

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST SPECIAL SESSION
September 27, 2011

SECOND REGULAR SESSION
January 4, 2012 to May 31, 2012

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
LAWS IS
SEPTEMBER 28, 2011

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 30, 2012

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

Augusta, Maine
2012

rehabilitating or reconstructing the Long Bridge over the Piscataqua River between Portsmouth, New Hampshire and Kittery, Maine is contingent upon the center lift span being of sufficient length to allow safe passage of the upcoming generation of cargo vessels to ensure the economic well-being of the Port of Portsmouth and the businesses utilizing this important shipping lane.

13. This shift in policy by New Hampshire officials represents a substantial change to the scope of work described in the March 1, 2011 memorandum of agreement, which will require reevaluation of costs and schedules and the likely renegotiation, revision or replacement of the memorandum of agreement.

14. The timely delivery of a new or rehabilitated Long Bridge is critical to Maine. The New Hampshire Department of Transportation lists the Long Bridge at the top of its "red list" of bridges in poor condition, indicating that the Long Bridge remains a top priority for New Hampshire as well.

15. At this time, the Maine Legislature cannot discern any significant economic benefit to the State from a wider navigational opening, but understands that New Hampshire policymakers now desire to improve maritime safety and ensure the economic well-being of the portion of the Port of Portsmouth located upriver of the Long Bridge.

16. The Maine Legislature desires to give policy direction that governs future renegotiation, agreements and possible future legislation to be proposed.

Sec. D-2. Revised agreement regarding 3 Portsmouth-Kittery bridges. Any revised or new agreement with New Hampshire regarding any or all of the 3 bridges referenced in section 1 must provide that the financial liability of the State of Maine will not be substantially greater than its liability under the terms of the March 1, 2011 memorandum of agreement. The financial liability of the Maine Turnpike Authority may not be substantially greater than its liability under the terms of the March 1, 2011 memorandum of agreement or the recommendations of the December 15, 2011 Bi-State Bridge Funding Task Force report.

Sec. D-3. Reestablishment of Maine-New Hampshire Interstate Bridge Authority; Maine Turnpike Authority transfer. The Department of Transportation shall develop proposed legislation to reestablish the Maine-New Hampshire Interstate Bridge Authority and implement the recommendations of the Bi-State Bridge Funding Task Force. The proposed legislation must authorize the Department of Transportation to transfer to the Maine Turnpike Authority the southerly 1.9 miles of Interstate 95 located in Kittery from a point near Spruce Creek to a point near the abutment of the Interstate 95 Piscataqua River Bridge and to use the proceeds of the

transfer for the Long Bridge project. The proposed legislation must include membership of a Maine Turnpike Authority official on the Interstate Bridge Authority and a sinking fund to be managed by the Interstate Bridge Authority for the maintenance, operation and capital improvement of the Piscataqua River Bridge and the Long Bridge as described in section 1.

Sec. D-4. Report and legislation. The Department of Transportation shall submit the proposed legislation developed pursuant to section 3 to the joint standing committee of the Legislature having jurisdiction over transportation matters no later than December 16, 2012. Following receipt and review of the proposed legislation, the joint standing committee may submit legislation to the First Regular Session of the 126th Legislature concerning the proposed legislation.

PART E

Sec. E-1. Bridge named. The Department of Transportation shall designate Bridge 3009 over the West Branch of the Penobscot River in the Town of Medway the Nicatou Bridge.

See title page for effective date.

CHAPTER 611

H.P. 1243 - L.D. 1691

An Act Related to Specialty Tiers in Prescription Medication Pricing

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

Sec. 1. 24-A MRS §4317-A is enacted to read:

§4317-A. Prescription drug coverage; out-of-pocket expenses for coinsurance

1. Out-of-pocket expenses for coinsurance within health plan's total limit. If a carrier that provides coverage for prescription drugs does not include prescription drugs subject to coinsurance under the total out-of-pocket limit for all benefits provided under a health plan, the carrier shall establish a separate out-of-pocket limit not to exceed \$3,500 per year for prescription drugs subject to coinsurance provided under a health plan to the extent not inconsistent with the federal Affordable Care Act.

2. Adjustment of out-of-pocket limits. A carrier may adjust an out-of-pocket limit, as long as any limit for prescription drugs for coinsurance does not exceed \$3,500, to minimize any premium increase that might otherwise result from the requirements of this section. Any adjustment made by a carrier pursuant to this subsection is considered a minor modification under section 2850-B.

3. Construction. This section may not be construed to prohibit or limit a carrier's ability to establish specialty tiers for prescription drug coverage, to make determinations of medical necessity or to enforce procedures regarding prior authorization or utilization review in accordance with this chapter.

4. Terms consistent with federal law. For the purposes of this section, the use of the terms "coinsurance" and "out-of-pocket limit" by a carrier must be consistent with the definitions of those terms as prescribed by the Secretary of the United States Department of Health and Human Services pursuant to Section 2715 of the federal Affordable Care Act.

Sec. 2. Application. The requirements of this Act apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2013. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

CHAPTER 612

S.P. 643 - L.D. 1849

An Act To Protect Landlocked Salmon Fisheries in Schoodic and Seboeis Lakes from Invasive Fish Species

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

Sec. 1. 12 MRSA §12760, as amended by PL 2011, c. 24, §§1 and 2, is further amended to read:

§12760. Fishways in dams and other artificial obstructions

1. Commissioners' authority. In order to conserve, develop or restore anadromous or migratory fish resources, the commissioner and the Commissioner of Marine Resources jointly may require a fishway to be erected, maintained, repaired or altered by the owners, lessors or other persons in control of any dam or other artificial obstruction within inland waters frequented by alewives, shad, salmon, sturgeon or other anadromous or migratory fish species.

The ~~commissioner~~ commissioners may not require or authorize a fishway or fish bypass structure at a dam on the outlet of Sebec Lake in the Town of Sebec or at a dam on the Sebec River in the Town of Milo or at a dam on the outlet of Schoodic Lake in Lake View Plantation or at a dam on the outlet of Seboeis Lake in Township 4, Range 9 NWP that would allow the upstream passage of an invasive fish species known to be present downstream in the Piscataquis River or Penob-

scot River drainage. For the purposes of this section, "invasive fish species" means those invasive fish species identified in the action plan for managing invasive aquatic species developed pursuant to Title 38, section 1872.

2. Examination of dams. The commissioner and the Commissioner of Marine Resources shall periodically examine all dams and other artificial obstructions to fish passage within the inland waters in order to determine whether fishways are necessary, sufficient or suitable for the passage of anadromous or migratory fish.

3. Monitoring program. The commissioner and the Commissioner of Marine Resources shall, ~~in cooperation with the Department of Marine Resources,~~ establish a program to ensure fishways are functioning properly and remain sufficient or suitable for the passage of anadromous or migratory fish. ~~The commissioner has~~ commissioners have sole authority to take corrective action at fishways as prescribed under this section.

4. Initiation of fishway proceedings. The commissioner and the Commissioner of Marine Resources shall initiate proceedings to consider construction, repair or alteration of fishways in existing dams or other artificial obstructions whenever the ~~commissioner determines~~ commissioners determine that one or more of the following conditions may exist:

A. Fish passage at the dam or obstruction in issue, whether alone or in conjunction with fish passage at other upriver barriers, will improve access to sufficient and suitable habitat anywhere in the watershed to support a substantial commercial or recreational fishery for one or more species of anadromous or migratory fish; or

B. Fish passage at the dam or obstruction in issue is necessary to protect or enhance rare, threatened or endangered fish species.

5. Adjudicatory proceedings. A fishway proceeding must conform to the following requirements:

A. A fishway proceeding must be an adjudicatory proceeding under Title 5, chapter 375, subchapter 4, but a hearing is not required unless requested in accordance with paragraph B. Notice of the proceeding must be given in accordance with Title 5, section 9052 and the following requirements:

(1) Personal notice must be given to the dam owner, lessee or other person in control of the dam or artificial obstruction, informing that person that a proceeding has been undertaken and informing that person of that person's right to request a hearing; and

(2) Notice to the public, in newspapers of general circulation in the areas affected, must be given notifying the public of the initiation