

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 6, 2006 to June 21, 2007**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 20, 2007**

**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**  
**2007**

**CHAPTER 222  
H.P. 86 - L.D. 94**

**An Act To Protect Consumer  
Rights under the Maine Unfair  
Trade Practices Act**

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

**Sec. 1. 5 MRSA §208, sub-§1**, as enacted by  
PL 1969, c. 577, §1, is amended to read:

**1. Regulatory boards.** Transactions or actions  
otherwise permitted under laws as administered by any  
regulatory board or officer acting under statutory au-  
thority of the State or of the United States; ~~or. This~~  
exception applies only if the defendant shows that:

A. Its business activities are subject to regulation  
by a state or federal agency; and

B. The specific activity that would otherwise  
constitute a violation of this chapter is authorized,  
permitted or required by a state or federal agency  
or by applicable law, rule or regulation or other  
regulatory approval.

See title page for effective date.

**CHAPTER 223  
H.P. 151 - L.D. 169**

**An Act To Place Land in  
Township 21 in Trust**

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

**Sec. 1. 30 MRSA §6205, sub-§1, ¶C**, as  
amended by PL 2001, c. 251, §2 and affected by §4, is  
further amended to read:

C. Any land not exceeding 100 acres in the City  
of Calais acquired by the secretary for the benefit  
of the Passamaquoddy Tribe as long as the land is  
acquired by the secretary prior to January 1, 2001,  
is not held in common with any other person or  
entity and is certified by the secretary by January  
31, 2001, as held for the benefit of the Passama-  
quoddy Tribe, if:

(1) The acquisition of the land by the tribe is  
approved by the legislative body of that city; and

(2) A tribal-state compact under the federal  
Indian Gaming Regulatory Act is agreed to  
by the State and the Passamaquoddy Tribe or  
the State is ordered by a court to negotiate  
such a compact; ~~and~~

**Sec. 2. 30 MRSA §6205, sub-§1, ¶D**, as en-  
acted by PL 2001, c. 251, §3 and affected by §4, is  
amended to read:

D. All land acquired by the secretary for the  
benefit of the Passamaquoddy Tribe in T. 19,  
M.D. to the extent that the land is acquired by the  
secretary prior to January 31, 2020, is not held in  
common with any other person or entity and is  
certified by the secretary by January 31, 2020 as  
held for the benefit of the Passamaquoddy Tribe;  
~~and~~  
and

**Sec. 3. 30 MRSA §6205, sub-§1, ¶E** is en-  
acted to read:

E. Land acquired by the secretary for the benefit  
of the Passamaquoddy Tribe in Township 21 con-  
sisting of Gordon Island in Big Lake, conveyed by  
Domtar Maine Corporation to the Passamaquoddy  
Tribe by corporate quitclaim deed dated April 30,  
2002, recorded in the Washington County Regis-  
try of Deeds in Book 2624, Page 301, to the ex-  
tent that the land is acquired by the secretary prior  
to January 31, 2017, is not held in common with  
any other person or entity and is certified by the  
secretary by January 31, 2017 as held for the  
benefit of the Passamaquoddy Tribe.

**Sec. 4. Effective date; certification.** This  
Act does not take effect unless, within 60 days of the  
adjournment of the Legislature, the Secretary of State  
receives written certification by the Joint Tribal Coun-  
cil of the Passamaquoddy Tribe that the tribe has  
agreed to the provisions of this Act pursuant to 25  
United States Code, Section 1725(e), copies of which  
must be submitted by the Secretary of State to the Sec-  
retary of the Senate, the Clerk of the House of Repre-  
sentatives and the Revisor of Statutes, except that in  
no event may this Act become effective until 90 days  
after the adjournment of the Legislature.

See title page for effective date, unless otherwise  
indicated.

**CHAPTER 224  
H.P. 414 - L.D. 536**

**An Act To Promote Efficiency  
in the Use of the  
Communications Equipment  
Fund**

**Emergency preamble. Whereas**, acts and re-  
solves of the Legislature do not become effective until  
90 days after adjournment unless enacted as emergen-  
cies; and

**Whereas**, the Communications Equipment Fund  
provides specialized communications equipment to  
meet the communications needs of deaf, hard-of-

hearing and speech-impaired persons and persons with disabilities; and

**Whereas**, changes in the allocation of money from the fund are necessary to increase the efficiency in the use of the fund and address critical communications equipment needs of deaf, hard-of-hearing and speech-impaired persons and persons with disabilities who rely on equipment provided by the fund; 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. 26 MRSA §1419-A, sub-§2**, as amended by PL 2005, c. 336, §1, is further amended to read:

**2. Communications Equipment Fund.** There is established the 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. 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 Communications Equipment Fund and disbursed in accordance with this section. The Communications Equipment Fund may be used for purchase, lease, distribution, upgrading, installation, maintenance and repair of specialized customer communications equipment for deaf, hard-of-hearing or speech-impaired persons and persons with disabilities ~~and~~ for training in the use of such equipment and for administrative costs associated with these uses of the fund, except that funds received for the purposes of subsection 6 pursuant to Title 35-A, section 7104 may be used only in accordance with subsection 6. The Division of Deafness may draw on the Communications Equipment Fund in accordance with the communications equipment plan required under subsection 3.

**Sec. 2. 26 MRSA §1419-A, sub-§6**, as enacted by PL 2005, c. 336, §2, is amended to read:

**6. Emergency alert telecommunications service.** A person who has been certified by the Division of Deafness as being deaf or hard-of-hearing and has an income of less than 135% of the federal poverty level must receive a discount of up to \$10 per month in the service charge for any wireless communications

device or 2-way pager that is used to receive emergency alerts issued by any state or federal agency or a discount equal to the monthly service charge for any one-way pager that is used to receive emergency alerts issued by any state or federal agency. ~~Such a~~ A person using a wireless communications device or 2-way pager must receive a \$10 discount except when the service charge for the wireless communications device or 2-way pager is less than \$10 per month, in which case the person must receive a discount equal to the service charge for the wireless communications device or 2-way pager. A company required to provide the discount is entitled to recover amounts discounted from the Communications Equipment Fund established in subsection 2. The Bureau of Rehabilitation Services shall adopt rules to establish the process for certifying eligibility with the Division of Deafness and for the process to be used by wireless and paging companies in recovering discounted revenue from the Communications Equipment Fund. Administrative costs associated with implementing this subsection may be paid from funds provided to the Communications Equipment Fund for the purposes of this subsection pursuant to Title 35-A, section 7104. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 3. 35-A MRSA §7104, sub-§5**, as repealed and replaced by PL 2005, c. 683, Pt. A, §59, is amended to read:

**5. Funds for Communications 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.

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 an additional ~~\$37,500~~ \$100,000.

The commission may, upon the request of the Department of Labor, Bureau of Rehabilitation Services and after a finding that the funds are necessary and that sufficient attempts have been made by the Bureau of Rehabilitation Services to maximize federal support to support emergency alert telecommunications service, ~~annually transfer up to \$60,000 in fiscal year 2005-06, up to \$90,000 in fiscal year 2006-07 and up to \$120,000 in any subsequent fiscal year~~ \$57,500 from the state universal service fund established by this section to the Communications Equipment Fund established under Title 26, section 1419-A for the exclu-

sive purpose of supporting the discount program established under Title 26, section 1419-A, subsection 6.

The commission may require contributions to the state universal service fund in an amount necessary to collect amounts transferred pursuant to this subsection.

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

Effective June 4, 2007.

**CHAPTER 225  
H.P. 907 - L.D. 1289**

**An Act To Provide Oversight  
for Crematoriums**

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

**Sec. 1. 32 MRSA §1405**, as amended by PL 1985, c. 611, §§11 and 12 and PL 1997, c. 210, §40 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**§1405. Cremation**

Any A person, firm or corporation within the State, with the approval of after obtaining a license from and paying a license fee to the Department of Health and Human Services may establish and maintain suitable buildings and appliances for the cremation of bodies of the dead and, subject to the regulations rules of the department, may cremate such bodies and dispose of the ashes of the same. The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

The body of a deceased person ~~shall~~ may not be cremated within 48 hours after ~~his decease~~ death unless ~~he the person~~ the person died of a contagious or infectious disease, and in no event ~~shall~~ may the body of a deceased person be cremated, buried at sea, used by medical science or removed from the State until the person, firm or corporation in charge of the disposition has received a certificate from a duly appointed medical examiner that ~~he the medical examiner~~ the medical examiner has made personal inquiry into the cause and manner of death and is satisfied that ~~no~~ no further examination or judicial inquiry concerning the ~~same~~ cause and manner of death is not necessary. This certificate, a certified copy of the death certificate and a burial transit permit when presented by the authorized person as defined in Title 22, section 2846, ~~shall be~~ is sufficient authority for cremation, burial at sea, use by medical science or removal from the State, and the person, firm or corporation in charge of the disposition ~~shall~~ may not refuse

to cremate or otherwise dispose of the body solely because these documents are presented by such an authorized person. The certificate ~~shall~~ must be retained by the person, firm or corporation in charge of the cremation or disposition for a period of 15 years. For the certificate, the medical examiner ~~shall~~ must receive a fee of \$15 payable by the person requesting ~~same~~ the certificate.

~~No human~~ Human remains ~~shall~~ may not be removed, transported or shipped to ~~any~~ a crematory unless encased in a casket or other suitable container.

See title page for effective date.

**CHAPTER 226  
H.P. 975 - L.D. 1383**

**An Act To Enhance  
Availability of Emergency  
Telephone Services**

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

**Sec. 1. 25 MRSA §2921, sub-§5-A** is enacted to read:

**5-A. Enhanced 9-1-1 access-only service.** "Enhanced 9-1-1 access-only service" or "E-9-1-1 access-only service" means the provision of E-9-1-1 access to a residential telephone customer's premises when telephone service to the premises has been otherwise suspended or disconnected.

**Sec. 2. 25 MRSA §2935** is enacted to read:

**§2935. E-9-1-1 access-only service**

**1. Provision of E-9-1-1 access-only service.** It is the policy of this State that E-9-1-1 be broadly available where it is economically and technologically practical. The bureau shall, by rule, establish requirements for the provision of E-9-1-1 access-only service, including, but not limited to, the circumstances in which E-9-1-1 access-only service is and is not required and which telephone service providers are and are not subject to the requirements.

**2. Rulemaking.** The bureau 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.

**Sec. 3. Major substantive rulemaking; authority for legislation.** Major substantive rules provisionally adopted pursuant to the Maine Revised Statutes, Title 25, section 2935 must be submitted to the Legislature by January 15, 2008 for review by the Joint Standing Committee on Utilities and Energy during the Second Regular Session of the 123rd Legislature. In the rulemaking, the Public Utilities Com-