

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

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

Penmor Lithographers
Lewiston, Maine
2005

(4) The recycling operation Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws related to hazardous materials, rules and regulations.

(5) A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerant, batteries and mercury switches were removed.

(6) All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their own motor power or that are otherwise incapable of being driven under their own motor power within 180 days of acquisition. Motor vehicles acquired by and on the premises of an automobile recycling business prior to October 1, 2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this subparagraph must be removed to the greatest extent practicable.

(7) All fluids, refrigerant, batteries and mercury switches must be removed from vehicles before crushing or shredding. Fluids required to be removed under this subparagraph must be removed to the greatest extent practicable.

Sec. 6. 38 MRSA §1306, sub-§5 is enacted to read:

5. Control of fluids from motor vehicles at junkyards, automobile graveyards and automobile recycling businesses. Fluids must be controlled in accordance with the following.

A. All fluids, including but not limited to engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel, oil and refrigerant, batteries and mercury switches must be properly handled by junkyards, automobile graveyards and automobile recycling businesses in such a manner that they do not leak, flow or discharge into or onto the ground, into a body of water or into the air.

B. All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their

own motor power or that are otherwise incapable of being driven under their own motor power, appliances and other items within 180 days of acquisition by a junkyard, automobile graveyard or automobile recycling business. Motor vehicles, appliances and other items acquired by and on the premises of a junkyard, automobile graveyard or automobile recycling business prior to October 1, 2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable.

C. A person may not crush, shred or otherwise process, or cause to be crushed, shredded or otherwise processed, motor vehicles, appliances or other items before removal of all fluids, refrigerant, batteries and mercury switches. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable.

Sec. 7. Effective date. This Act takes effect October 15, 2005.

Effective October 15, 2005.

CHAPTER 248

H.P. 169 - L.D. 230

An Act Establishing a Role for the Public Advocate in Promoting Railroad Service Quality

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

Sec. 1. 23 MRSA §7103, sub-§1, as amended by PL 2003, c. 498, §3 and affected by §12, is further amended to read:

1. Fund created. There is created the "Railroad Preservation and Assistance Fund," which receives all revenue derived from the tax levied pursuant to Title 36, chapter 361 and taxes paid under Title 36, section 1865, except any taxes deposited pursuant to Title 36, section 2625, subsection 1 in the Railroad Freight Service Quality Fund established under Title 35-A, section 1711. The fund is also eligible to receive grants from other sources. The Treasurer of State shall receive and deposit all revenue to the fund in a separate account to be known as the Railroad Preservation and Assistance Fund.

Sec. 2. 35-A MRSA §1711 is enacted to read:

§1711. Railroad service quality

In addition to the authority and duties otherwise specified in this chapter, the Public Advocate shall seek to promote and enhance railroad freight service quality in accordance with this section. The Public Advocate shall undertake activities under this section only to the extent funding for those activities is available in the fund established under subsection 5.

1. Definition. As used in this section, unless the context otherwise indicates, "shipper" means a person or entity that uses railroad freight service.

2. Tracking service quality. The Public Advocate shall collect data on the quality of railroad freight service in this State. The Public Advocate may conduct surveys or employ other methods to gather information provided on a voluntary basis by shippers. The Public Advocate shall collect and organize the data in accordance with a performance matrix designed to measure service quality. The Public Advocate shall consult with the Department of Transportation and with shippers in developing the performance matrix. On a schedule mutually acceptable to the Public Advocate and the department, the Public Advocate shall provide to the department regular reports on the quality of railroad freight service based on data collected pursuant to this subsection. The Public Advocate shall report the data in a manner that is consistent with subsection 4. Reports provided pursuant to this subsection are public records.

3. Authority to take certain actions. In order to enhance and promote railroad freight service quality in this State the Public Advocate may:

A. Provide information to federal, regional and state agencies, groups and organizations and monitor federal and state regulatory actions of interest to Maine shippers;

B. Provide advice and assistance to shippers;

C. With the consent of the parties, facilitate or mediate railroad freight service disputes; and

D. Take any other appropriate actions consistent with the purposes of this section.

4. Protection of persons supplying information; confidentiality. In order to encourage shippers to provide information to the Public Advocate under this section, the Public Advocate shall institute procedures to preserve the anonymity of shippers that provide railroad freight service quality information to the Public Advocate. Those portions of records obtained or kept by the Public Advocate pursuant to this section that the Public Advocate determines would reveal the identity of a shipper that provides information to the Public Advocate under this section are confidential and are not public records pursuant to

Title 1, section 402, subsection 3, paragraph B. If the Public Advocate determines that disclosure of information that would reveal the identity of a shipper would assist the Public Advocate in achieving the purposes of this section, the Public Advocate shall, prior to the disclosure, notify the affected shipper to allow the shipper to discuss the proposed disclosure. If the affected shipper objects to the disclosure of the information, the Public Advocate may not disclose the information.

5. Funding. There is created the Railroad Freight Service Quality Fund, referred to in this section as "the fund." Pursuant to Title 36, section 2625, the fund receives \$20,000 each year from the tax levied pursuant to Title 36, chapter 361. Expenditures from the fund are subject to legislative approval in the same manner as appropriations from the General Fund. Any balance in the fund in excess of that required for the purposes of this section does not lapse but is carried forward. Money in the fund may be expended by the Public Advocate only for the purposes of this section.

6. Report. The Public Advocate shall annually, no later than the first Monday in February, submit to the joint standing committees of the Legislature having jurisdiction over utilities and energy and transportation matters a report that includes the following:

A. A summary of railroad freight service quality data collected under subsection 2 and any actions taken pursuant to subsection 3;

B. An evaluation of the effectiveness of any actions taken under subsection 3 and the need for the authority granted under that subsection, together with any recommendations for modifications to that authority; and

C. An accounting of expenditures from the fund, prospective funding needs and any recommendations for changes in funding levels.

7. Repeal and review. This section is repealed 90 days after the adjournment of the Second Regular Session of the 123rd Legislature. In the report submitted that year pursuant to subsection 6, the Public Advocate shall make recommendations with regard to the continued need for the authority granted under this section. After reviewing that report, the joint standing committees of the Legislature having jurisdiction over utilities and energy and transportation matters may jointly report out legislation to the Second Regular Session of the 123rd Legislature concerning the subject matter of this section.

Sec. 3. 36 MRSA §2625, as amended by PL 2003, c. 498, §9 and affected by §12, is further amended to read:

§2625. Return and payment

Every railroad company incorporated under the laws of this State or doing business in this State shall file with the State Tax Assessor annually, on or before April 15th, a railroad excise tax return, on a form prescribed by the State Tax Assessor. The tax must be paid in equal installments on the next June 15th, September 15th and December 15th. ~~The Except as otherwise provided in subsection 1, the Treasurer of State shall deposit all taxes paid under this chapter into the Railroad Preservation and Assistance Fund established under Title 23, section 7103.~~

1. Railroad Freight Service Quality Fund. ~~The Treasurer of State shall each year deposit \$20,000 of the taxes paid under this chapter in the Railroad Freight Service Quality Fund established under Title 35-A, section 1711.~~

~~This subsection is repealed 90 days after the adjournment of the Second Regular Session of the 123rd Legislature.~~

Sec. 4. Authority to report legislation.

The Joint Standing Committee on Utilities and Energy and the Joint Standing Committee on Transportation may jointly report out legislation concerning railroad freight service to the Second Regular Session of the 122nd Legislature.

Sec. 5. Appropriations and allocations.

The following appropriations and allocations are made.

EXECUTIVE DEPARTMENT

Public Advocate

Initiative: Allocates general operating funds to assist the Public Advocate in enhancing and promoting railroad service quality in the State.

OTHER SPECIAL REVENUE FUNDS	2005-06	2006-07
All Other	\$20,000	\$20,000

OTHER SPECIAL REVENUE FUNDS TOTAL	\$20,000	\$20,000
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EXECUTIVE DEPARTMENT DEPARTMENT TOTALS	2005-06	2006-07
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OTHER SPECIAL REVENUE FUNDS	\$20,000	\$20,000
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DEPARTMENT TOTAL - ALL FUNDS	\$20,000	\$20,000
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TRANSPORTATION, DEPARTMENT OF

Railroad Assistance Program 0350

Initiative: Deallocates general operating funds to reflect a loss of revenue to the Railroad Preservation and Assistance Fund.

OTHER SPECIAL REVENUE FUNDS	2005-06	2006-07
All Other	(\$20,000)	(\$20,000)
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$20,000)	(\$20,000)
TRANSPORTATION, DEPARTMENT OF DEPARTMENT TOTALS	2005-06	2006-07
OTHER SPECIAL REVENUE FUNDS	(\$20,000)	(\$20,000)
DEPARTMENT TOTAL - ALL FUNDS	(\$20,000)	(\$20,000)
SECTION TOTALS	2005-06	2006-07
OTHER SPECIAL REVENUE FUNDS	\$0	\$0
SECTION TOTAL - ALL FUNDS	\$0	\$0

See title page for effective date.

CHAPTER 249

H.P. 520 - L.D. 725

An Act To Require the Disclosure of Certain Financial Information from Hospitals and Their Affiliates

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

Sec. 1. 22 MRSA §1819-A is enacted to read:

§1819-A. Financial disclosure

Each hospital licensed under this chapter must annually publicly disclose:

1. IRS Form 990. The federal Internal Revenue Service Form 990, including all related disclosable schedules, for the hospital and for each tax-exempt entity related to the hospital that is required by federal law to file that form with the Internal Revenue Service; and

2. IRS Form 1120. The federal Internal Revenue Service Form 1120 for each for-profit entity in which the hospital has a controlling interest.

Information required to be disclosed under this section must be submitted by the hospital to the department within 5 months after the end of the hospital's fiscal year or within 5 months after the date on which the entity files the applicable form with the Internal Revenue Service. The department shall make available for public inspection and photocopying copies of all documents required by this section and