

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTY-FIRST LEGISLATURE

SECOND REGULAR SESSION
January 3, 2024 to May 10, 2024

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 9, 2024

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

Augusta, Maine
2024

OTHER SPECIAL REVENUE	\$0	\$500
FUNDS TOTAL		

See title page for effective date.

CHAPTER 617
S.P. 976 - L.D. 2259

**An Act to Prohibit Receiving
Compensation for Assisting a
Person to Obtain Veterans'
Benefits Except as Permitted
Under Federal Law**

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

Sec. 1. 37-B MRSA §12 is enacted to read:

§12. Compensation for services related to veterans' benefits matters

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

A. "Compensation" means payment of money, a thing of value or a financial benefit.

B. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.

C. "Veterans' benefits matter" means the preparation, presentation or prosecution of a claim affecting an individual who has filed or expressed an intent to file a claim for a benefit, program, service, commodity, function or status, entitlement to which is determined under the laws and regulations administered by the United States Department of Veterans Affairs or the United States Department of Defense pertaining to veterans, their dependents, their survivors and any other individual eligible for such benefits.

2. Prohibitions. A person may not:

A. Receive compensation for preparation, presentation or prosecution of, or advising, consulting or assisting an individual with, a veterans' benefits matter, except as permitted under federal law;

B. Receive compensation for referring an individual to another person to prepare, present or prosecute, or advise, consult or assist the individual with, a veterans' benefits matter;

C. Receive, with respect to an individual's veterans' benefits matter, compensation for services ren-

dered before the date on which a notice of disagreement, decision review or appeal is filed, whichever occurs first;

D. Guarantee, either directly or by implication, that any individual is certain to receive specific veterans' benefits or that any individual is certain to receive a specific level, percentage or amount of veterans' benefits; and

E. Receive excessive or unreasonable fees as compensation for preparation, presentation or prosecution of, or advising, consulting or assisting an individual with, a veterans' benefits matter. The factors articulated in 38 Code of Federal Regulations, Section 14.636 (2024) govern determinations of whether a fee is excessive or unreasonable.

3. Memorialization of terms. A person seeking to receive compensation for preparation, presentation or prosecution of, or advising, consulting or assisting an individual with, a veterans' benefits matter shall, before rendering any services, memorialize in a written agreement signed by both parties that adheres to all criteria specified in 38 Code of Federal Regulations, Section 14.636 (2024) all terms regarding the individual's payment of fees for services rendered.

4. Penalty. A violation of this section constitutes a violation of the Maine Unfair Trade Practices Act.

5. Exceptions. This section does not apply to:

A. An accredited representative of a recognized organization or an accredited agent or attorney under 38 Code of Federal Regulations, Section 14.629 (2024); or

B. An employee of the Maine Veterans' Homes established under chapter 11 who is operating within that employee's capacity as an employee of the Maine Veterans' Homes.

See title page for effective date.

CHAPTER 618
H.P. 1245 - L.D. 1937

**An Act Regarding the
Transportation of Hazardous
Materials by Railroad
Companies**

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

Whereas, records provided by railroad companies describing hazardous materials transported in the State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those

routes that are in the possession of a state or local emergency management entity or law enforcement agency, fire department or other first responder are not subject to public disclosure; and

Whereas, this legislation makes those records subject to public disclosure when those records are related to a train carrying hazardous materials that has derailed at any point from a main line train track; and

Whereas, this legislation needs to take effect before the expiration of the 90-day period because the potential for discharge of hazardous materials transported by a railroad company poses a threat to public health, safety and welfare; 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. 1 MRSA §402, sub-§3, ¶U, as amended by PL 2019, c. 667, Pt. B, §4, is further amended to read:

U. Records provided by a railroad company pursuant to Title 23, section 7311, subsection 5 and records describing hazardous materials transported by the railroad company in this State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those routes that are in the possession of a state or local emergency management entity or law enforcement agency, fire department or other first responder, except that records related to a train carrying hazardous materials that has derailed at any point from a main line train track or related to a discharge of hazardous materials transported by a railroad company that poses a threat to public health, safety and welfare are subject to public disclosure after that discharge. For the purposes of this paragraph, "hazardous material" has the same meaning as set forth in 49 Code of Federal Regulations, Section 105.5; and

Sec. 2. 23 MRSA §5003, as enacted by PL 1987, c. 141, Pt. A, §4, is amended to read:

§5003. Collection of judgment against foreign railroad company lessee

When any foreign railroad company, which that is or has been doing business in this State as the lessee of any railroad, refuses or neglects for 60 days after demand to pay and discharge any judgment recovered by any person against the railroad company owning that leased road for damages to the property of the person by the doings, misdoings or neglects of the foreign railroad company, its agents or servants, which and that judgment belongs to the foreign railroad company to

pay and discharge, the Superior Court, on complaint, may compel payment thereof of the judgment by the foreign corporation railroad company and make, pass and enforce all necessary orders, decrees and processes for the purpose. Nothing in this section allows for non-participation by foreign railroad company lessees.

Sec. 3. 23 MRSA §7015 is enacted to read:

§7015. Prevention and response plans and environmental impact analysis

Within 180 days of the effective date of this section, a railroad company shall submit to the Commissioner of Environmental Protection a prevention and response plan including the environmental impact analysis submitted to the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration. The railroad company shall also provide any updates submitted to the Pipeline and Hazardous Materials Safety Administration to the Commissioner of Environmental Protection.

Sec. 4. 23 MRSA §7311, sub-§2-A is enacted to read:

2-A. State, county, municipal notice. In the event of a main line train derailment involving hazardous materials, a railroad company shall make a 9-1-1 call, as defined in Title 25, section 2921, subsection 17, to alert first responders, including municipal and county fire chiefs in the jurisdiction, and provide timely notice to the Department of Public Safety, the Department of Environmental Protection and the Maine Emergency Management Agency. The Maine Emergency Management Agency may notify the Department of Transportation and the municipal and county fire chiefs located within the affected area of the accident.

Sec. 5. 23 MRSA §7311, sub-§2-B is enacted to read:

2-B. Public notice. In the event of a main line train derailment involving hazardous materials, the Maine Emergency Management Agency shall, if requested by a municipal or county fire chief serving as incident commander, issue an alert through an emergency alert system or wireless emergency alert system for the area identified by the incident commander.

Sec. 6. 23 MRSA §7311, sub-§2-C is enacted to read:

2-C. Failure to issue notice. If a railroad company fails to provide timely notice as required under subsection 2-A, the Commissioner of Transportation may assess a fine up to \$25,000 per failed notice per day in the event of a main line train derailment involving hazardous materials.

Sec. 7. 23 MRSA §7311, sub-§5 is enacted to read:

5. Routine inspections. Upon request of the Commissioner of Transportation, a railroad company shall

submit reports of inspections conducted pursuant to federal agency requirements under 49 Code of Federal Regulations, Subtitle B, Chapter II by a railroad company of trains, rails, rail safety equipment and rail corridors. Records under this subsection are not public records pursuant to Title 1, section 402, subsection 3, paragraph U.

Sec. 8. 23 MRSA §7313 is enacted to read:

§7313. Mandatory training offered by railroad companies to fire and emergency medical services

1. Training. A railroad company shall offer training to each fire department, each local organization for emergency management and each organization that has a mutual aid agreement with each fire department and each local organization for emergency management along routes over which the railroad company transports oil or other hazardous materials. Additional training must be offered to each fire department and each local organization for emergency management at least once every 3 years after the initial training provided for under this subsection.

2. Hazardous materials; techniques to assess hazards. The training under subsection 1 must address the general hazards of oil and hazardous materials that travel through the jurisdiction or mutual aid agreement jurisdiction of each fire department and local organization for emergency management; techniques to assess hazards to the environment and to the safety of first responders and the public; factors that an incident commander must consider in determining whether to attempt to suppress a fire or to evacuate the public and first responders from an area; and other strategies for initial response by first responders.

3. Suggested protocols. The training under subsection 1 must include suggested protocols or practices for first responders to safely respond to a derailment; methods to identify railroad cars and hazardous material contents; first responder safety issues; railroad response tactics; public notification and evacuation considerations; environmental contamination response; railroad response personnel and resources coordination at an accident; and any other protocols and practices for safe initial local response, including the notification requirements and the responsibilities of an incident commander during any rail accident involving oil or other hazardous materials.

Sec. 9. 23 MRSA §7314 is enacted to read:

§7314. Post-accident reporting requirements

1. Post-accident review. After an accident involving hazardous materials subject to review by the applicable federal agency or when an accident is not reviewed by the applicable federal agency but review is considered necessary by the Commissioner of Transportation, the commissioner shall ensure that a post-

accident review and analysis is performed in a timely manner. The commissioner's review and analysis must be undertaken under an agreement with an entity having relevant knowledge and experience that is fully independent of the railroad carrier's companies.

2. Evaluation requirements. The Commissioner of Transportation's review and analysis process must include an after-action review and must evaluate, at a minimum, processes occurring during the accident for emergency assessment, hazard operations, population protection and accident management. The review and analysis must be designed to minimize disruption of the federal review of the accident.

3. Report. By March 1st following any calendar year in which one or more post-accident reviews and analyses are performed, the Commissioner of Transportation shall submit a report to the joint standing committees of the Legislature having jurisdiction over railroads and public records matters. The report must:

- A. Provide a summary of the accidents, as long as the information provided does not include information excluded from the definition of "public records" pursuant to Title 1, section 402, subsection 3, paragraph U;
- B. Identify findings, conclusions and process changes;
- C. Include any costs associated with accidents; and
- D. Make recommendations for changes to laws and rules, if any.

Sec. 10. Appropriations and allocations. The following appropriations and allocations are made.

**TRANSPORTATION, DEPARTMENT OF
Multimodal Transportation Fund Z017**

Initiative: Provides allocations for accident reviews and analyses regarding hazardous materials performed by a qualified entity.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
All Other	\$0	\$40,000
OTHER SPECIAL REVENUE	\$0	\$40,000
FUNDS TOTAL		

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

Effective April 12, 2024.