

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
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FIRST REGULAR SESSION
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TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2019

CHAPTER 467
H.P. 815 - L.D. 1111

**An Act Regarding Driver's
License Suspensions**

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

Sec. 1. 29-A MRSA §2458, sub-§2-A, as amended by PL 2015, c. 13, §1, is further amended to read:

2-A. Minimum suspension for negligent operation. The Secretary of State without preliminary hearing shall suspend for a period of at least 3 years one year a person's license if the Secretary of State, based on the Secretary of State's records or other sufficient evidence, finds that person to have negligently operated a motor vehicle in a manner so as to cause the death of another person. Prior to the determination and issuance of the suspension, the Secretary of State shall notify any family of the victim and shall consider written or oral statements received from the family in response to the notice. Upon suspending the person's license, the Secretary of State shall notify that person of an opportunity for hearing as provided in section 2483. If a person whose license is suspended under this subsection requests a hearing, the suspension is stayed pursuant to section 2483.

See title page for effective date.

CHAPTER 468
H.P. 986 - L.D. 1364

**An Act Regarding Net
Neutrality and Internet Policy**

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

Sec. 1. 5 MRSA §1541-B is enacted to read:

§1541-B. Net neutrality

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

A. "Advanced communications technology infrastructure" has the same meaning as in Title 35-A, section 9202, subsection 1.

B. "Broadband Internet access service" means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the service, but excluding dial-up Internet access service.

C. "Commit state funds" means to enter into a contract, make a grant or otherwise commit any state funds, including but not limited to any act that would incur a financial obligation against the State Government subject to review under section 1541, subsection 2.

D. "Internet service provider" has the same meaning as in section 200-B, subsection 1-A, paragraph A.

E. "Net neutral service" means fixed or mobile broadband Internet access service that is provided without engaging in any of the following:

(1) Blocking of lawful content, applications, services or devices, subject to reasonable network management practices;

(2) Throttling; or

(3) Paid prioritization.

F. "Paid prioritization" means management of the network of an Internet service provider that provides broadband Internet access service to directly or indirectly favor some traffic over other traffic, either in exchange for monetary or other consideration from a 3rd party or to benefit an affiliated entity.

G. "Reasonable network management practice" means a practice that has a primarily technical network management justification and is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access service. "Reasonable network management practice" does not include other business practices.

H. "State entity" means a department, agency or instrumentality of the State.

I. "Throttling" means impairing or degrading lawful Internet traffic on the basis of Internet content, application or service or use of a nonharmful device, subject to reasonable network management practices.

2. Provider agreement. A state entity may not commit state funds to an Internet service provider unless:

A. The Internet service provider agrees in writing to provide net neutral service in the provision of broadband Internet access service:

(1) Directly to the state entity; or

(2) Across advanced communications technology infrastructure constructed with the use of the state funds;

B. The state entity provides to the State Controller:

(1) Notice of its intent to commit state funds to an Internet service provider; and

(2) A written agreement from the Internet service provider that conforms to the requirements of paragraph A; and

C. The State Controller finds that the requirements of paragraphs A and B have been satisfied and authorizes the state agency or instrumentality to commit state funds.

Nothing in this section limits the authority of the State Controller under any other provision of law to limit or prohibit a state entity from committing state funds.

Nothing in this section prohibits reasonable efforts by an Internet service provider providing broadband Internet access service to address copyright infringement or other unlawful activity.

Nothing in this section supersedes any obligations, authorizations or restrictions on an Internet service provider providing broadband Internet access service to address the needs of emergency communications or law enforcement, public safety or national security authorities under the laws of the State and the United States of America and the United States Constitution and the Constitution of Maine.

Upon receipt of information or complaint from any person that an Internet service provider may be failing to meet the requirements of an agreement made under this section, the Attorney General may undertake an investigation and take any action the Attorney General determines appropriate, including, but not limited to, action pursuant to section 192.

See title page for effective date.

CHAPTER 469

S.P. 466 - L.D. 1504

An Act To Protect Consumers from Unfair Practices Related to Pharmacy Benefits Management

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

Sec. 1. 22 MRSA §1711-E, sub-§1, ¶G, as amended by PL 2011, c. 443, §1, is further amended to read:

G. "Pharmacy benefits manager" has the same meaning as in Title 24-A, section ~~1913~~ 4347, subsection 1, ~~paragraph A~~ 17.

Sec. 2. 22 MRSA §8702, sub-§8-B, as amended by PL 2011, c. 443, §3, is further amended to read:

8-B. Pharmacy benefits manager. "Pharmacy benefits manager" has the same meaning as in Title 24-A, section ~~1913~~ 4347, subsection 1, ~~paragraph A~~ 17.

Sec. 3. 24-A MRSA §601, sub-§28, as enacted by PL 2009, c. 581, §3, is repealed.

Sec. 4. 24-A MRSA §601, sub-§28-A is enacted to read:

28-A. Pharmacy benefits manager. Pharmacy benefits manager licensing fees may not exceed:

A. Original issuance fee, \$100; and

B. Renewal fee, \$100.

Sec. 5. 24-A MRSA §1913, as repealed and replaced by PL 2011, c. 443, §4, is repealed.

Sec. 6. 24-A MRSA §4317, sub-§12, as enacted by PL 2015, c. 450, §1, is repealed.

Sec. 7. 24-A MRSA §4317, sub-§13, as enacted by PL 2017, c. 44, §1, is repealed.

Sec. 8. 24-A MRSA c. 56-C is enacted to read:

CHAPTER 56-C

HEALTH PLANS THAT PROVIDE PRESCRIPTION DRUG BENEFITS

§4347. Definitions

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

1. Average wholesale price. "Average wholesale price" means the average wholesale price of a prescription drug as identified by a national drug pricing source selected by a health insurer. The average wholesale price must be identified by the 11-digit national drug code, as amended from time to time, for the prescription drug dispensed for the quantity dispensed.

2. Brand-name drug. "Brand-name drug" means a prescription drug marketed under a proprietary name or registered trademark name, including a biological product.

3. Carrier. "Carrier" has the same meaning as in section 4301-A, subsection 3, except that "carrier" does not include a multiple-employer welfare arrangement, as defined in section 6601, subsection 5, if the multiple-employer welfare arrangement contracts with a 3rd-party administrator to manage and administer health benefits, including benefits for prescription drugs. "Carrier" also includes the MaineCare program pursuant to Title 22, chapter 855 and the group health plan provided to state employees and other eligible persons pursuant to Title 5, section 285.