

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

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

Augusta, Maine
2009

Chief of the State Police shall implement this Act within existing budgeted resources.

See title page for effective date.

CHAPTER 387

S.P. 570 - L.D. 1490

**An Act Regarding the Transfer
of Patient Health Care
Information through an
Electronic Health Information
Exchange**

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

Whereas, it is necessary for the public health and welfare that the electronic health information exchange known as HealthInfoNet begin operations as early during the summer of 2009 as possible in order to implement the exchange of electronic health care records, improve the quality of health care and contribute to slowing the rate of growth of health care costs; 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. 22 MRSA §1711-C, sub-§6, ¶B, as amended by PL 1999, c. 512, Pt. A, §5 and affected by §7, is further amended to read:

B. To an agent, employee, independent contractor or successor in interest of the health care practitioner or facility including a health information exchange that makes health care information available electronically to health care practitioners and facilities or to a member of a quality assurance, utilization review or peer review team to the extent necessary to carry out the usual and customary activities relating to the delivery of health care and for the practitioner's or facility's lawful purposes in diagnosing, treating or caring for individuals, including billing and collection, risk management, quality assurance, utilization review and peer review. Disclosure for a purpose listed in this paragraph is not a disclosure for the purpose of marketing or sales. A health information exchange to which health care information is disclosed under this paragraph shall provide an individual protection mechanism by which an indi-

vidual may prohibit the health information exchange from disclosing the individual's health care information to a health care practitioner or health care facility;

Sec. 2. 22 MRSA §1711-C, sub-§11, as amended by PL 1999, c. 512, Pt. A, §5 and affected by §7, is further amended to read:

11. Health care information subject to other laws, rules and regulations. Health care information that is subject to the provisions of 42 United States Code, Section 290dd-2 (Supplement 1998); chapters ~~740~~ 710-B and 711; Title 5, section 200-E; Title 5, chapter 501; Title 24 or 24-A; Title 34-B, section 1207; Title 39-A; or other provisions of state or federal law, rule or regulation is governed solely by those provisions.

Sec. 3. 22 MRSA §1711-F is enacted to read:

§1711-F. Transfer of member health care information by MaineCare program for purpose of diagnosis, treatment or care

The MaineCare program established under chapter 855 may transfer member health care information to a health care practitioner or health care facility for the purpose of diagnosis, treatment or care of the member through an electronic health information exchange in accordance with this section.

1. Definitions. For the purposes of this section, "health care facility" has the same meaning as in section 1711-C, subsection 1, paragraph D and "health care practitioner" has the same meaning as in section 1711-C, subsection 1, paragraph F.

2. Individual protection mechanism. The department shall provide an individual protection mechanism for MaineCare members by which an individual may prohibit a health information exchange from disclosing the individual's health care information to a health care practitioner or health care facility.

3. Health care information subject to other laws, rules and regulations. Health care information that is subject to the provisions of 42 United States Code, Section 290dd-2 (Supplement 1998); chapters 710-B and 711; Title 5, section 200-E; Title 5, chapter 501; Title 24 or 24-A; Title 34-B, section 1207; Title 39-A; or other confidentiality provisions of state or federal law, rule or regulation is governed solely by those provisions.

Sec. 4. Report. The Governor's Office of Health Policy and Finance, after consultation with the Department of Health and Human Services and HealthInfoNet, shall report by January 15, 2011 to the joint standing committee of the Legislature having jurisdiction over health and human services matters on the implementation of the statewide HealthInfoNet demonstration project, authorized by Public Law 2007, chapter 213, Part A, section 32, that transfers patient

information from one health care practitioner or facility to another health care practitioner or facility for the purposes of patient diagnosis, treatment and care through an electronic health information exchange.

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

Effective June 12, 2009.

CHAPTER 388

H.P. 491 - L.D. 708

**An Act To Create a
Moratorium on the Open-air
Production of Genetically
Engineered Pharmaceutical
Crops in Maine**

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

Sec. 1. 7 MRSA §1051, sub-§4-A is enacted to read:

4-A. Pharmaceutical or industrial crop. "Pharmaceutical or industrial crop" means a plant that has been genetically engineered to produce a medical or industrial product, including a human or veterinary drug, a biologic, industrial or research chemical, enzymes, vaccines, human antibodies and human blood proteins.

Sec. 2. 7 MRSA §1055 is enacted to read:

§1055. Restrictions on the production of pharmaceutical or industrial crops

1. Prohibition on open-air production. Except as provided in subsection 2, a person may not grow any pharmaceutical or industrial crop that requires a field test permit from the United States Department of Agriculture, Animal and Plant Health Inspection Service under 7 Code of Federal Regulations, Part 340.

2. Containment required. A person may grow a pharmaceutical or industrial crop as long as:

A. The production is done in a state or federally licensed medical research institution or laboratory;

B. All production activities are conducted under secure, enclosed indoor laboratory conditions to prevent the release of genetically engineered material and cross pollination with nongenetically engineered crops; and

C. A permit required by the United States Department of Agriculture for production of the pharmaceutical or industrial crop has been received and is valid.

3. Monitoring of federal regulations. The commissioner shall monitor federal regulation of pharmaceutical or industrial crops. The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over agriculture matters any change in federal regulation that allows the production of pharmaceutical and industrial crops without a permit.

4. Repeal. This section is repealed July 1, 2012.

See title page for effective date.

CHAPTER 389

H.P. 244 - L.D. 308

**An Act To Clarify Standards
by Which All-terrain Vehicles
May Be Stopped**

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

Sec. 1. 12 MRSA §10353, sub-§2, ¶G, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

G. ~~Stop~~ If the warden has reasonable and articulable suspicion to believe that a violation of law has taken place or is taking place, stop and examine any all-terrain vehicle to ascertain whether it is being operated in compliance with chapter 939 or any other provision of this Part regulating ATVs, demand and inspect the operator's certificate of registration and, when appropriate, demand and inspect evidence that the operator has satisfactorily completed a training course as required by section 13152. Other law enforcement officers are subject to the provisions of this paragraph;

See title page for effective date.

CHAPTER 390

H.P. 199 - L.D. 253

**An Act To Amend the Laws
Governing Alien Big Game
and Turkey Hunters and
Nonresident Hunters**

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

Sec. 1. 12 MRSA §11226, as reallocated by PL 2007, c. 695, Pt. A, §16, is repealed.

Sec. 2. 12 MRSA §11226-A is enacted to read: