

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

section 2 and who is not properly registered pursuant to that subsection;

(3) A billing agent who knowingly bills on behalf of a service provider who is required to be registered under subsection 2 and who is not properly registered pursuant to that subsection at the time the billing agent's bill is generated; and

(4) A billing agent that fails to comply with any of the requirements of subsection 4.

B. The amount of any administrative penalty imposed under paragraph A may not exceed \$1,000 per violator for violations arising out of the same incident or complaint and must be based on:

(1) The severity of the violation, including the intent of the violator, the nature, circumstances, extent and gravity of any prohibited acts;

(2) The history of previous violations; and

(3) The amount necessary to deter future violations.

Penalties collected by the commission under this subsection must be deposited in the General Fund.

6. Rulemaking. The commission shall adopt rules to implement this section. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. Rules adopted by the commission must at least:

A. Establish clear standards for interpreting and applying the state-of-mind standard applicable to billing agents who bill on behalf of service providers not properly registered with the commission;

B. Define types of evidence that constitute sufficient evidence of customer authorization in a manner that imposes the least economic and technical burdens on customers and service providers; and

C. With regard to direct-dialed telecommunications services, provide that evidence that a call was dialed from the number that is the subject of the charge is sufficient evidence of authorization for the charge for that call.

Sec. 2. Report; authority. No later than January 1, 2000, the Public Utilities Commission shall submit to the Joint Standing Committee on Utilities and Energy copies of rules adopted pursuant to the Maine Revised Statutes, Title 35-A, section 7107.

The committee may report out to the Second Regular Session of the 119th Legislature legislation concerning any matter related to the subject matter of Title 35-A, section 7107.

Sec. 3. Application. The Public Utilities Commission may not enforce the provisions of the Maine Revised Statutes, Title 35-A, section 7107 until it has adopted rules pursuant to subsection 6 of that section.

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

Effective April 9, 1999.

CHAPTER 60

H.P. 399 - L.D. 541

An Act to Clarify the Jurisdiction of the Public Utilities Commission with Regard to Wireless Carriers

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the available supply of central office codes in the State is in danger of exhaustion, which would require the adoption of a 2nd area code within the State; and

Whereas, it is necessary to provide immediate authority for the Public Utilities Commission to institute central office code conservation measures applicable to wireless carriers; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 35-A MRSA §7104, sub-§3, as enacted by PL 1997, c. 692, §1, is amended to read:

3. Authority. The commission shall adopt rules to implement this section and may require providers of intrastate telecommunications services to contribute to a state universal service fund to support programs consistent with the goals of applicable provisions of this Title and the federal Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56. Prior to requiring that providers of intrastate telecommunica-

tions services contribute to a state universal service fund, the commission shall assess the telecommunications needs of the State's consumers and establish the level of support required to meet those needs. If the commission establishes a state universal service fund pursuant to this section, the commission shall contract with an appropriate independent fiscal agent that is not a state entity to serve as administrator of the state universal service fund. Funds contributed to a state universal service fund are not state funds. Rules and any state universal service fund requirements established by the commission pursuant to this section must:

- A. Be reasonably designed to maximize federal assistance available to the State for universal service purposes;
- B. Meet the State's obligations under the federal Telecommunications Act of 1996, Public Law 104 - 104, 110 Stat. 56;
- C. Be consistent with the goals of the federal Telecommunications Act of 1996, Public Law 104 - 104, 110 Stat. 56;
- D. Ensure that any requirements regarding contributions to a state universal service fund be nondiscriminatory and competitively neutral;
- E. Require explicit identification on customer bills of contributions to any state universal service fund established pursuant to this section; and
- F. Allow consideration in appropriate rate-making proceedings of contributions to any state universal service fund established pursuant to this section.

For purposes of this subsection, "providers of intrastate telecommunications services" includes providers of radio paging service and mobile telecommunications services. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 2. 35-A MRSA §8502 is enacted to read:

§8502. Central office code conservation

To the extent permitted under federal law, the commission may exercise jurisdiction, control and regulation over radio paging service for the purpose of implementing central office code conservation measures.

Sec. 3. 35-A MRSA §8902 is enacted to read:

§8902. Central office code conservation

To the extent permitted under federal law, the commission may exercise jurisdiction, control and regulation over mobile telecommunications services for the purpose of implementing central office code conservation measures.

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

Effective April 9, 1999.

CHAPTER 61

S.P. 123 - L.D. 320

An Act to Amend the Law regarding Reportable Motor Vehicle Accidents

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

Sec. 1. 29-A MRSA §2251, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Definition. As used in this section, "reportable accident" means an accident on a public way or a place where public traffic may reasonably be anticipated, resulting in bodily injury or death to a person or apparent property damage of ~~\$500~~ \$1,000 or more.

See title page for effective date.

CHAPTER 62

S.P. 263 - L.D. 758

An Act to Allow the State's Laboratory Certification Program to be Consistent with National Environmental Laboratory Accreditation Program Standards

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

Sec. 1. 22 MRSA §565, sub-§2, as enacted by PL 1991, c. 499, §2 and affected by §26, is amended to read:

2. Director; duties. The Director of the Bureau of Health shall appoint a Director of the Health and Environmental Testing Laboratory, subject to the Civil Service Law and in this chapter known as the "laboratory director." The laboratory director or a designated chief of laboratory operations shall