Sec. A-2. 22 MRSA §1711-A, as amended by PL 1991, c. 142, §1, is further amended to read:

§1711-A. Fees charged for records

Whenever a health care practitioner defined in section 1711-B furnishes requested copies of a patient's ~~medical treatment~~ record or a medical report or an addition to a treatment record or medical report to the patient, the charge for the copies or the report may not exceed the reasonable costs incurred by the health care practitioner in making and providing the copies or the report.