

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST SPECIAL SESSION
August 29, 2013

SECOND REGULAR SESSION
January 8, 2014 to May 2, 2014

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
EMERGENCY LAW IS
SEPTEMBER 6, 2013

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 1, 2014

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

Augusta, Maine
2014

protected health information, creating a limited data set and permissible fund-raising for the benefit of the covered entity:

B. "Payment activities" means activities of a health plan to obtain premiums, determine or fulfill responsibilities for coverage and provision of benefits and furnish or obtain reimbursement for health care delivered to an individual and activities of a health care provider to obtain payment or be reimbursed for the provision of health care to an individual; and

C. "Treatment" means the provision, coordination or management of health care and related services for an individual by one or more health care providers, including consultation between providers regarding an individual and referral of an individual by one provider to another.

2. Minimum necessary. The board shall develop policies and procedures that reasonably limit disclosures of, and requests for, protected health information for payment activities and health care operations to the minimum extent necessary.

3. Choice regarding disclosure of information. Before approving the release of any protected health information under this chapter, the organization shall implement a mechanism that allows an individual to choose to not allow the organization to disclose and use the individual's health information under this chapter.

Sec. 11. Rule-making authority. The Board of Directors of the Maine Health Data Organization shall adopt rules as necessary to implement this Act. Rules adopted pursuant to this section are major substantive rules as described in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

Sec. 12. Contingent effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 22, section 1711-C, subsection 6, paragraph F-3 and sections 8702 and 8705-A, repeal Title 22, section 8707 and enact Title 22, sections 8714 to 8717 take effect upon the final adoption of major substantive rules required to implement the provisions of this Act. The Board of Directors of the Maine Health Data Organization shall notify the Revisor of Statutes when the major substantive rules authorized under this Act are finally adopted.

See title page for effective date, unless otherwise indicated.

**CHAPTER 529
H.P. 1231 - L.D. 1721**

An Act To Make Changes to and Clarify Maine Traveler Information Services Laws

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

Sec. 1. 23 MRSA §1902, sub-§§3 and 4, as repealed and replaced by PL 1981, c. 318, §1, are amended to read:

3. Control outdoor advertising. Prohibit and control the indiscriminate use of outdoor advertising; ~~and~~

4. Protection of scenic beauty. Enhance and protect the natural scenic beauty of the State; and

Sec. 2. 23 MRSA §1902, sub-§5 is enacted to read:

5. Preserve public safety. Ensure that signs are erected in substantial compliance with national standards.

Sec. 3. 23 MRSA §1903, sub-§1-C, as enacted by PL 1997, c. 635, §1, is repealed.

Sec. 4. 23 MRSA §1903, sub-§8, as amended by PL 2011, c. 115, §1, is further amended to read:

8. On-premises sign. "On-premises sign" means a sign that is erected and maintained according to the standards set forth in section 1914 upon the real property upon which the business, facility or point of interest advertised by the sign is located, a sign licensed pursuant to section 1914, subsection 4 that is within the portion of the public right-of-way that abuts that real property or an approach sign as permitted by section 1914, subsection 10. The sign may advertise only the business, facility or point of interest at, or the sale, rent or lease of, the property upon which it is located.

Sec. 5. 23 MRSA §1903, sub-§10-B, as enacted by PL 1997, c. 635, §1, is amended to read:

10-B. Producer. "Producer" means a person who produces, cultivates, grows or harvests ~~an agricultural product~~ farm and food products, as defined in Title 7, section 415, subsection 1, paragraph B.

Sec. 6. 23 MRSA §1903, sub-§10-C is enacted to read:

10-C. Principal building or structure. "Principal building or structure" means a building where an advertised business or activity is regularly carried on or practiced or a parking lot or storage or processing area or other structure that is essential and customary to the conduct of the advertised business or activity.

Sec. 7. 23 MRSA §1912-B, last ¶, as amended by PL 2011, c. 344, §30, is repealed.

Sec. 8. 23 MRSA §1913-A, as amended by PL 1999, c. 152, Pt. G, §§2 and 3, is further amended to read:

§1913-A. Categorical signs

1. Types of signs within the public right-of-way. The following signs may be erected and maintained within the public right-of-way without license or permit ~~under~~ as long as they conform to applicable provisions of this subsection and rules adopted pursuant to this chapter as follows:

A. Signs ~~of~~ erected by a duly constituted governmental body, a soil and water conservation district or a regional planning district;

B. Signs located on or in the rolling stock of common carriers, except those ~~which that~~ are determined by the commissioner to be circumventing the intent of this chapter. Circumvention ~~shall include~~ includes, but ~~is not be~~ limited to, signs ~~which that~~ are continuously in the same location or signs that extend beyond the height, width or length of the vehicle;

C. Signs on registered and inspected motor vehicles, except those ~~which that~~ are determined by the commissioner to be circumventing the intent of this chapter. Circumvention ~~shall include~~ includes, but ~~is not be~~ limited to, signs ~~which that~~ are continuously in the same location or signs that extend beyond the height, width or length of the vehicle;

D. Signs, with an area of not more than 260 square inches, identifying stops or fare zone limits of motor buses;

E. Signs showing the place and time of service or meetings of religious and civic organizations, in the municipality or township. Each religious or civic organization may erect no more than 4 signs. No sign may exceed in size 24 inches by 30 inches;

F. Memorial signs or tablets;

G. Hand-held or similar signs outside the public way not affixed to the ground or buildings;

H. Signs bearing political messages relating to an election, primary or referendum, ~~provided that~~ these signs which may not be placed within the right-of-way prior to 6 weeks before the election, primary or referendum to which they relate and must be removed by the candidate or political committee not later than one week thereafter; ~~and~~

I. Adopt-A-Highway Program signs allowed under section 1117-;

J. Signs erected by a producer that direct travelers to the location where farm and food products, as defined in Title 7, section 415, subsection 1, para-

graph B, are grown, produced and sold. A producer that sells farm and food products from a location with frontage on a numbered state highway may not erect a sign pursuant to this paragraph adjacent to that highway. A sign must be directional in nature, may not exceed 8 square feet in size and must be located within 5 miles of where the farm and food product is sold. A producer may not erect more than 4 signs pursuant to this paragraph, and the total number of signs erected by that producer pursuant to this paragraph and section 1911, subsection 2 may not exceed 6; and

K. Signs erected for a farmers' market, as defined in Title 7, section 415, subsection 1, paragraph A, as long as the signs are directional in nature. A farmers' market may not erect more than 4 signs pursuant to this paragraph, and the total number of signs erected by that farmers' market pursuant to this paragraph and section 1911, subsection 2 may not exceed 6. A farmers' market may erect a banner over a public way if the farmers' market obtains municipal approval and complies with rules adopted pursuant to this chapter.

2. Types of signs outside the right-of-way. The following signs may be erected and maintained outside of the public right-of-way without license or permit ~~under this chapter as follows~~ as long as they meet applicable provisions of this subsection and rules adopted pursuant to this chapter:

A. Signs erected by a public, civic, philanthropic, charitable or religious organization announcing an auction, public supper, lawn sale, campaign or drive or other like event or soliciting contributions;

B. Signs erected by fairs and expositions within the county where the activity is located;

C. Signs bearing religious messages and signs showing the time and place of services or meetings of religious and civic organizations;

D. Signs erected by nonprofit historical and cultural institutions. Each institution ~~which that~~ has certified its nonprofit status with the commissioner, may erect not more than 2 signs with a surface area not to exceed 50 square feet per sign; and

E. Signs bearing political messages; ~~and~~

~~G. Signs erected between May 1st and December 31st by a producer of agricultural products, as long as those signs advertise products that are grown, produced and sold on the producer's premise. A producer that grows, produces and sells an agricultural product from a location with frontage on a numbered state highway may not erect a sign under this paragraph adjacent to that highway. Signs must be directional in nature and may ad-~~

~~vertise only the agricultural product that is available for immediate purchase. The producer erecting the sign shall remove the sign once the agricultural product advertised on the sign is no longer available. A sign may not exceed 8 square feet in size and must be located within 5 miles of where the product is sold. A sign may only be erected on private property after the producer erecting the sign has obtained the landowner's written consent. A sign must be a minimum of 33 feet from the center of a road. A producer may not erect more than 4 signs pursuant to this paragraph and the total number of signs erected by that producer under this paragraph and section 1911, subsection 2 may not exceed 6.~~

~~**3. Regulations.** The commissioner may promulgate regulations and orders, including prohibitions, to protect highway safety and implement the intent of this chapter.~~

~~The signs referred to in this section shall be subject to regulation, including prohibition, as set forth in section 1922.~~

~~**4. Zones.** The commissioner may promulgate regulations adopt rules permitting signs, including signs bearing commercial messages, in any zone or area of the State, together with regulations rules concerning the dimensions, construction, illumination and other characteristics of such signs if the Attorney General certifies to the commissioner that the United States Supreme Court has determined that signs in such zones or areas must be permitted.~~

~~**5. Prohibited practices.** None of the signs referred to in this section may be erected or maintained on any traffic control signs or devices, public utility poles or fixtures or upon any trees. None of these signs may be painted or drawn upon rocks or other natural features.~~

~~**6. Interstate system.** None of the signs referred to in this section, other than signs conforming with subsection 1, paragraphs B and C and logo signs erected pursuant to section 1912-B, may be located within the right-of-way limits of the interstate system or within 660 feet of the nearest edge of the interstate system and erected in such a fashion that the message may be read from the interstate highway.~~

~~**Sec. 9. 23 MRSA §1914**, as amended by PL 2011, c. 115, §§2 to 4 and corrected by RR 2011, c. 1, §36, is further amended to read:~~

~~**§1914. On-premises signs**~~

~~**1. License and permit.** No Except as provided in subsection 4, a license or permit may not be required for an on-premises sign.~~

~~**2. Number.** On-premises signs on any one property shall may not exceed 10 in number, except in the case of more than one business, facility or point of~~

interest being conducted on one property, signs for each business, facility or point of interest shall may not exceed 10 in number.

~~**3. Location.** On-premises signs shall must be located within 1,000 feet of the principal building or structure where the business or facility is carried on or practiced or within 1,000 feet of the point of interest. Storage areas, warehouses and other auxiliary structures and fixtures are not deemed to be buildings where the business, facility or point of interest is carried on or practiced.~~

~~**4. Location; relation to public way; license.** On-premises Unless a license is obtained from the commissioner pursuant to this subsection, on-premises signs are prohibited:~~

~~A. Within 33 feet of the center line of any public way if the highway is less than 66 feet in width;~~

~~B. Except as provided in subsection 4 A, within Within 20 feet from the outside edge of the paved portion of any public way with more than 2 travel lanes and a total paved portion in excess of 24 feet in width; and~~

~~C. Within the full width of the right-of-way of any public way.~~

~~Paragraphs A and B do not apply to signs erected before September 1, 1957.~~

~~Neither the granting of a license nor the installation of a sign on the public way conveys permanent property rights relating to the public way. The Department of Transportation is not responsible for loss or damage to an on-premises sign under this subsection from the use of the right-of-way of the public way for highway purposes. An on-premises sign under this subsection may be removed by the department to accommodate highway uses at any time without compensation to the owner of the on-premises sign and at the owner's expense.~~

~~**4-A. Waiver.** The commissioner may grant a person a written waiver of the prohibition under subsection 4, paragraph B for an on-premises sign when the owner of property on which the on-premises sign is to be located assumes all costs for removal and installation of the on-premises sign and provides a written statement of this fact to the registry of deeds for the county where the on-premises sign is to be located if:~~

~~A. The majority of on-premises signs on either edge of the public way within 1,000 feet of the location of the proposed on-premises sign are located within 20 feet from the outside edge of the paved portion of the public way; or~~

~~B. The proposed on-premises sign replaces an existing on-premises sign at the same location~~

~~within 20 feet from the outside edge of the paved portion of the public way.~~

~~If an on-premises sign is granted a waiver under this subsection, the owner of the on-premises sign does not gain any permanent property rights relating to the right of way of the public way by installing the on-premises sign within the right of way of the public way. The department is not responsible for loss or damage to an on-premises sign under this subsection from the use of the right of way of the public way for highway purposes. An on-premises sign under this subsection may be removed by the department at any time without compensation to the owner of the on-premises sign and at the owner's expense to accommodate highway uses.~~

~~The commissioner may adopt rules necessary for the implementation of this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2 A.~~

5. Interstate highways. Not more than one on-premises sign, advertising the sale or lease of the property, may be permitted on land adjacent to any portion of the interstate system, including ramps and interchange areas, which is visible therefrom when that land is visible from any portion of the interstate system.

Not more than one on-premises sign visible from any portion of the interstate system, including ramps and interchange areas, may be permitted more than 50 feet from the principal building or structure where the business, facility or point of interest is carried on.

No on-premises advertisement, located more than 50 feet from the principal building or structure where the business, facility or point of interest advertised is carried on, may exceed 20 feet in length, width or height or 150 square feet in area, including border and trim, but excluding supports.

Any on-premises sign located more than 50 feet from the principal building or structure where the business, facility or point of interest is carried on that displays any trade name ~~which that~~ refers to or identifies any service rendered or product sold ~~shall~~ must display the name of the advertised business, facility or point of interest as conspicuously as such trade name.

6. On-premises signs prohibited. An on-premises sign is prohibited if it:

A. Attempts or appears to attempt to direct the movement of traffic or interferes with, imitates or resembles any official traffic sign, signal or device;

B. Prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic;

C. Contains, includes or is illuminated by a flashing, intermittent or moving light or lights, except as provided in subsection 11-A;

D. Uses lighting in any way unless the light is in the opinion of the commissioner effectively shielded to prevent beams or rays of light from being directed at any portion of the public way or is of such intensity or brilliance as to cause glare or impair the vision of the operator of any motor vehicle or to otherwise interfere with any driver's operation of a motor vehicle; or

E. Moves, has any animated or moving parts or has the appearance of movement, except as provided in subsection 11-A.

~~**7. Signs erected on natural features.** No on-premises sign may be permitted which is erected or maintained upon trees or painted or drawn upon rocks or other natural features.~~

8. Height. The maximum height of on-premises signs ~~shall be~~ is 25 feet above the ground level of land upon which it is located or if the sign is affixed to or is part of a building, the maximum is 10 feet above the roof of the building.

9. Jurisdiction by local authority in compact areas. Except as otherwise provided in this chapter, administration of this chapter ~~by the Department of Transportation does not apply to~~ for on-premises advertisements located in compact areas of an urban compact municipality, as defined in section 754, ~~the administration of which~~ is the responsibility of local authority. In compact areas of an urban compact municipality adjacent to the interstate, the Department of Transportation is responsible for the administration of this section.

10. Approach signs. Any business or facility whose principal building or structure, or a point of interest, which is located on a private way more than 1,000 feet from the nearest public way, or is not visible to traffic from the nearest public way, may erect no more than 2 approach signs with a total surface area not to exceed 100 square feet per sign. These signs are to be located outside the public right-of-way limits within 300 feet of the junction of the public and private ways.

11-A. Changeable signs. Notwithstanding subsection 6, paragraphs C and E, changeable signs are not prohibited as long as the sign complies with ~~all the terms applicable provisions~~ of this subsection and rules adopted pursuant to this chapter. The Department of Transportation shall administer the provisions of this subsection, except as provided in paragraph B.

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

(1) "Changeable sign" means an on-premises sign created, designed, manufactured or modified in such a way that its message may be electronically, digitally or mechanically altered by the complete substitution or replacement of one display by another on each side.

(2) "Display" means that portion of the surface area of a changeable sign that is or is designed to be or is capable of being periodically altered for the purpose of conveying a message.

~~(3) "Lot of record" means a lot for which the deed was legally recorded, or that was created by a plan legally recorded, in the registry of deeds for the county where the lot is located. Contiguous lots of record in the same ownership are considered one lot.~~

(4) "Message" means a communication conveyed by means of a visual display of text, a graphic element or pictorial or photographic image.

(5) "Sign assembly" means the display, border, trim and all supporting apparatus, including posts, columns, pedestals and foundation.

(6) "Time and temperature sign" means a changeable sign that electronically or mechanically displays the time and temperature by the complete substitution or replacement of a display showing the time with a display showing the temperature.

B. The display on each side of a changeable sign:

(1) May be changed no more than once every 20 minutes, unless the municipality in which the sign is located adopts an ordinance to the contrary and notifies the Department of Transportation in writing of that ordinance. If a municipal ordinance is adopted, the municipality is responsible for the administration of that ordinance;

(2) Must change as rapidly as technologically practicable, with no phasing, rolling, scrolling, flashing or blending, unless the municipality in which the sign is located adopts an ordinance to the contrary and notifies the Department of Transportation in writing of that ordinance. If a municipal ordinance is adopted, the municipality is responsible for the administration of that ordinance. Notwithstanding this subparagraph, a municipality may not adopt an ordinance that allows the sign to flash or display continuous streaming of information or video animation; and

(3) May consist of alphabetic or numeric text on a plain or colored background and may in-

clude graphic, pictorial or photographic images unless the municipality in which the sign is located adopts an ordinance to the contrary and notifies the Department of Transportation in writing of that ordinance. If a municipal ordinance is adopted, the municipality is responsible for the administration of that ordinance.

~~C. The display may comprise no more than 50% of the surface area of a changeable sign.~~

~~D. No more than Only one changeable sign with 2 sides is allowed per lot of record for each public way that provides direct vehicular access to the business, facility or point of interest.~~

E. Changeable signs may not be located so that the message is readable from a controlled-access highway or ramp.

F. The highest point of the display of a changeable sign may not exceed a height of 25 feet above either the centerline of the nearest public way or actual ground level adjacent to the sign, whichever is lower.

G. Changeable message board signs existing in accordance with the requirements of former subsection 11 continue to exist if the signs:

- (1) Are reasonably incapable of being modified or reprogrammed to comply with this section as amended; and
- (2) Are not replaced, substantially rebuilt, reconstructed or repaired beyond routine maintenance.

~~H. The size, intensity of illumination and acceptable rate of change between the time display and the temperature display of a time and temperature sign must comply with rules, policies or guidelines adopted by the Department of Transportation. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2 A. Time, except that time and temperature signs erected prior to September 29, 1995 need not comply with those rules, policies or guidelines.~~

Sec. 10. 23 MRSA §1925, as amended by PL 2011, c. 344, §31, is further amended to read:

§1925. Administration of chapter

~~The~~ Except as otherwise provided in this chapter, the commissioner shall administer this chapter. The commissioner may employ, subject to the Civil Service Law, clerical and other assistants required for the administration of this chapter. The commissioner may delegate to personnel of the Department of Transportation the authority to administer this chapter. The commissioner ~~may shall~~ shall adopt rules to administer the ~~various provisions of this chapter that are consistent~~

with the provisions of this chapter for the implementation of this chapter that are substantially compliant with the Manual on Uniform Traffic Control Devices published by the Federal Highway Administration and other national engineering standards. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The commissioner may execute contracts and other agreements to carry out the purposes of this chapter.

The Maine Turnpike Authority shall implement and administer the provisions of this chapter relating to signs on the Maine Turnpike in accordance with section 1965.

See title page for effective date.

CHAPTER 530

H.P. 1279 - L.D. 1787

An Act To Clarify the Enforcement Provisions Relating to Motor Carrier Registration

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

Sec. 1. 29-A MRSA §551, sub-§6, as enacted by PL 2009, c. 598, §8, is repealed.

Sec. 2. 29-A MRSA §556, first ¶, as amended by PL 1997, c. 776, §22, is further amended to read:

A motor vehicle is exempt from this subchapter, except sections 555, 555-A, ~~558~~ 558-A, 560 and 562, as follows:

Sec. 3. 29-A MRSA §558, as amended by PL 2011, c. 219, §1 and c. 455, §1 and affected by §4, is repealed.

Sec. 4. 29-A MRSA §§558-A and 558-B are enacted to read:

§558-A. Violation of provisions of subchapter

1. Crimes; penalties. Except as provided in subsections 2 to 4, a person commits a crime if that person:

A. In fact violates this subchapter or a rule adopted pursuant to this subchapter. Violation of this paragraph is a Class E crime that is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A;

B. Intentionally or knowingly permits a violation of this subchapter or a rule adopted pursuant to this subchapter. Violation of this paragraph is a Class E crime;

C. In fact violates any provision of the rules of the Department of Public Safety, Bureau of State Police adopted under section 555 that incorporates by reference 49 Code of Federal Regulations, Section 391.41 (2007), or as amended, and that violation occurs as a result of the operation of a commercial motor vehicle by a person who has methadone or its metabolite in that person's body. Violation of this paragraph is a Class E crime; or

D. Intentionally or knowingly violates this subchapter or a rule adopted pursuant to this subchapter and the violation in fact causes either death or serious bodily injury to a person whose health or safety is protected by the provision violated and the death or serious bodily injury is a reasonably foreseeable consequence of the violation. Violation of this paragraph is a Class C crime.

The maximum fine for a violation of a state rule that adopts by reference the federal regulations found in 49 Code of Federal Regulations and that is not an out-of-service order is \$250, and the maximum fine for a violation of a state rule that adopts by reference the federal regulations found in 49 Code of Federal Regulations and that meets the definition of an out-of-service order as defined in 49 Code of Federal Regulations is \$500. For purposes of this subsection, "out-of-service order" means a declaration by a law enforcement officer authorized to enforce the provisions of this subchapter that a driver, a commercial motor vehicle or a motor carrier operation is out of service pursuant to 49 Code of Federal Regulations, Sections 386.72, 392.5, 392.9a, 395.13 or 396.9, or compatible laws, or the North American Standard Out-of-Service Criteria.

2. Traffic infractions involving federal regulations; violations. The following provisions govern traffic infractions.

A. A person may not violate any provision of the rules of the Department of Public Safety, Bureau of State Police adopted under section 555 that incorporates by reference any of the following federal regulations or that is an amended version of any of the following federal regulations:

(1) 49 Code of Federal Regulations, Section 390.21 (2007);

(2) Except as otherwise provided in subsection 1, paragraph C, 49 Code of Federal Regulations, Section 391.41 (2007);

(3) 49 Code of Federal Regulations, Sections 392.16, 392.22, 392.24, 392.25, 392.33 and 392.71 (2007);

(4) Any section of 49 Code of Federal Regulations, Part 393 (2007); or

(5) 49 Code of Federal Regulations, Part 396, except Sections 396.7 and 396.9 (2007).