

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

ment primarily designed for or used in agriculture in the State vitally affects the general economy of the State and the public interest and public welfare and, in the exercise of the State's police power, it is necessary to regulate equipment primarily designed for or used in agriculture and related equipment suppliers, dealers and their representatives doing business in the State in order to prevent frauds, unfair business practices, unfair methods of competition, impositions and other abuses upon its citizens. The Legislature intends to protect the citizens of the State from the sudden loss of access to equipment and local parts and service for large and expensive pieces of machinery and to promote the public welfare by providing free and open trade of equipment primarily designed for or used in agriculture within the State.

Sec. 18. Application. This Act applies to all contracts and agreements in effect on the effective date of this Act that have no expiration date and are continuing contracts and all other contracts and agreements entered into, amended, renewed or extended after the effective date of this Act.

Sec. 19. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 10, chapter 208-B, in the chapter headnote, the words "farm machinery dealerships" are amended to read "farm machinery, forestry equipment, construction equipment and industrial equipment dealerships" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 237

H.P. 274 - L.D. 348

An Act To Continue Limited Entry in the Scallop Fishery

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

Whereas, this legislation needs to take effect as soon as possible in order to clarify who is eligible to obtain a license to take scallops; 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. 12 MRSA §6706, sub-§2, as enacted by PL 2007, c. 607, Pt. A, §4, is amended to read:

2. License eligibility in subsequent years. Except as provided in subsection 3, the commissioner may not issue a hand fishing scallop license or a scallop dragging license to any person in any year subsequent to 2009 unless that person possessed that license in the previous calendar year or is eligible to obtain a license in accordance with the limited entry system established under subsection 3.

Sec. 2. 12 MRSA §6706, sub-§3, as enacted by PL 2007, c. 607, Pt. A, §4, is amended to read:

3. Scallop license limited entry system. Notwithstanding subsection 2, the commissioner shall establish by rule a limited entry system under which a person who did not hold a hand fishing scallop license or a scallop dragging license in the previous calendar year may become eligible to obtain that license. The rules for a limited entry system must include provisions for the method and administration of the program. Rules adopted pursuant to this subsection are ~~routine-technical~~ major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. 12 MRSA §6706, sub-§4, as enacted by PL 2007, c. 607, Pt. A, §4, is repealed.

Sec. 4. Review. The Commissioner of Marine Resources shall review the composition of the Scallop Advisory Council under the Maine Revised Statutes, Title 12, section 6729-B. The commissioner shall compare the geographic representation of members of the Scallop Advisory Council to the geographic distribution of scallop hand fishing and scallop dragging license holders and determine whether council membership accurately represents the geographic distribution of license holders and recommend any changes necessary to ensure appropriate representation. The commissioner shall compare the number of licenses issued to scallop harvesters who hold hand fishing scallop licenses to the number of scallop harvesters who hold scallop dragging licenses, determine whether the number of members on the Scallop Advisory Council representing each type of license holder accurately represents the relative numbers of each type of license holder and recommend any changes necessary to ensure appropriate representation.

By December 7, 2011, the Commissioner of Marine Resources shall report to the Joint Standing Committee on Marine Resources on the commissioner's findings and recommendations and shall submit draft legislation necessary to implement the commissioner's recommendations concerning the composition of the Scallop Advisory Council. The Joint Standing Committee on Marine Resources may report out a bill on the subject of the report to the Second Regular Session of the 125th Legislature.

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

Effective June 7, 2011.

CHAPTER 238

H.P. 1138 - L.D. 1551

**An Act To Clarify and Update
the Laws Related to Health
Insurance, Insurance Producer
Licensing and Surplus Lines
Insurance**

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

PART A

Sec. A-1. 24-A MRSA §4303, sub-§8-A is enacted to read:

8-A. Protection from balance billing by participating providers. An enrollee's responsibility for payment under a managed care plan must be limited as provided in this subsection.

A. The terms of a managed care plan must provide that the enrollee's responsibility for the cost of covered health care rendered by participating providers is limited to the cost-sharing provisions expressly disclosed in the contract, such as deductibles, copayments and coinsurance, and that if the enrollee has paid the enrollee's share of the charge as specified in the plan, the carrier shall hold the enrollee harmless from any additional amount owed to a participating provider for covered health care.

B. Every provider agreement with a participating provider must be in writing and must set forth that if the carrier fails to pay for health care services as set forth in the contract, the enrollee is not liable to the provider for any sums owed by the carrier.

C. A participating provider may not collect or attempt to collect any charge from an enrollee for covered health care beyond the amount permitted by the terms of the plan, notwithstanding the carrier's insolvency, the carrier's failure to pay the amount owed by the carrier, any other breach by the carrier of the provider agreement or the failure of the provider agreement to include the written hold harmless provision required by paragraph B.

PART B

Sec. B-1. 24-A MRSA §2813, as enacted by PL 1969, c. 132, §1 and amended by PL 1973, c. 585, §12, is further amended by adding at the end a new paragraph to read:

Policies that otherwise meet the description of group policies pursuant to section 2804, 2805, 2805-A, 2806, 2807, 2807-A or 2808-B are not blanket policies.

PART C

Sec. C-1. 24-A MRSA §2839, as amended by PL 2009, c. 14, §5, is further amended to read:

§2839. Rates filed

A policy of group or blanket health insurance may not be delivered in this State until a copy of the group rates to be used in calculating the premium for these policies has been filed for informational purposes with the superintendent. The filing must include the base rates and a description of any procedures to be used to adjust the base rates to reflect factors including but not limited to age, gender, health status, claims experience, group size and coverage of dependents. Notwithstanding this section, rates for group Medicare supplement, nursing home care or long-term care insurance contracts and for certain association groups and other groups specified in section 2701, subsection 2, paragraph C must be filed in accordance with section 2736. Rates for small group health insurance subject to section 2808-B are subject to the additional filing requirements specified in that section. A filing required under this section must be made electronically in a format required by the superintendent unless exempted by rule adopted by the superintendent. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

PART D

Sec. D-1. 24-A MRSA §2736-C, sub-§1, ¶C, as amended by PL 1995, c. 332, Pt. J, §2, is further amended to read:

C. "Individual health plan" means any hospital and medical expense-incurred policy or health, hospital or medical service corporation plan contract. It includes both individual contracts and certificates issued under group contracts specified in section 2701, subsection 2, paragraph C. "Individual health plan" does not include the following types of insurance:

- (1) Accident;
- (2) Credit;
- (3) Disability;
- (4) Long-term care or nursing home care;
- (5) Medicare supplement;
- (6) Specified disease;
- (7) Dental or vision;
- (8) Coverage issued as a supplement to liability insurance;