

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 28, 2011

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

Augusta, Maine
2011

D. In applying the atmospheric corrosion control standards established by the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration to liquefied petroleum gas systems, the commission shall consider atmospheric corrosion to be a condition exhibiting signs of deterioration, including pitting or loss of metal. The commission may not consider surface rust or loss of paint coating to constitute atmospheric corrosion.

Sec. 3. 35-A MRSA §4710, first ¶, as enacted by PL 1999, c. 605, §2 and affected by §3, is amended to read:

Subject to the provisions of this section, a natural gas utility may take and hold by right of eminent domain lands or rights in lands necessary to the safe, economical and efficient operation of a pipeline and to the provision of adequate service to the public. For purposes of this section, the term "natural gas utility" means an intrastate natural gas pipeline utility or a gas utility other than a gas utility over which the commission's jurisdiction is limited pursuant to section 4702 4702-A.

Sec. 4. Regulatory reform; regulation of gas safety. Until rules have been adopted by the Public Utilities Commission pursuant to the Maine Revised Statutes, Title 35-A, section 4702-A, the commission shall enforce the minimum standards established by the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration under 49 Code of Federal Regulations, Parts 191, 192 and 199 as in effect on the effective date of this Act.

The commission may not enforce rules adopted by the commission governing the safety and operation standards for liquefied petroleum gas systems existing on the effective date of this Act.

Until rules establishing specific enforcement procedures have been adopted by the commission pursuant to Title 35-A, section 4702-A, the commission shall use its discretion to informally resolve violations of standards established by the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration and to avoid imposing administrative penalties under Title 35-A, section 1508-A to the extent consistent with the commission's responsibility to ensure adequate public safety.

The commission shall examine in consultation with operators of liquefied petroleum gas systems what rules may be appropriate to implement Title 35-A, section 4702-A. Consistent with the results of its examination, the commission shall conduct a rule-making proceeding to provisionally adopt rules to implement Title 35-A, section 4702-A and shall submit those rules for legislative review by January 15, 2012.

The commission shall work with the Maine Energy Marketers Association to develop a written request for the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration to provide a written interpretation of whether certain liquefied petroleum gas systems come within the scope of 49 Code of Federal Regulations, Section 192.1. The commission shall submit to the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration any jointly agreed upon request.

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

Effective June 2, 2011.

CHAPTER 198

H.P. 472 - L.D. 642

An Act To Require Insurance Companies To Reissue Qualifying Long-term Care Partnership Policies

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

Sec. 1. 24-A MRSA §5082 is enacted to read:

§5082. Long-term Care Partnership Program; availability of qualified policies

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

A. "Eligible policyholder" means:

(1) An individual who holds a qualified individual policy issued before or during the notice period by an insurer that actively markets individual partnership policies in this State on or after the effective date of this section and is not receiving benefits or in a waiting period to receive benefits; or

(2) An employer or other group policyholder that holds a qualified group policy issued before or during the notice period by an insurer that actively markets group partnership policies in this State on or after the effective date of this section.

B. "Long-term Care Partnership Program" means the Long-term Care Partnership Program established in Title 22, section 3174-GG.

C. "Notice period" means the period between July 1, 2004 and the date an insurer begins actively marketing partnership policies in this State.

D. "Partnership policy" means a long-term care insurance policy with an effective date of July 1, 2009 or later that is offered with the intent to meet the requirements of the Long-term Care Partnership Program.

E. "Qualified policy" means a long-term care insurance policy that is offered with the intent to meet the requirements of 26 United States Code, Section 7702B(b).

2. Notice. The following provisions apply to an insurer that actively markets a partnership policy in this State on or after the effective date of this section. With respect to an employer group, an insurer shall provide any notice required under this section to the employer that is the policyholder of a qualified policy.

A. An insurer that actively markets partnership policies in this State as of the effective date of this section shall provide notice to an eligible policyholder that purchased a qualified policy during the notice period that the policyholder may be able to participate in the Long-term Care Partnership Program. The insurer shall initiate the exchange process in accordance with subsection 4 within 12 months of the effective date of this section.

B. An insurer that begins to actively market partnership policies in this State after the effective date of this section shall provide notice to an eligible policyholder that purchased a qualified policy during the notice period that the policyholder may be able to participate in the Long-term Care Partnership Program. The insurer shall initiate the exchange process in accordance with subsection 4 within 12 months of the date the insurer begins to market partnership policies in this State.

3. Request for review. In addition to the requirements of subsection 2, at the request of an eligible policyholder of a qualified policy issued prior to the notice period, an insurer that actively markets partnership policies in this State shall review the qualified policy to identify whether the qualified policy meets the requirements of the Long-term Care Partnership Program and take an action described in subsection 4, paragraph A or B. If a request for review under this subsection is made more than 12 months after the effective date of this section, the insurer has no obligation to review the policy.

4. Exchange process. An insurer that actively markets partnership policies in this State shall identify those qualified policies issued during the notice period that currently meet all the requirements of the Long-term Care Partnership Program as specified in Bureau of Insurance Bulletin 368 dated January 22, 2010 for use with the Long-term Care Partnership Program and those that do not meet all of the requirements and:

A. For those qualified policies that currently meet all of the requirements, issue to each policyholder

the Important Notice Regarding Your Policy's Long-term Care Insurance Partnership Status, as prescribed in the Appendix of Bureau of Insurance Bulletin 368 dated January 22, 2010, along with a policy amendment reflecting the effective date of the partnership status; and

B. For those qualified policies that do not meet all of the requirements, notify each policyholder that the policy may be eligible for an exchange to a partnership policy. The insurer shall also notify the policyholder that the exchange is subject to underwriting and that the premium for the new policy is based on the policyholder's attained age on the date of the exchange. The policyholder has 60 days from the date of the notice to consider this offer. If the policyholder accepts the offer after 60 days, the insurer is not obligated to process an exchange. If the policyholder requests additional coverage, the additional coverage is also subject to underwriting and the premium for the additional coverage must be based on the policyholder's attained age on the date the changes take effect.

5. Individual policyholder no longer receiving benefits. If an individual policyholder is not an eligible policyholder because the policyholder is receiving benefits or is in a waiting period to receive benefits, that individual policyholder has 12 months from the expiration of any waiting period after which the policyholder does not begin to receive benefits or from the expiration of any period when benefits have ended to request a review by an insurer as otherwise provided under subsection 3.

6. Applicability. If an insurer does not actively market both individual and group partnership policies in this State, this section applies to that insurer only with respect to the particular market in which the insurer actively markets partnership policies.

See title page for effective date.

CHAPTER 199

H.P. 802 - L.D. 1067

An Act To Improve Awareness of Smoking Policies in Maine Rental Housing

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

Sec. 1. 14 MRSA §6030-E is enacted to read:

§6030-E. Smoking policy

1. Definition. For the purposes of this section, unless the context otherwise indicates, "smoking" means carrying or having in one's possession a lighted