

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

W. To refuse to allow access by a dealer to a dealer file in accordance with this paragraph.

(1) For purposes of this paragraph, "dealer file" means all reports, memoranda, letters or other documents, in hard copy or electronic form, that a manufacturer, distributor, wholesaler, distribution branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof has in its possession that are created after the effective date of this paragraph, that contain information or data and that state, reflect, display or represent a failure by the dealer to perform in compliance with the obligations of the franchise agreement or other standards established by the manufacturer, distributor, wholesaler, distribution branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof, including, but not limited to, sales performance, effectiveness and goals, customer satisfaction index, facility issues and standards, fixed operations, employee matters including personal information concerning the dealer principal as well as any executive manager, sales manager, parts manager or service manager and any dealer successor, financial information and profitability, inventory, warranty issues and audits, marketing and advertising, sales and facility programs, contact reports and market studies.

(2) A dealer has the right to review and obtain copies of its complete dealer file once every 18 months. A manufacturer, distributor, wholesaler, distribution branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof shall provide the dealer file or the requested portion of the file to the dealer within 30 days of the dealer's written request, which may be submitted electronically. The manufacturer, distributor, wholesaler, distribution branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof may provide the file electronically and shall certify that the dealer file it produces is complete as of the date of production. If the file is provided in paper format, the dealer may be charged a reasonable per page fee for copies, as long as the fee does not exceed the usual and customary fee charged by copy centers in the immediate vicinity of the location of the file. No other fees or charges may be assessed.

(3) Any documents or portions of documents that are not produced by the manufacturer,

distributor, wholesaler, distribution branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof in response to a dealer's request pursuant to this paragraph must, at the option of the dealer, be excluded from, and are not admissible as evidence and may not be used in any manner at, any proceeding at the board or any other State agency or any court proceeding;

Sec. 7. 10 MRSA §1176, as amended by PL 2003, c. 356, §10, is further amended by adding at the end a new paragraph to read:

A franchisor may not deny those elements of a warranty claim that are based on a dealer's incidental failure to comply with a claim requirement or a clerical error or other technicality, regardless of whether the franchisor contests any other element of that warranty claim, as long as the dealer corrects any such clerical error or other technicality according to licensee guidelines.

Sec. 8. 10 MRSA §1176-A, as enacted by PL 1997, c. 521, §26, is amended to read:

§1176-A. Audits

A manufacturer may reasonably and periodically audit a new motor vehicle dealer to determine the validity of paid claims or any charge-backs for customer or dealer incentives. Audits of incentive payments may be only for the ~~18 month~~ 12-month period immediately preceding the date notifying the dealer that an audit is to be conducted.

See title page for effective date.

CHAPTER 535

H.P. 1199 - L.D. 1676

**An Act To Strengthen
Disclosure about Provider
Networks in Health Insurance
Plans to Consumers and
Providers**

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

Sec. 1. 24-A MRSA §4303, sub-§19 is enacted to read:

19. Information about provider networks. A carrier offering a managed care plan shall prominently disclose to applicants, prospective enrollees and enrollees information about the carrier's provider network for the applicable managed care plan, including whether there are hospitals, health care facilities, physicians or other providers not included in the plan's network and any differences in an enrollee's financial

responsibilities for payment of covered services to a participating provider and to a provider not included in a provider network. The superintendent may adopt rules that set forth the manner, content and required disclosure of the information in accordance with this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 24-A MRSA §4303-B is enacted to read:

§4303-B. Disclosure related to provider networks

1. Disclosure. Upon request, a carrier shall provide to a provider to which the carrier has decided not to offer the opportunity to participate or that the carrier has decided not to include as a participating provider in any of the carrier's provider networks a written explanation of the reason for the carrier's decision. The written explanation provided by the carrier must indicate whether the reason for not offering the provider the opportunity to contract or for not including the provider in any network was related to the provider's performance with respect to quality, cost or cost-efficiency.

2. No right of action. A provider has no right of action as the result of a disclosure made in accordance with this section.

See title page for effective date.

**CHAPTER 536
S.P. 646 - L.D. 1671**

**An Act To Prohibit Motorized
Recreational Gold Prospecting
in Class AA Waters and
Certain Atlantic Salmon and
Brook Trout Habitats**

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

Whereas, motorized recreational gold prospecting may occur without a permit, subject to certain conditions; and

Whereas, in order to provide additional protection to certain sensitive stream segments that provide important habitats to Atlantic salmon and brook trout before the next motorized recreational gold prospecting season, which will begin after winter ends, this legislation must take effect as soon as possible; 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

Sec. 1. 38 MRSA §480-B, sub-§5-C is enacted to read:

5-C. Motorized recreational gold prospecting. "Motorized recreational gold prospecting" means the operation of small-scale, motorized equipment for the removal, separation, refinement and redeposition of sediments and other substrates occurring below the normal high-water mark of a stream for the noncommercial, recreational discovery and collecting of gold specimens. "Motorized recreational gold prospecting" includes, but is not limited to, the operation of a motorized suction dredge, sluice, pump, rocker box or winch, individually or together.

Sec. 2. 38 MRSA §480-Q, sub-§5-A, ¶G, as enacted by PL 2013, c. 260, §1, is amended to read:

G. Motorized recreational gold prospecting is prohibited within the following areas:

- (1) Waters closed to motorized recreational gold prospecting in the unorganized territories identified in rules adopted by the Department of Agriculture, Conservation and Forestry, Maine Land Use Planning Commission; ~~and~~
- (2) Waters closed to motorized recreational gold prospecting identified in rules adopted by the Department of Environmental Protection;
- (3) Waters defined as Class AA waters pursuant to section 465; and
- (4) The following areas of critical or high-value brook trout or Atlantic salmon habitat:
 - (a) Bemis Stream and tributaries in Township D and Rangeley Plantation;
 - (b) Bond Brook in the City of Augusta and the Town of Manchester;
 - (c) Bull Branch of Sunday River and tributaries in Grafton Township and Riley Township;
 - (d) Carrabassett River and tributaries in the Town of Carrabassett Valley, Freeman Township, the Town of Kingfield, Mount Abram Township and Salem Township;
 - (e) Cold Stream tributaries, including Tomhegan Stream, in Chase Stream Township, Johnson Mountain Township and West Forks Plantation;