

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**November 13, 2002 to November 14, 2002**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 2002 to June 14, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**FEBRUARY 13, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 13, 2003**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2003**

## CHAPTER 326

## H.P. 1151 - L.D. 1578

**An Act To Make Filling Out-of-State  
Prescriptions for Schedule II Drugs  
More Convenient**

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

**Whereas,** prescriptions for schedule II drugs issued by health care providers must be written on security prescription blanks; and

**Whereas,** some prescriptions for schedule II drugs are prescribed by health care providers from other states; and

**Whereas,** to allow patients to continue to receive their prescriptions for schedule II drugs prescribed by out-of-state health care providers this legislation must take effect immediately; 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. 32 MRSA §13786-A, sub-§§2 to 4** are enacted to read:

**2. Out-of-state prescription security requirements.** Notwithstanding any law or rule to the contrary, a prescription for a schedule II drug written by an out-of-state practitioner on a prescription blank that does not comply with the requirements for a security prescription blank, as defined in the Department of Public Safety rule pursuant to subsection 1, may be filled by a pharmacist only if:

A. The pharmacist receives and makes a record of oral confirmation of the validity of the prescription from the out-of-state practitioner or the practitioner's agent and the pharmacist makes a reasonable effort to determine that the oral confirmation came from the practitioner or the practitioner's agent, which may include a telephone call to the practitioner's telephone number listed in a telephone directory or other directory or other good faith efforts to confirm the identity of the person giving the oral confirmation; and

B. The pharmacist demands, inspects and records a valid photographic identification from any person presenting a prescription or receiving a filled prescription unless:

(1) The person is the patient for whom the prescription is written;

(2) The person's identity is personally known to the pharmacist; and

(3) The pharmacist confirms by reviewing the pharmacy records that the pharmacist has previously demanded, inspected and recorded a valid photographic identification from the person.

**3. Valid photographic identification.** For the purposes of subsection 2, a valid photographic identification is limited to the following:

A. A valid Maine motor vehicle operator's license;

B. A valid Maine identification card issued under Title 29-A, section 1410;

C. A valid United States passport; or

D. A valid passport or motor vehicle operator's license of another state, territory or possession of the United States or a foreign country only if it:

(1) Contains a photograph of the person presenting the prescription;

(2) Is encased in tamper-resistant plastic or is otherwise tamper-resistant; and

(3) Identifies the date of birth of the person presenting the prescription.

**4. Partial filling of out-of-state prescriptions.**

The partial filling of a prescription for a schedule II drug written by an out-of-state practitioner on a prescription blank that does not comply with the requirements for a security prescription blank, as defined in the Department of Public Safety rule pursuant to subsection 1, is permissible if the pharmacist is unable after reasonable effort to obtain the oral confirmation described in subsection 2 in the case of the practitioner's office being closed during nights, weekends or holidays. The partial filling is limited to a 72-hour supply of the controlled substance. The remaining portion of the prescription may be filled within the 72-hour period upon obtaining the oral confirmation. No further quantity may be filled beyond the 72 hours without a new prescription.

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

Effective May 27, 2003.

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## CHAPTER 327

H.P. 210 - L.D. 255

### An Act to Control Internet "Spam"

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

Sec. 1. 10 MRSA c. 224 is enacted to read:

#### CHAPTER 224

#### ELECTRONIC MAIL SOLICITATION

#### §1497. Electronic mail solicitation restricted

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

A. "E-mail" means electronic mail sent or delivered by transmission over the Internet.

B. "E-mail service provider" means a business or organization qualified to do business in this State that provides individuals, corporations or other entities the ability to send or receive e-mail through equipment located in this State or that is an intermediary in sending or receiving e-mail.

C. "Unsolicited commercial e-mail" means an e-mail, other than an e-mail sent at the request of the recipient, sent via an e-mail service provider to 2 or more recipients in this State with whom the sender does not have an existing business relationship for the purpose of:

(1) Offering real property, goods or services for sale or rent;

(2) Conveying information on real property, goods or services to solicit sales or purchase;

(3) Conveying information on the extension of credit; or

(4) Promoting or soliciting charitable contributions.

"Unsolicited commercial e-mail" does not include an e-mail message to which an e-mail service provider has attached an advertisement if the e-mail service provider has an agreement with the recipient under

which the e-mail service provider allows the recipient free use of an e-mail account in exchange for allowing the e-mail service provider to send such advertisements.

**2. Requirements.** A person sending unsolicited commercial e-mail shall maintain a valid return e-mail address through which the recipient may provide notice to the sender that the recipient does not wish to receive any more unsolicited commercial e-mail.

**3. Statement.** All unsolicited commercial e-mail must contain:

A. In the subject line:

(1) The first 4 characters as follows: "ADV:"; and

(2) If the unsolicited commercial e-mail contains information about material that may be viewed only by a person at least 18 years of age, the first 8 characters as follows: "ADV:ADLT";

B. A statement informing the recipient of the name of the person or entity from which the unsolicited commercial e-mail originated;

C. The return e-mail address required by subsection 2; and

D. A statement informing the recipient that the recipient may use the return e-mail address to notify the sender that the recipient does not want to receive any more unsolicited commercial e-mails from the sender.

**4. Prohibition.** A person receiving notification from a recipient that the recipient does not wish to receive any more unsolicited commercial e-mails from that person shall cease to send unsolicited commercial e-mails to that recipient. If a recipient is the registered owner of more than one e-mail address and notifies the sender of unsolicited commercial e-mails to cease sending unsolicited commercial e-mails to all of the e-mail addresses registered to that person or entity, the sender shall cease to send unsolicited commercial e-mails to those addresses.

**5. Use of 3rd-party domain names.** A person may not:

A. Send an unsolicited commercial e-mail that uses a 3rd party's Internet address or domain name without the 3rd party's consent; or

B. Falsify the e-mail transmission information or other routing information of an unsolicited commercial e-mail.