

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

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TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2009

fine of not less than \$100 nor more than \$500 may be adjudged.

Sec. 19. 12 MRSA §6808, sub-§4, as enacted by PL 2001, c. 186, §1, is amended to read:

4. Exemption. Notwithstanding subsection 1, a license is not required to fish for, take, possess or transport green crabs for personal use. A municipality or the holder of an aquaculture lease or license that harvests green crabs under authorization from the department is not required to have a commercial green crab license as long as the harvesting of green crabs occurs under supervision of the municipality or the holder of an aquaculture lease or license.

See title page for effective date.

CHAPTER 230

S.P. 431 - L.D. 1183

An Act To Prevent Predatory Marketing Practices against Minors

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

Sec. 1. 10 MRSA c. 1055 is enacted to read:

CHAPTER 1055

MARKETING AND DATA COLLECTION PRACTICES

§9551. Definitions

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

1. Health-related information. "Health-related information" means any information about an individual or a member of the individual's family relating to health, nutrition, drug or medication use, physical or bodily condition, mental health, medical history, medical insurance coverage or claims or other similar data.

2. Marketing purposes. "Marketing purposes," with respect to the use of health-related information or personal information, means the purposes of marketing or advertising products, goods or services to individuals.

3. Person. "Person" includes an individual, firm, partnership, corporation, association, syndicate, or organization, society, business trust, attorney-in-fact and every natural or artificial legal entity.

4. Personal information. "Personal information" means individually identifiable information, including:

A. An individual's first name, or first initial, and last name;

B. A home or other physical address;

C. A social security number;

D. A driver's license number or state identification card number; and

E. Information concerning a minor that is collected in combination with an identifier described in this subsection.

5. Verifiable parental consent. "Verifiable parental consent" means any reasonable effort, taking into consideration available technology, including a request for authorization for future collection, use and disclosure described in the notice, to ensure that a parent of a minor receives notice of the collection of personal information, use and disclosure practices and authorizes the collection, use and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that minor.

§9552. Unlawful collection and use of data from minors

1. Unlawful collection. It is unlawful for a person to knowingly collect or receive health-related information or personal information for marketing purposes from a minor without first obtaining verifiable parental consent of that minor's parent or legal guardian.

2. Unlawful use. A person may not sell, offer for sale or otherwise transfer to another person health-related information or personal information about a minor if that information:

A. Was unlawfully collected pursuant to subsection 1;

B. Individually identifies the minor; or

C. Will be used in violation of section 9553.

§9553. Predatory marketing against minors prohibited

A person may not use any health-related information or personal information regarding a minor for the purpose of marketing a product or service to that minor or promoting any course of action for the minor relating to a product. Use of information in violation of this section constitutes predatory marketing.

§9554. Enforcement

1. Unfair trade practice. Violation of this chapter is an unfair trade practice as prohibited by Title 5, section 207. Each unlawful collection of data or unlawful predatory marketing event in violation of this chapter constitutes a separate violation. The Attorney General may establish procedures for receiving and

investigating complaints of violations of this chapter. The procedures may include the development of electronic forms, available over the Internet, by which a person may file a complaint with the Attorney General alleging a violation of this chapter.

2. Civil action; injunction and damages. Notwithstanding Title 5, section 213, a person about whom information is unlawfully collected or who is the object of predatory marketing in violation of this chapter may bring an action in an appropriate state court for either or both of the following:

A. An injunction to stop the unlawful collection or predatory marketing; and

B. Recovery of actual damages from each violation or up to \$250 in damages for each violation, whichever is greater.

If the court finds there has been a violation of this chapter, the court shall award the petitioner reasonable attorney's fees and costs incurred in connection with the action.

If the court finds that the defendant willfully or knowingly violated this chapter, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under paragraph B.

3. Civil violation; penalty. Notwithstanding the penalty provisions of Title 5, section 209, each violation of this chapter constitutes a civil violation for which a fine may be assessed of:

A. No less than \$10,000 and no more than \$20,000 for a first violation; and

B. No less than \$20,000 for a 2nd or subsequent violation.

4. Application of federal law. If the Attorney General finds evidence of a violation of the federal Children's Online Privacy Protection Act of 1998, 15 United States Code, Sections 6501 to 6506 (2007), the Attorney General may bring a civil action pursuant to 15 United States Code, Section 6504 (2007).

See title page for effective date.

CHAPTER 231

S.P. 428 - L.D. 1156

An Act To Amend the Laws Governing the Recycling of Televisions

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

Sec. 1. 38 MRSA §1610, sub-§2, ¶D-1 is enacted to read:

D-1. "Market share" means a manufacturer's national sales of a covered electronic device expressed as a percentage of the total of all manufacturers' national sales for that category of covered electronic devices.

Sec. 2. 38 MRSA §1610, sub-§2, ¶G, as re-allocated by RR 2003, c. 2, §119, is amended to read:

G. "Orphan waste" means a covered electronic device, excluding a television, the manufacturer of which can not be identified or is no longer in business and has no successor in interest.

Sec. 3. 38 MRSA §1610, sub-§5, as amended by PL 2007, c. 292, §43, is further amended to read:

5. Responsibility for recycling. Municipalities, consolidators, manufacturers and the State share responsibility for the disposal of covered electronic devices as provided in this subsection.

A. Each municipality that chooses to participate in the state collection and recycling system shall ensure that computer monitors and televisions generated as waste from households within that municipality's jurisdiction are delivered to a consolidation facility in this State. A municipality may meet this requirement through collection at and transportation from a local or regional solid waste transfer station or recycling facility, by contracting with a disposal facility to accept waste directly from the municipality's residents or through curbside pickup or other convenient collection and transportation system.

B. A consolidator is subject to the requirements of this paragraph.

(1) ~~Beginning January 1, 2006, a A~~ consolidator shall identify the manufacturer of each waste computer monitor ~~and waste television~~ delivered to a consolidation facility and identified as generated by a household in this State and shall maintain an accounting of the number of waste household computer monitors ~~and waste household televisions~~ by manufacturer. By March 1st each year ~~beginning in 2007~~, a consolidator shall provide this accounting by manufacturer to the department.

(1-A) A consolidator shall maintain a written log of the total weight of televisions delivered each month to the consolidator and identified as generated by a household in the State. By March 1st each year, a consolidator shall provide this accounting to the department.

(2) A consolidator may perform the manufacturer identification required by subparagraph (1) at the consolidation facility or may contract for this identification and accounting