# LAWS

## OF THE

# STATE OF MAINE

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**SECOND SPECIAL SESSION**
**July 29, 2005**

**SECOND REGULAR SESSION**
**January 4, 2006 to May 24, 2006**

**THE GENERAL EFFECTIVE DATE FOR**
**SECOND SPECIAL SESSION**
**NON-EMERGENCY LAWS IS**
**OCTOBER 28, 2005**

**THE GENERAL EFFECTIVE DATE FOR**
**SECOND REGULAR SESSION**
**NON-EMERGENCY LAWS IS**
**AUGUST 23, 2006**

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

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**Penmor Lithographers**
**Lewiston, Maine**
**2006**

compliance with the standards applied by the office. By January 15, 2008, the department shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on its findings and on the dates by which the necessary programmatic changes will be implemented.

**3. Consistency in cost reimbursement.** The Department of Health and Human Services shall review its rules governing cost reimbursement of health care providers to identify the substantial inconsistencies among those rules in the definitions of "ordinary," "necessary" and "reasonable" costs that are allowable and the criteria concerning and the limitations on reimbursement thereof, including the assignment of costs to various rate components. The department shall consult with providers and report to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding methods and procedures that the department may adopt and follow to ensure that consistency among these rules is achieved and maintained as policy changes occur. The department shall complete its review and report by January 1, 2007.

**4. Implementing legislation.** Following its receipt and review of each report described in this section, the joint standing committee of the Legislature having jurisdiction over health and human services matters may report to the Legislature such recommended legislation as may be necessary to accomplish the objectives addressed in the reports.

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

Effective April 14, 2006.

## CHAPTER 589

**S.P. 771 - L.D. 1992**

### An Act Regarding Prescription Drug Information Intermediaries

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

**Sec. 1. 22 MRSA §1711-E** is enacted to read:

**§1711-E. Requirements for prescription drug information intermediaries**

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

A. "Carrier" has the same meaning as in Title 24-A, section 4301-A, subsection 3.

B. "Electronic transmission intermediary" means an entity that provides the infrastructure that connects the computer systems or other electronic devices used by health care practitioners, health care facilities and pharmacy benefit managers to carriers and agents and contractors of those carriers and agents in order to facilitate the secure transmission of an individual's prescription drug order, refill, authorization request, claim, payment or other prescription drug information.

C. "Health care facility" has the same meanings as in section 1711-C, subsection 1, paragraph D.

D. "Health care practitioner" has the same meanings as in section 1711-C, subsection 1, paragraph F.

E. "Health plan" means a health plan providing prescription drug coverage as authorized under the federal Medicare Prescription Drug, Improvement and Modernization Act of 2003, Public Law 108-173.

F. "Individual" means a natural person who is the subject of prescription drug information.

G. "Pharmacy benefits manager" has the same meaning as in section 2699, subsection 1, paragraph F.

H. "Prescription drug information" means information concerning prescription drugs as defined in Title 32, section 13702, subsection 24 and includes prescription drug orders as defined in Title 32, section 13702, subsection 25.

I. "Prescription drug information intermediary" means a person or entity that communicates, facilitates or participates in the exchange of prescription drug information regarding an individual. "Prescription drug information intermediary" includes, but is not limited to, a pharmacy benefits manager, a health plan and an electronic transmission intermediary.

**2. Confidentiality of health care information.** A prescription drug information intermediary may not sell or exchange for value prescription drug information that identifies directly or indirectly the individual except if expressly permitted under section 1711-C, Title 24, Title 24-A or the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended.

**3. Enforcement.** A violation of this section is a violation of the Maine Unfair Trade Practices Act.

**Sec. 2. 22 MRSA §2700-A, sub-§4,** as enacted by PL 2005, c. 392, §1, is amended to read:

**4. Fees.** Beginning April 1, 2006, each manufacturer of prescription drugs that are provided to Maine residents through the MaineCare program under section 3174-G or the elderly low-cost drug program under section 254 shall pay a fee of $1,000 per calendar year to the ~~department~~ State. Fees collected under this subsection must be used to cover the cost of overseeing implementation of this section, including but not limited to maintaining links to publicly accessible websites to which manufacturers are posting clinical trial information under subsection 3 and other relevant sites, assessing whether and the extent to which Maine residents have been harmed by the use of a particular drug and undertaking the public education initiative under subsection 5. Revenues received under this subsection must be deposited into an Other Special Revenue Funds account to be used for the purposes of this subsection.

See title page for effective date.

## CHAPTER 590

### S.P. 787 - L.D. 2043

### An Act To Further Reduce Mercury Use and Emissions

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

**Sec. 1. 38 MRSA §585-B, sub-§5,** as enacted by PL 1997, c. 722, §3, is amended to read:

**5. Standards for mercury.** Notwithstanding subsection 1, an air emission source may not emit mercury in excess of 45.4 kilograms, or 100 pounds, per year after January 1, 2000 ~~and~~; 22.7 kilograms, or 50 pounds, per year after January 1, 2004; 15.9 kilograms, or 35 pounds, after January 1, 2007; and 11.4 kilograms, or 25 pounds, after January 1, 2010. Compliance with these limits must be specified in the license of the air emission source. The board shall establish by rule testing protocols and measurement methods for emissions sources for which the board has not established such protocols and methods for determining compliance with the emission standard for mercury. These rules are routine technical rules under Title 5, chapter 375, subchapter ~~II-A~~ 2-A.

An air emission source may apply to the board for an extension or modification of the ~~22.7 kilogram, or 50-pound~~ 11.4-kilogram, or 25-pound, limit as follows.

A. An emission source may submit an application to the board no later than January 1, ~~2003~~ 2009 for a 6-month extension of the January 1, ~~2004~~ 2010 deadline to meet the ~~22.7-kilogram, or 50-pound~~ 11.4-kilogram, or 25-pound, limit. The board shall grant the extension if the board determines, based on information presented by the source, that compliance with the limit is not achievable by the deadline due to engineering constraints, availability of equipment or other justifiable technical reasons.

B. An emission source may submit an application to the board no later than January 1, ~~2003~~ 2009 for a license modification establishing an alternative emission limit for mercury. The board shall grant the license modification if the board finds that the proposed mercury emission limit meets the most stringent emission limitation that is achievable and compatible with that class of source, considering economic feasibility.

Pending a decision on an application for an extension or a license modification under this subsection, the ~~45.4-kilogram, or 100-pound~~ 15.9-kilogram, or 35-pound, limit applies to the emission source.

Notwithstanding the January 1, 2000 compliance date in this subsection, a resource recovery facility that is subject to an emissions limit for mercury adopted by rule by the board before January 1, 2000 shall comply with the 45.4-kilogram, or 100-pound, mercury emissions limit after December 19, 2000.

**Sec. 2. 38 MRSA §585-B, sub-§6** is enacted to read:

**6. Mercury reduction plans.** Any air emission source emitting mercury in excess of 10 pounds per year after January 1, 2007 must develop a mercury reduction plan. The mercury reduction plan must be submitted to the department no later than September 1, 2008. The mercury reduction plan must contain:

A. Identification, characterization and accounting of the mercury used or released at the emission source; and

B. Identification, analysis and evaluation of any appropriate technologies, procedures, processes, equipment or production changes that may be utilized by the emission source to reduce the amount of mercury used or released by that emission source, including a financial analysis of the costs and benefits of reducing the amount of mercury used or released.

C. The department may keep information submitted to the department under this subsection confidential as provided under section 1310-B.

The department shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than March 1, 2009 summarizing the mercury emissions and mercury reduction potential from those emission sources subject to this subsection. In addition, the