

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 2, 2008 to March 31, 2008**

**FIRST SPECIAL SESSION**  
**April 1, 2008 to April 18, 2008**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 30, 2008**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 18, 2008**

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

---

---

**Penmor Lithographers**  
**Lewiston, Maine**  
**2008**

chise with that franchisee upon request during normal business hours for on-site review.

**5. Franchises.** All franchises ~~shall~~ must be non-exclusive. All franchises ~~shall~~ must include provision for access to, and facilities to make use of, one or more local public, educational and governmental access channels subject to the definitions and requirements of the Cable Communications Policy Act of 1984, Public Law 98-549 or related requirements or regulations of the Federal Communications Commission.

**6. Rights of individuals.** ~~No~~ A cable television system operator may not deny service, deny access or otherwise discriminate against subscribers, channel users or general citizens on the basis of age, race, religion, sex, physical handicap or country of natural origin.

**6-A. Subscriber privacy.** A cable television system operator may not intrude upon the privacy of a subscriber by installing or using any equipment that allows the cable system operator to observe or to listen to what is occurring in an individual subscriber's household or to monitor the viewing habits of the subscriber without express, prior written consent of the subscriber. A cable system operator may not sell, disclose or otherwise make available, or permit the use of, lists of the names or addresses of its subscribers, or any list or other information that identifies by name or address subscribers or subscriber viewing habits, to any person or agency for any purpose whatsoever without the prior written consent of the subscriber except that the cable system operator may make such lists available to persons performing services for the cable system operator in connection with its business or operations, such as a billing service, when the availability of such lists is necessary to the performance of such services if, in either case, the persons or entity receiving such lists agree in writing that they will not permit them to be made available to any other party.

**6-B. Late fees.** A cable television system operator may not charge a late fee or other penalty or charge for late payment of any bill that exceeds 1.5% per month of the amount due in the bill. If the bill includes separate charges for different levels of service, a late fee or other penalty or charge must be calculated on the total amount overdue for all levels of service and may not be calculated separately for each level of service. A payment is not late under this subsection until at least 30 days after those services to which the late fee applies have been received by the consumer.

**7. Penalty.** A violation of any provision of this section is a violation of ~~the Unfair Trades Practices Act,~~ Title 5, chapter 10.

**8. Filing of franchise agreements.** A cable system operator that maintains a publicly accessible web-

site shall post on that website a copy of the most recently executed franchise agreement for each franchise that it has been granted by a municipality in the State.

**Sec. 3. Model franchise agreement deadline; report and authority for legislation.** By December 15, 2008, the Department of Administrative and Financial Services, Office of Information Technology shall complete the development of the model franchise agreement for cable television service pursuant to the Maine Revised Statutes, Title 30-A, section 3008, subsection 7 and submit a report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters regarding the model franchise agreement and its development. After receipt and review of the report, the committee is authorized to submit legislation regarding cable television service to the First Regular Session of the 124th Legislature.

See title page for effective date.

---



---

## CHAPTER 549

### H.P. 1504 - L.D. 2124

#### An Act To Prevent the Theft of Certain Metals

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

**Whereas,** scrap metal theft is increasing at an alarming rate across the country and in the State and members of the public and businesses across the State are suffering as a result of this theft; and

**Whereas,** the State's efforts to track and record scrap metal transactions will help deter scrap metal theft, improve public safety and reduce the financial burden placed on the industry; 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. 30-A MRSA c. 183, sub-c. 1-A** is enacted to read:

**SUBCHAPTER 1-A**  
**SCRAP METAL PROCESSORS**

**§3771. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Beverage container.** "Beverage container" means a can, bottle, jar or other container made of aluminum or metal that is sealed by a manufacturer and contained, at the time of sale, a beverage, as defined by Title 32, section 1862, but does not include a beer keg.

**2. Nonferrous metal.** "Nonferrous metal" means a metal that does not contain significant quantities of iron or steel. "Nonferrous metal" includes the following metals and their alloys:

- A. Copper;
- B. Brass;
- C. Aluminum;
- D. Bronze;
- E. Lead;
- F. Zinc;
- G. Nickel; and
- H. Platinum.

**3. Record.** "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

**4. Scrap metal.** "Scrap metal" means metal that can be recycled, including, but not limited to, bits and pieces of metal parts that may be combined together with bolts or soldering and can be recycled when worn or superfluous.

**5. Scrap metal processor.** "Scrap metal processor" means a person that, from a fixed location, purchases scrap metal for resale or recycling.

**6. Seller.** "Seller" means any person that receives in a transaction monetary consideration from a scrap metal processor in exchange for nonferrous metal, iron or steel, including stainless steel. "Seller" does not include a person that, as part of a commercial enterprise or business, sells pursuant to a written contract or bill of sale scrap metal generated in a manufacturing or production process to a scrap metal processor.

**§3772. Records of purchases maintained by scrap metal processors**

**1. Requirement.** Except as provided in subsection 2, a scrap metal processor doing business in the State shall maintain an accurate and legible record of

each scrap metal purchase transaction that exceeds 100 pounds or \$50. A scrap metal processor shall provide payment to a seller only in the form of a check, and shall maintain a record of the payee, check number and name of the financial institution upon which the check is drawn.

**2. Exception.** A scrap metal processor doing business in the State is not required to maintain individual records for a series of scrap metal purchase transactions made pursuant to a written contract or bill of sale.

**3. Information required.** The record of each scrap metal purchase transaction required under subsection 1 must contain the following information:

- A. The name, address and gender of the seller. The scrap metal processor shall require the seller to provide proof of identification with a driver's license, military identification card, passport or other form of government-issued photo identification. Information required under this paragraph may be maintained for repeat sellers in a relational database that allows the scrap metal processor to record the information one time and relate future purchase records to that information;
- B. The date of the scrap metal purchase transaction;
- C. A general description of the predominant types of scrap metal purchased, which must be made in accordance with the custom of the trade;
- D. A general description of the configuration of the scrap metal and whether the material is insulated;
- E. The weight, quantity or volume, recorded in accordance with the custom of the trade, of the scrap metal purchased;
- F. The consideration paid; and
- G. A signed statement that the seller is the owner or is otherwise authorized to sell the scrap metal.

**§3773. Maintenance of records and statements**

The records required under section 3772, subsection 3 must be:

**1. Retain for one year.** Retained for a period of one year; and

**2. Availability.** Made available to any law enforcement office of the State or of any municipality or county.

**§3774. Application**

This subchapter does not apply to transactions involving only beverage containers.

**§3775. Restrictions on the purchase and sale of scrap metal**

A seller may not sell and a scrap metal processor may not purchase the following scrap metal unless the seller provides to the scrap metal processor, in addition to the requirements of section 3772, subsection 3, a signed statement at the time of sale that the property subject to this transaction is not stolen property to the best of the seller's knowledge, and that the seller is the owner or is otherwise authorized to sell the scrap metal:

**1. Marked with certain initials.** Scrap metal marked with the initials of an electrical, telephone, cable or other public utility or a beer manufacturer;

**2. Utility access covers.** Utility access covers;

**3. Street lights.** Street light poles and fixtures;

**4. Guard rails.** Road and bridge guard rails;

**5. Street signs.** Highway or street signs;

**6. Water meter covers.** Water meter covers;

**7. Beer kegs.** Metal beer kegs or keg pieces including those made of stainless steel that are clearly marked as being the property of the beer manufacturer. Beer kegs or keg pieces may not be sold or purchased pursuant to this subchapter if the brewer's markings have been obliterated or made illegible;

**8. Traffic signs.** Traffic directional and control signs;

**9. Traffic signals.** Traffic light signals;

**10. Marked; governmental entity.** Any scrap metal marked with the name of a governmental entity;

**11. Marked; utility or railroad.** Property owned by a telephone, cable, electric, water or other utility or by a railroad and marked or otherwise identified as such;

**12. Certain construction or utility materials.** Unused and undamaged building construction or utility materials consisting of copper pipe, tubing or wiring or aluminum wire;

**13. Historical markers.** Historical markers;

**14. Grave markers.** Grave markers and vases; and

**15. Catalytic converters.** Catalytic converters.

This section does not apply to transactions in which a scrap metal processor purchases, transfers or otherwise conveys scrap metal to another scrap metal processor.

**§3776. Sales by minors**

**1. Prohibition.** A scrap metal processor may not purchase scrap metal from a minor unless:

A. The minor is accompanied by the minor's parent or guardian; and

B. The parent or guardian provides a written statement to the scrap metal processor that the transaction is taking place with the parent's or guardian's full knowledge and consent.

**2. Retention of statement.** A scrap metal processor shall preserve and keep on file and make available for inspection to any law enforcement office of the State or of any municipality or county the written statement required by subsection 1, paragraph B for not less than 3 years.

**§3777. Penalties**

**1. Violation.** A person who violates this subchapter commits a civil violation for which a fine of not less than \$50 and not more than \$1,500 may be adjudged.

**2. False information.** Notwithstanding Title 17-A, section 453, a person that knowingly makes any written false statements with respect to the requirements of this subchapter commits a civil violation for which a fine of not less than \$50 and not more than \$1,500 may be adjudged.

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

Effective April 3, 2008.

**CHAPTER 550**

**H.P. 1490 - L.D. 2104**

**An Act To Provide for Fairness and Accuracy in Utility Rate Setting**

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

**Sec. 1. 35-A MRS §9103, sub-§1,** as enacted by PL 1993, c. 638, §2, is amended to read:

**1. Alternative regulation; period; starting point.** ~~For the~~ The period of the alternative form of regulation, ~~which~~ may not be less than 5 years nor exceed 10 years without affirmative reauthorization by the commission, ~~ratepayers as a whole, and residential and small business ratepayers in particular, may not be required to pay more for local telephone services as a result of the implementation of an alternative form of regulation than they would under traditional rate base or rate-of-return regulation.~~ Prior to the adoption of a new or replacement alternative form of regulation or renewal of any existing alternative form of regulation, when the alternative form of regulation includes a provision prohibiting the commission or the utility from