

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

unlawfully possessed, none of which may be suspended.

Sec. 12. 12 MRSA §11801, sub-§3, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is amended to read:

3. Penalties. A person who violates subsection 1 this section commits a Class E crime for which the court shall impose a fine of not less than \$500, none of which may be suspended. The court also shall impose a fine of \$500 for each turkey unlawfully killed, none of which may be suspended.

Sec. 13. 12 MRSA §12403, sub-§3, ¶B, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is repealed.

Sec. 14. 12 MRSA §12404, sub-§6, ¶D, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by Pt. D, §7, is repealed.

See title page for effective date.

CHAPTER 553

S.P. 667 - L.D. 1819

An Act To Implement the Recommendations of the Study Group To Examine an Emergency Alert Notification System for Deaf and Hard-of-hearing Individuals

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

PART A

Sec. A-1. 26 MRSA §1419, sub-§1, ¶B-2, as amended by PL 2001, c. 377, §1, is further amended to read:

B-2. "Specialized customer ~~telecommunications~~ communications equipment" means ~~telecommunications~~ communications equipment used by persons with disabilities to conduct telephone communications or equipment that provides or assists in providing emergency alert notification to deaf persons or hard-of-hearing persons. "Specialized customer ~~telecommunications~~ communications equipment" includes but is not limited to teletypewriters, artificial larynges, signaling devices, amplified handsets, large number dial overlays, direct telephone dialing, fax machines, equipment necessary to use short message services or text message services ~~or~~ and other equipment used by persons with disabilities to provide access to telephone networks and equipment that provides or facilitates emergency

alert notification to deaf persons or hard-of-hearing persons.

Sec. A-2. 26 MRSA §1419, sub-§2, as amended by PL 1997, c. 751, Pt. A, §3, is further amended to read:

2. Specialized customer communications equipment system. The department shall consult with appropriate agencies and organizations serving deaf, hard-of-hearing or speech-impaired persons and persons with disabilities concerning the needs of the specialized customer ~~telecommunications~~ communications equipment system. To the extent that funds are available, the department shall take steps necessary to preserve and maintain a viable specialized customer ~~telecommunications~~ communications equipment system for use by deaf, hard-of-hearing or speech-impaired persons and persons with disabilities in this State, including, but not limited to, providing for repair services and equipment for loaning to persons whose specialized customer ~~telecommunications~~ communications equipment is being repaired. The department may also use available funds to provide training in the use of specialized customer communications equipment.

Sec. A-3. 26 MRSA §1419-A, as amended by PL 1999, c. 227, §§1 and 2, is further amended to read:

§1419-A. Specialized customer communications equipment for persons with disabilities

~~1. Money for specialized customer telecommunications equipment.~~ The Bureau of Rehabilitation Services within the department, pursuant to appropriation of money to the bureau for specialized customer ~~telecommunications~~ communications equipment for deaf, hard-of-hearing and speech-impaired persons and persons with disabilities, shall, upon request, provide up to 50% of the cost of specialized customer ~~telecommunications~~ communications equipment to an organization or municipality that makes available the remaining funds for this equipment in a manner satisfactory to the ~~Director of the Bureau of Rehabilitation Services.~~

2. Communications Equipment Fund. There is established the ~~Telecommunications~~ Communications Equipment Fund to be used by the Division of Deafness within the Bureau of Rehabilitation Services. The fund is nonlapsing. The fund receives money transferred by the Public Utilities Commission from the universal service fund pursuant to Title 35-A, section 7104. The Division of Deafness may accept gifts or grants, including, but not limited to, federal grants, for the purposes of this section. These Funds transferred from the universal service fund pursuant to Title 35-A, section 7104 and all gifts and grants and authorized appropriations must be deposited in the

~~Telecommunications~~ Communications Equipment Fund and disbursed in accordance with this section. The ~~Telecommunications~~ Communications Equipment Fund may be used for purchase, lease, distribution, upgrading, installation, maintenance and repair of specialized customer ~~telecommunications~~ communications equipment for deaf, hard-of-hearing or speech-impaired persons and persons with disabilities and for training in the use of such equipment. The Division of Deafness may draw on the ~~Telecommunications~~ Communications Equipment Fund in accordance with the ~~telecommunications~~ communications equipment plan required under subsection 3.

3. Communications equipment plan. The Division of Deafness shall develop a plan to make specialized customer ~~telecommunications~~ communications equipment available to deaf, hard-of-hearing or speech-impaired persons and persons with disabilities and to distribute money from the ~~Telecommunications~~ Communications Equipment Fund. The plan must be developed by the Division of Deafness annually, not later than January 1st, in accordance with the rule-making procedures in Title 5, chapter 375. The plan must provide for the expenditure of money from the ~~Telecommunications~~ Communications Equipment Fund for the benefit of deaf, hard-of-hearing or speech-impaired persons and persons with disabilities for the purchase, lease, distribution, upgrading, installation, maintenance and repair of specialized customer ~~telecommunications~~ communications equipment capable of serving their needs and may provide for expenditures for training in the use of such equipment. Persons who are profoundly deaf or ~~speech-impaired~~ speech-impaired or who have a disability so that they are unable to use the telephone for expressive or receptive communications, as verified by a written report from an otologist, an audiologist or a physician, are eligible for assistance from the ~~Telecommunications~~ Communications Equipment Fund. The plan must ensure that persons with disabilities have access to appropriate specialized customer ~~telecommunications~~ communications equipment to meet their individual needs. The plan must include specific criteria that govern the priorities assigned to various persons who need this equipment. The criteria must take into account household income, degree of impairment, need for emergency communications, living arrangements and other factors determined relevant by the Division of Deafness. In developing the criteria, the Division of Deafness shall consult with the advisory council established in section 1413-C and other advisory councils representing the interests of persons with disabilities.

4. Specialized customer communications equipment needs in the public school system. The Department of Education, in consultation with the Governor Baxter School for the Deaf and advocacy groups for deaf and hard-of-hearing persons and for

the information technology interests of consumers, shall conduct an annual survey of all public schools in the State for the purpose of assessing the need for specialized customer ~~telecommunications~~ communications equipment in the school system and report its findings to the joint standing committee of the Legislature having jurisdiction over labor matters. The report must include: the number of deaf and hard-of-hearing students and their needs for specialized customer ~~telecommunications~~ communications equipment; the availability of specialized customer ~~telecommunications~~ communications equipment; the number of requests for specialized customer ~~telecommunications~~ communications equipment; and the status of training for teachers and other school personnel in the use of specialized customer ~~telecommunications~~ communications equipment.

5. Assessment on telecommunications carriers. ~~The Bureau of Rehabilitation Services, beginning in fiscal year 1999-2000, shall assess annually telecommunications carriers in accordance with this subsection and deposit the funds collected in the Telecommunications Equipment Fund. The bureau shall assess telecommunications carriers in accordance with a schedule established by the Public Utilities Commission in accordance with this subsection.~~

~~A. The Public Utilities Commission shall determine which carriers are to be assessed under this subsection based on an evaluation of the extent of business activity undertaken by carriers in the State and the practicalities of making the assessment. The Public Utilities Commission shall include as many carriers as reasonably practicable in order to ensure a fair and broad allocation of the assessment.~~

~~B. The Public Utilities Commission shall establish an assessment schedule that is proportional to the gross annual revenues of the carriers identified for assessment and that will generate an annual aggregate of \$85,000.~~

~~C. A telecommunications carrier doing business in this State, including a provider of interstate services and a provider of wireless services, shall provide to the Public Utilities Commission, on request, records relating to its gross revenues. At the request of a carrier, the Public Utilities Commission may issue a protective order in accordance with the Maine Rules of Civil Procedure, Rule 26 (e) to protect any confidential business information provided by the carrier. Records placed under protective order by the Public Utilities Commission to this paragraph are within the scope of a privilege against discovery within the meaning of Title 1, section 402, subsection 3, paragraph B and are not public records while under the protective order.~~

Sec. A-4. 35-A MRSA §7104, sub-§5 is enacted to read:

5. Funds for Communication Equipment Fund. The commission shall annually transfer \$85,000 from a state universal service fund established pursuant to this section to the Communications Equipment Fund established under Title 26, section 1419-A. In addition to its authority under subsection 3, the commission may require contributions to the state universal service fund in an amount sufficient to collect the \$85,000.

If the Department of Labor, Bureau of Rehabilitation Services does not receive from federal or other sources funds in addition to the \$85,000 sufficient to carry out the purposes of Title 26, section 1419-A, the commission, at the request of the Department of Labor, Bureau of Rehabilitation Services, may transfer from the state universal service fund to the Communications Equipment Fund additional amounts as long as:

A. The total transfer in any year does not exceed \$122,500; and

B. Any amount in any year in excess of \$85,000 is drawn from funds otherwise available in the universal service fund. The commission is not authorized to require contributions to the state universal service fund for the purposes of this subsection in order to collect any amount in excess of \$85,000 in any year.

Sec. A-5. Application for funds; report. The Department of Labor, Bureau of Rehabilitation Services shall apply for federal homeland security funds administered by the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency to support the purposes of the Communications Equipment Fund and this Act. The Maine Emergency Management Agency and the Department of Labor, Bureau of Rehabilitation Services shall provide a report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by January 1, 2005 detailing the amount of homeland security funding that has been provided for these purposes and for supporting access to emergency alert and news services for persons who are blind.

Sec. A-6. Appropriations and allocations. The following appropriations and allocations are made.

LABOR, DEPARTMENT OF

Communications Equipment Fund 0799

Initiative: Provides funds to establish a base allocation in the event federal grant funds are secured to provide emergency alert notification equipment and other services for deaf and hard-of-hearing persons.

Federal Expenditures Fund	2003-04	2004-05
All Other	\$0	\$500
Federal Expenditures		
Fund Total	\$0	\$500

PART B

Sec. B-1. 35-A MRSA §7101, sub-§5 is enacted to read:

5. Homeland security and emergency alerts. The Legislature further finds that seamless, integrated, robust and redundant means of communication, including, but not limited to, voice and alphanumeric pagers, landline telephones, wireless telephones, text radio and wireless e-mail, create a robust communication system that enables rapid contact with first responders, ensures emergency alert notification to all affected persons in the State, including at-risk populations such as the hearing or visually impaired, and enhances homeland security. It is the policy of the State to encourage the deployment of the infrastructure necessary to support such a communications system.

See title page for effective date.

CHAPTER 554

H.P. 1361 - L.D. 1837

An Act Relating to the Consideration of the Cumulative Effects on Protected Natural Resources

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

Sec. 1. 38 MRSA §480-X, sub-§§2 and 3, as enacted by PL 1995, c. 460, §7 and affected by §12, are amended to read:

2. Three-tiered review process; tiers defined. Except as provided in subsection 1, an application for a permit to undertake activities altering freshwater wetlands must be reviewed in accordance with the following.

A. A Tier 1 review process applies to any activity that involves a freshwater wetland alteration up to 15,000 square feet and does not involve the alteration of freshwater wetlands listed in subsection 4.

B. A Tier 2 review process applies to any activity that involves a freshwater wetland alteration of 15,000 square feet up to one acre and does not involve the alteration of freshwater wetlands listed in subsection 4 or 5.