

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

3. Emergency relief. Emergency relief ~~shall be~~ is available as follows.

A. When there is no judge available in the District Court having venue or the District Court courthouse is closed and no other provision can be made for protection of a victim of harassment, a ~~petition~~ complaint may be presented to any judge of the District Court or Justice of the Superior Court. Upon a meeting of the requirements of subsection 2, the court may enter any temporary orders, authorized under subsection 4, as the court considers necessary to protect the plaintiff from harassment.

B. If a ~~petition~~ complaint is presented under this subsection, the ~~petition~~ complaint and any order issued pursuant to the ~~petition~~ complaint must be immediately certified to the clerk of the District Court having venue for filing. This certification to the court has the effect of commencing proceedings and invoking the other provisions of this chapter.

C. An order ~~shall remain~~ remains in effect pending a hearing pursuant to subsection 1.

Sec. 7. 5 MRSA §4654, sub-§5, as amended by PL 2001, c. 134, §2, is further amended to read:

5. Service of order. If the court issues a temporary order or orders emergency or interim relief, the court shall order a law enforcement agency or, if the defendant is present in the courthouse, a court security officer qualified pursuant to Title 4, section 17, subsection 15 to serve the defendant personally with the order, the ~~petition~~ complaint and the summons.

Sec. 8. 5 MRSA §4655, sub-§1, ¶D, as amended by PL 1995, c. 265, §9, is further amended to read:

D. Ordering payment of monetary compensation to the plaintiff for losses suffered as a direct result of the harassment. Compensatory losses are limited to loss of earnings or support; reasonable expenses incurred for safety protection; reasonable expenses incurred for personal injuries or property damage; and reasonable moving expenses. Upon the motion of either party, for sufficient cause, the court may set a later hearing on the issue of the amount of damages, if any, to be awarded. If it appears from the ~~petition~~ complaint that an order under this paragraph may be granted, the plaintiff or defendant may remove the issue of monetary compensation to the Superior Court where a jury trial may be had. Removal must be requested by motion prior to a hearing under section 4654;

See title page for effective date.

CHAPTER 659

S.P. 730 - L.D. 1884

An Act To Strengthen the Enforcement Provisions of the Maine Health Data Organization

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

Sec. 1. 22 MRSA §8705, as amended by PL 2003, c. 452, Pt. K, §§28 and 29 and affected by Pt. X, §2, is repealed.

Sec. 2. 22 MRSA §8705-A is enacted to read:

§8705-A. Enforcement

The board shall adopt rules to ensure that payors and providers file data as required by section 8704, subsection 1; that users that obtain health data and information from the organization safeguard the identification of patients and health care practitioners as required by section 8707, subsections 1 and 3; and that payors and providers pay all assessments as required by section 8706, subsection 2.

1. Definitions. As used in this section, unless the context otherwise indicates, the following definitions of "intentionally" and "knowingly" apply to this section.

A. A person acts intentionally with respect to a result of that person's conduct when it is that person's conscious object to produce such a result.

B. A person acts knowingly with respect to a result of that person's conduct when the person is aware that it is practically certain that that person's conduct will cause such a result.

2. Rulemaking. The board shall adopt rules to implement this section. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The rules may contain procedures for monitoring compliance with this chapter. Rules adopted pursuant to this subsection must include a schedule of fines for:

A. Failure to file data;

B. Failure to pay assessments; and

C. Intentionally or knowingly and without authorization using or disseminating health care information that directly or indirectly identifies patients or health care practitioners performing abortions as defined in section 1596.

3. Fines. The following provisions apply to enforcement actions under this section except for circumstances beyond a person's or entity's control.

A. When a person or entity that is a health care facility, payor, 3rd-party administrator or carrier that provides only administrative services for a plan sponsor violates the requirements of this chapter, except for section 8707, that person or entity commits a civil violation for which a fine of not more than \$1,000 per day may be adjudged. A fine imposed under this paragraph may not exceed \$25,000 for any one occurrence.

B. A person or entity that receives data or information under the terms and conditions of section 8707 and intentionally or knowingly uses, sells or transfers the data in violation of the board's rules for commercial advantage, pecuniary gain, personal gain or malicious harm commits a civil violation for which a fine not to exceed \$250,000 may be adjudged.

C. A person or entity not covered by paragraph A or B that violates the requirements of this chapter, except for section 8707, commits a civil violation for which a fine of not more than \$100 per day may be adjudged. A fine imposed under this paragraph may not exceed \$2,500 for any one occurrence.

4. Enforcement action. Upon a finding that a person or entity has failed to comply with the requirements of this chapter, including the payment of a fine determined under this section, the board may undertake any or all of the following.

A. The board may refer the matter to the department or board that issued a license to the provider for such action as the department or board considers appropriate.

B. The board may refer the matter to the Department of Professional and Financial Regulation, Bureau of Insurance for such action against the payor as the bureau considers appropriate.

C. The board may file a complaint with the Superior Court in the county in which the person resides or the entity is located or in Kennebec County seeking an order to require that person or entity to comply with the requirements of this chapter, seeking enforcement of a fine determined under this section or seeking other relief from the court.

5. Injunctive relief. In the event of any violation of this chapter or any rule adopted pursuant to this chapter, the Attorney General may seek to enjoin a

further violation and seek any other appropriate remedy provided by this chapter.

See title page for effective date.

CHAPTER 660

H.P. 1383 - L.D. 1857

An Act To Implement the Recommendations of the Task Force on the Planning and Development of Marine Aquaculture in Maine

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

PART A

Sec. A-1. 7 MRSA §401-B, first ¶, as enacted by PL 1983, c. 563, §1, is amended to read:

To further the purposes of this Part, the commissioner shall initiate and implement programs necessary to facilitate the effective, profitable marketing of Maine agricultural products. For the purposes of this subchapter, the terms "agricultural products" and "farm products" include, but are not limited to, products of aquaculture as defined in Title 12, section 6001, subsection 1. These programs shall include, but are not be limited to, the following.

Sec. A-2. 12 MRSA §6052, sub-§3, as amended by PL 2003, c. 60, §2, is further amended to read:

3. Marketing. ~~Serve~~ Except for aquaculture, ~~serve~~ as the primary state agency providing promotional and marketing assistance to the commercial fishing industries, including assisting in marketing seafood, stimulating of consumer interest in and consumption of seafood, increasing the sales of seafood domestically and abroad, supporting and expanding existing markets and developing new markets for traditional and underutilized species;

Sec. A-3. 12 MRSA §6072, sub-§2, ¶E, as amended by PL 1997, c. 609, §1, is further amended to read:

~~The~~ Except as provided in subsection 13-A, the lease does not result in a person being a tenant of any kind in leases covering an aggregate of more than ~~250~~ 300 acres; and

Sec. A-4. 12 MRSA §6072, sub-§4, ¶J, as enacted by PL 1987, c. 453, §1, is amended to read:

J. Include a nonrefundable application fee of at least \$100, but not more than ~~\$1,000~~ \$2,000, the