

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

First Regular Session

Bill Summaries

*Joint Standing Committee
on
Utilities and Energy*

July 2003

Members:

*Sen. Christopher G. L. Hall, Chair
Sen. Lynn Bromley
Sen. Edward M. Youngblood*

*Rep. Lawrence Bliss, Chair
Rep. Herbert Adams
Rep. Albion D. Goodwin
Rep. Peter L. Rines*

*Rep. Jacqueline A. Lundeen
Rep. Donald P. Berry, Sr.
Rep. Philip A. Cressey, Jr.
Rep. Kenneth C. Fletcher
Rep. Stanley A. Moody
Rep. Maitland E. Richardson*

Staff:

Jon Clark, Senior Analyst

*Office of Policy and Legal Analysis
13 State House Station
Augusta, ME 04333
(207) 287-1670*

Maine State Legislature



Office Of Policy And Legal Analysis Office Of Fiscal And Program Review

121st Maine Legislature First Regular Session

Summary Of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint select committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

<i>CARRIED OVER PURSUANT TO HP 1212</i>	<i>Bills carried over to the 2nd Regular Session</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>OTP-ND</i>	<i>Committee report Ought To Pass In New Draft</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PASSED</i>	<i>Joint Order passed in both bodies</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

Please note that the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 13, 2003.

David C. Elliott, Director
Offices located in Room 215 of the Cross Office Building

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Enacted Law Summary

Public Law 2003, chapter 478 permits the Emergency Services Communications Bureau to adopt rules to establish requirements for locating emergency calls, and initiating emergency responses to such calls, made from within multiline telephone systems, including network-based or premises-based systems, whether owned or leased by a public or private entity, such as private branch exchanges or Centrex systems. The amendment establishes parameters for any such rules, makes them major substantive rules subject to legislative approval and requires them to be approved by the Public Utilities Commission prior to their submission to the Legislature.

LD 1483

An Act To Improve the Ability of the Public Utilities Commission To Enforce State Laws, Rules and Requirements

PUBLIC 505

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLISS HALL	OTP-AM MAJ ONTP MIN	H-342

LD 1483 proposed to change most of the penalty provisions that apply to violations of laws administered by the Public Utilities Commission. It proposed:

1. To repeal a variety of specific penalties related to violations of certain laws administered by the PUC (ranging from a \$500/day civil forfeiture for a utility that fails to pay the PUC assessment to a Class B crime for a utility officer that knowingly makes a false statement regarding the issuance of stocks and bonds) and to make such violations subject to a new set of general penalties (see below);
2. To leave in place current administrative penalties for certain violations (violations of T&D codes of conduct and marketing restrictions, violations of the “slamming” law, violations of the “cramming” law, violations of the “dig safe” law, and violations of the E-911 law);
3. To increase penalties that apply to violations by gas utilities and gas pipelines of safety laws, make them administrative rather than civil, and add more specificity to the factors to be weighed in determining amount of the penalty;
4. To amend the “slamming” law to allow the PUC to order a telephone utility acting as billing agent to withhold payments to a suspected slammer pending administrative penalty proceedings;
5. To amend the “cramming” law to expand and change provisions relating to revocation of registration of a company that violates that law;
6. To allow the PUC to issue cease and desist orders under the “dig safe” law to prevent damage to underground facilities (currently the PUC can seek a temporary restraining order in court);
7. To repeal the current general penalty provision (civil forfeiture of up to \$1,000/offense) that applies in cases in which a specific penalty for a violation is not otherwise specified;
8. To create a class C crime for knowingly making a false or misleading statement in PUC proceeding;

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9. To enact new general penalty provisions that: create administrative penalties (imposed and collected by the PUC) for violations of Title 35-A, PUC rules or PUC orders, in cases in which a specific penalty for a violation is not otherwise specified, of up to \$25,000/violation/day to a maximum of \$500,000 for violations by a public utility or competitive electricity provider and up to \$1,000/violation/day to a maximum of \$25,000 for violations by any person; and require the PUC to “take into account” various factors in determining the amount of a penalty (severity of violation, intent, history of prior violations, good faith attempts to comply after notification, other matters as justice requires);
10. To authorize the PUC to suspend or revoke the authority of a public utility to provide service on a finding that the utility is unfit to provide adequate service and authorize the PUC to order a person to cease and desist from providing service if the person hasn’t obtained necessary PUC approvals; and
11. To require that all administrative penalties collected by the PUC be deposited in a reimbursement fund to pay the PUC’s costs of enforcement; excess funds to go to the general fund.

Committee Amendment "A" (H-342) was the majority report of the Joint Standing Committee on Utilities and Energy. The amendment proposed to change the section of the bill that authorizes the Public Utilities Commission to impose administrative penalties, in cases in which no other penalty is provided, for violations of the Maine Revised Statutes, Title 35-A or commission rules or orders. It proposed to provide that in the case of a violation by a public utility or a competitive electricity provider, the violation must be willful, and to lower the maximum per violation amount to the lesser of \$5,000 or .25% of the annual gross in-state revenue of the violator. It proposed to clarify that the provision allowing the commission to impose administrative penalties of a lower amount (\$1,000/violation/day) applies to persons that are not public utilities or competitive electricity providers. It proposed to add an additional standard to those to be considered by the commission in setting the amount of administrative penalties: the reasonableness of the violator’s belief that the act was not a violation. It proposed to add a provision providing that in addition to the administrative penalties, the commission may require disgorgement of profits or revenues realized as a result of the violation.

The amendment also proposed to limit the portion of the bill that creates a Class C crime for making false or misleading statements in a PUC proceeding to only false statements and to remove reference to misleading statements.

The amendment also proposed to add a provision authorizing the commission to condition its approval of a public utility to provide service on the submission of a bond to ensure the utility has the financial ability to meet its obligations.

Enacted Law Summary

Public Law 2003, chapter 505 changes most of the penalty provisions that apply to violations of laws administered by the Public Utilities Commission.

It repeals a variety of specific penalties related to violations of certain laws administered by the PUC; such violations, under the law, fall under new general penalties (see below). The law leaves in place current administrative penalties for certain violations. The law increases penalties that apply to violations by gas utilities and gas pipelines of safety laws, makes them administrative rather than civil, and adds more specificity to the factors to be weighed in determining the amount of a penalty. The law amends the “slamming” law to allow the PUC to order a telephone utility acting as billing agent to withhold payments to a suspected slammer pending administrative penalty proceedings. It also amends the “cramming” law to expand and change provisions relating to revocation of registration of a company that violates that law. The law allows the PUC to issue cease and desist

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orders under the dig safe law to prevent damage to underground facilities (currently the PUC can seek a temporary restraining order in court).

The law repeals the current general penalty provision (civil forfeiture of up to \$1,000/offense) that applies in cases in which a specific penalty for a violation is not otherwise specified. The law creates new general penalty provisions. It establishes a new Class C crime for knowingly making a false statement in a PUC proceeding. It establishes new and much more substantial administrative penalties (imposed and collected by the PUC) for violations of Title 35-A, PUC rules or PUC orders in cases where no other specific penalty is provided. The PUC is also authorized to order disgorgement of any profit or revenue resulting from any such violations. The law directs the PUC to take into account various factors in determining the amount of a penalty (e.g., severity of violation, intent, history of prior violations, etc.)

The law authorizes the PUC to suspend or revoke the authority of a public utility to provide service on a finding that the utility is unfit to provide adequate service, authorizes the PUC to order a person to cease and desist from providing service if person hasn't obtained necessary PUC approvals, and allows the PUC to require an applicant to submit a bond as a condition for PUC approval of the applicant to provide public utility service

The law requires that all administrative penalties collected by the PUC are deposited in a reimbursement fund to pay the PUC's costs of enforcement; excess funds go to the general fund.

LD 1494 **Resolve, Regarding Legislative Review of Chapter 306: Information Disclosure Rule Amendment, a Major Substantive Rule of the Public Utilities Commission** **RESOLVE 46 EMERGENCY**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
		OTP-AM		H-294

LD 1494 proposed to provide for legislative review of Chapter 306: Information Disclosure Rule Amendment, a major substantive rule of the Public Utilities Commission.

Committee Amendment "A" (H-294) proposed to authorize the adoption of Chapter 306: Information Disclosure Rule Amendment, a provisionally adopted major substantive rule of the Public Utilities Commission, if a provision is removed that provides that fuel cells and geothermal, solar, tidal and wind power are separately identified on the label only if contained in the competitive electricity provider's actual fuel mix. With this amendment, the rule would require separate identification of these fuel sources on the label, even if no such fuel sources are in the provider's actual fuel mix.

Enacted Law Summary

Resolve 2003, chapter 46 authorizes the adoption of Chapter 306: Information Disclosure Rule Amendment, a provisionally adopted major substantive rule of the Public Utilities Commission, if a provision is removed that provides that fuel cells and geothermal, solar, tidal and wind power are separately identified on the label only if contained in the competitive electricity provider's actual fuel mix. With this amendment, the rule will require separate identification of these fuel sources on the label, even if no such fuel sources are in the provider's actual fuel mix.

Resolve 2003, chapter 46 was enacted as an emergency measure effective May 23, 2003.