

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

lished under the Maine Revised Statutes, Title 7, section 3153-B and present its recommendations regarding that section to the Legislature no later than March 1, 2007. The joint standing committee of the Legislature having jurisdiction over agricultural matters may report out a bill to the First Regular Session of the 123rd Legislature to implement the committee's recommendations.

Sec. 7. Review by legislative committee; Milk Income Loss Contract. The joint standing committee of the Legislature having jurisdiction over agricultural matters shall review the Maine Revised Statutes, Title 7, section 3153-C and make recommendations regarding that section to the Legislature no later than March 1, 2007. The joint standing committee of the Legislature having jurisdiction over agricultural matters may report out a bill to the First Regular Session of the 123rd Legislature to implement the committee's recommendations.

Sec. 8. Appropriations and allocations. The following appropriations and allocations are made.

**AGRICULTURE, FOOD AND RURAL RESOURCES,
DEPARTMENT OF**

Maine Milk Pool

Initiative: Provides funds to carry out the provisions of the Maine Revised Statutes, Title 7, sections 3153-B and 3153-C.

Other Special Revenue Funds	2003-04	2004-05
All Other	\$0	\$1,000,000

Other Special Revenue		
Funds Total	\$0	\$1,000,000

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

Effective April 16, 2004.

CHAPTER 649

S.P. 79 - L.D. 156

**An Act to Require that Patients in
Private Mental Hospitals Be
Afforded the Same Rights As
Patients in State Mental Institutions**

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

Whereas, a patient receiving inpatient mental health services from a nonstate mental health institution that is not subject to the grievance procedures of the Department of Behavioral and Developmental

Services does not have grievance rights equal to those of a patient in a state mental health institution or a nonstate mental health institution that is subject to the department's grievance procedures; and

Whereas, attaining as soon as possible parity of grievance procedures is fundamental to fairness among patients and is critical in the efforts of the State to achieve compliance with the Bates v. Walsh and Burdick consent decree; 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. 22 MRSA §1719 is enacted to read:

§1719. Patients' rights

This section applies to hospitals licensed pursuant to chapter 405 that are nonstate mental health institutions as defined in Title 34-B, section 3801, subsection 6 and that are not subject to the grievance procedures of the Department of Behavioral and Developmental Services.

1. Adoption of rules. The commissioner shall adopt rules for the enhancement and protection of the rights of adult patients receiving inpatient mental health services from a hospital subject to the requirements of this section. The commissioner shall hold a public hearing before adopting rules under this section and shall give notice of the public hearing pursuant to Title 5, section 8053. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

2. Rights protected. The rules adopted pursuant to subsection 1 must meet the requirements of Title 34-B, section 3003, subsection 2, paragraphs A to K and must provide for the same opportunity for hearing and type of hearing as described in rules of the Department of Behavioral and Developmental Services relating to grievances filed by adult mental health consumers.

3. Delegation. The department shall delegate to the Department of Behavioral and Developmental Services responsibility for hearing and resolving all grievances that are submitted in a timely manner by patients receiving inpatient mental health services in hospitals subject to the requirements of this section.

4. Final agency action. Final resolution of a grievance by the Department of Behavioral and

Developmental Services under the rules adopted pursuant to subsection 1 is the final agency action of the department for the purposes of judicial review under Title 5, section 11001.

Sec. 2. Adoption of rules. The Commissioner of Human Services shall adopt rules as required by the Maine Revised Statutes, Title 22, section 1719 by August 1, 2004.

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

Effective April 22, 2004.

CHAPTER 650

S.P. 378 - L.D. 1158

An Act To Protect Maine's Coastal Water

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

Sec. 1. 38 MRSA §417, sub-§3, as affected by PL 1989, c. 890, Pt. A, §40 and enacted by Pt. B, §34, is amended to read:

3. Refuse. Any scrap metal, junk, paper, garbage, ~~septic tank~~ septage, sludge, rubbish, old automobiles or similar refuse.

Sec. 2. 38 MRSA §423-D is enacted to read:

§423-D. Graywater and blackwater discharges from commercial passenger vessels

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

A. "Blackwater" means human bodily wastes and the wastes from toilets and other receptacles intended to receive or retain human bodily wastes.

B. "Coastal waters" means those portions of the Atlantic Ocean within the jurisdiction of the State and all other waters of the State subject to the rise and fall of the tide.

C. "Commercial passenger vessel" means a large or small commercial passenger vessel.

D. "Graywater" means galley, dishwasher, bath and laundry wastewater. "Graywater" does not include other wastes or waste streams.

E. "Large commercial passenger vessel" means a commercial passenger vessel that provides overnight accommodations for 250 or more passengers for hire, determined with reference to the number of lower berths.

F. "No-discharge zone" means an area within coastal waters that has been designated by the United States Environmental Protection Agency pursuant to 33 United States Code, Section 1322, to be an area in which discharge of blackwater is prohibited.

G. "Small commercial passenger vessel" means a commercial passenger vessel that provides overnight accommodations for fewer than 250 passengers for hire, determined with reference to the number of lower berths.

2. Licensing exemptions. A license is not required pursuant to section 413 prior to the discharge of graywater to coastal waters from:

A. A small commercial passenger vessel;

B. A commercial passenger vessel operated by the United States or a foreign government; or

C. A commercial passenger vessel if the discharge is made for the purpose of securing the vessel or saving life at sea, and as long as all reasonable precautions have been taken to prevent or minimize the discharge. A discharge as described in this paragraph must be reported in accordance with subsection 3.

3. Report of unauthorized discharge. Discharges of blackwater or graywater from a large commercial passenger vessel to coastal waters must be reported to the department as provided in this subsection.

A. The owner or operator of a large commercial passenger vessel that discharges blackwater within a no-discharge zone or discharges blackwater in violation of federal law outside a no-discharge zone shall immediately report that discharge to the department. The owner or operator shall submit a written report concerning the discharge to the department within 30 days of the discharge.

B. Beginning January 1, 2006, the owner or operator of a large commercial passenger vessel that discharges graywater without a license or in a manner inconsistent with a license issued pursuant to section 413 shall immediately report that discharge to the department. The owner or operator shall also submit a written report concerning the discharge to the department within 30 days of the discharge.