

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

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

Penmor Lithographers
Lewiston, Maine
2004

~~5% of the most recent year's annual revenues plus \$37,500; and~~

~~D. For utilities with annual revenues in excess of \$375,000, the maximum amount is 15% of the most recent year's annual revenues.~~

~~Any contingency allowance collected when the contingency reserve fund is at the maximum amount permitted must be credited to the unappropriated retained earnings account and treated in the same manner as any other surplus produced by a consumer-owned utility.~~

~~**3. Use of contingency reserve fund.** The contingency reserve fund may be used only to pay for operating losses resulting from insufficient revenues to meet operating expenses and debt service costs, including, but not limited to, principal and interest repayment.~~

3-A. Authorized uses; commission review.
This section does not:

A. Authorize a consumer-owned water utility to expend amounts collected pursuant to this section for any purposes other than those allowed under this Title; or

B. Exempt any expenditures from review by the commission in accordance with this Title.

~~**4. Transition.** Any contingency reserve fund accumulated and expended prior to January 1, 1991 may not be considered in determining whether a utility has reached its maximum amount under subsection 2.~~

5. Commission review. If the commission determines that ~~a water utility's contingency reserve fund has reached the maximum that may be accumulated under subsection 2 and that the utility is accumulating the consumer-owned water utility has accumulated~~ in its unappropriated retained earnings account an amount that is inconsistent with just and reasonable rates, the commission may, pursuant to chapter 13, order the utility to reduce its rates to the appropriate level either in the form of temporary rate adjustments, credits or reduction in rates.

6. Public hearing on excesses. If a consumer-owned water utility in each of 3 consecutive years collects through rates under subsection 1 an amount, in the case of a utility with up to \$85,000 total annual revenues, greater than 10% of the utility's annual operating expenses or, in the case of a utility with greater than \$85,000 total annual revenues, an amount equal to or greater than 7% of the utility's total annual operating expenses, the water utility shall:

A. ~~Immediately~~ No later than July 1st of the calendar year following the end of the 3rd consecu-

tive year of over-collection, notify all of its customers in writing of the over-collection and of the time and place where the utility will hold a public hearing on the matter; and

B. Hold a public hearing no less than 10 days and no more than 30 days after sending the notice required under paragraph A. During the hearing the water utility shall:

- (1) Detail the extent of the over-collection;
- (2) Provide opportunity for any customer to testify or question the officials on any matter relating to the utility's financial situation; and
- (3) Explain and provide copies of the provisions of section 1302 and section 6104, subsection 7.

Sec. 3. 35-A MRSA §6113, sub-§1, as enacted by PL 1993, c. 30, §1, is amended to read:

1. Water supply protection fund. A consumer-owned water utility may establish a water supply protection fund to which a sum may be credited annually from surplus funds. The annual credit may not exceed 5% of the prior year's total revenue. ~~If the utility has established a contingency reserve fund pursuant to section 6112, the utility may not credit any amount to the water supply protection fund unless the contingency reserve fund has reached its maximum pursuant to section 6112, subsection 2.~~

See title page for effective date.

CHAPTER 530

H.P. 1273 - L.D. 1751

An Act To Create Consistency between State and Federal Telephone Consumer Protection Laws

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

Sec. 1. 35-A MRSA §7106, sub-§1, ¶A, as amended by PL 2001, c. 71, §2, is further amended to read:

A. Notwithstanding Title 32, chapter 69, subsection ~~5~~ or Title 32, section ~~4690-A, subsection 4~~ 14716, and except as otherwise provided by the commission by rule adopted pursuant to subsection 3, a local or intrastate interexchange carrier may not initiate the change of a customer's local or intrastate carrier unless the

change is verified by one of the following methods:

- (1) Written or electronically signed authorization from the customer;
- (2) Toll-free electronic authorization placed from the telephone number that is the subject of the change order; or
- (3) Oral authorization obtained by an independent 3rd party.

Sec. 2. 35-A MRSA §7106, sub-§1, ¶B, as enacted by PL 1997, c. 702, §1, is amended to read:

B. When a customer's service is changed to a new local or intrastate interexchange carrier, the new local or intrastate interexchange carrier shall maintain for ~~42~~ 24 months a record of nonpublic customer-specific information that establishes that the customer authorized the change.

Sec. 3. 35-A MRSA §7106, sub-§1, ¶C, as enacted by PL 1997, c. 702, §1, is repealed.

Sec. 4. 35-A MRSA §7106, sub-§3, ¶A, as enacted by PL 1997, c. 702, §1, is amended to read:

A. Except as otherwise provided in this subsection, rules adopted by the commission under this subsection, including rules regarding customer verification of a change of carrier, must be consistent with the rules adopted by the Federal Communications Commission governing the initiation of a change of a customer's interstate carrier, ~~except that the commission's rules on customer verification need not conform to the customer verification method involving a customer information package as defined in 47 Code of Federal Regulations, Section 64.1100(d).~~

See title page for effective date.

CHAPTER 531

H.P. 1290 - L.D. 1768

An Act To Authorize Certain School Children To Carry Emergency Medication on Their Persons

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each

House have determined it necessary to enact this measure.

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

Sec. 1. 20-A MRSA §254, sub-§5, ¶C is enacted to read:

C. A public school or a private school approved pursuant to section 2902 must have a written local policy authorizing students to possess and self-administer emergency medication from an asthma inhaler or an epinephrine pen. The written local policy must include the following requirements.

(1) A student who self-administers an asthma inhaler or an epinephrine pen must have the prior written approval of the student's primary health care provider and, if the student is a minor, the prior written approval of the student's parent or guardian.

(2) The student's parent or guardian must submit written verification to the school from the student's primary health care provider confirming that the student has the knowledge and the skills to safely possess and use an asthma inhaler or an epinephrine pen in school.

(3) The school nurse shall evaluate the student's technique to ensure proper and effective use of an asthma inhaler or an epinephrine pen in school.

See title page for effective date.

CHAPTER 532

H.P. 1374 - L.D. 1848

An Act To Amend the Apportionment of Legislative House Districts 76 and 77

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

Whereas, the line between legislative House Districts 76 and 77 as enacted by the First Regular Session of the 121st Legislature bisects the Colby College campus in Waterville; and

Whereas, this legislation must be enacted as an emergency measure to ensure that the necessary records, lists and other information are prepared and