

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-ONE

H.P. 995 - L.D. 1344

**An Act To Clarify the Authority of the Department of Health and Human Services during a Public Health Emergency**

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

**Sec. 1. 5 MRSA §10004, sub-§3**, as enacted by PL 1977, c. 694, §38, is amended to read:

**3. Health or safety hazard.** The health or physical safety of a person or the continued well-being of a significant natural resource is in immediate jeopardy at the time of the agency's action, and acting in accordance with subchapter ~~IV~~ 4 or ~~VI~~ 6 would fail to adequately respond to a known risk, ~~provided that~~ as long as the revocation, suspension or refusal to renew ~~shall~~ does not continue for more than 30 days, ~~except as provided in Title 22, section 804 and subject to review under Title 22, section 804, subsection 3;~~

**Sec. 2. 22 MRSA §802, sub-§1, ¶C**, as amended by PL 2005, c. 383, §6, is further amended to read:

C. Investigate cases, epidemics and occurrences of communicable, environmental and occupational diseases; ~~and~~

**Sec. 3. 22 MRSA §802, sub-§1, ¶D**, as amended by PL 2005, c. 383, §6, is further amended to read:

D. Establish procedures for the control, detection, prevention and treatment of communicable, environmental and occupational diseases, including public immunization ~~and~~, contact notification programs; and closure of a business or entity when that business or entity directly and repeatedly violates public health control measures during an extreme public health emergency under section 820; and

**Sec. 4. 22 MRSA §802, sub-§1, ¶E** is enacted to read:

E. Impose administrative fines in accordance with section 804 and Title 5, chapter 375.

**Sec. 5. 22 MRSA §802, sub-§2, ¶B**, as enacted by PL 1989, c. 487, §11, is amended to read:

B. Procedures for the disinfection, seizure or destruction of contaminated property; ~~and~~

**Sec. 6. 22 MRSA §802, sub-§2, ¶C**, as amended by PL 2005, c. 383, §7, is further amended to read:

C. The establishment of temporary facilities for the care and treatment of infected or exposed persons, which are subject to the supervision and regulations of the department and to the limitations set forth in section 807; and

**Sec. 7. 22 MRSA §802, sub-§2, ¶D** is enacted to read:

D. Procedures for the imposition of sanctions, including license suspensions and administrative fines, to enforce orders issued to reduce potential exposure and risk to public health. Notwithstanding Title 5, section 10004, subsection 3, the department may directly and temporarily suspend a department-issued license for more than 30 days when further operation of the licensee's business would result in a serious and imminent risk to public health or safety.

**Sec. 8. 22 MRSA §804, sub-§2**, as enacted by PL 1989, c. 487, §11, is amended to read:

**2. Refusal to obey rules.** Any person who neglects, violates or refuses to obey the rules or who willfully obstructs or hinders the execution of the rules; may be ordered by the department, in writing, to cease and desist. This order ~~shall~~ may not be considered an adjudicatory proceeding within the meaning of the Maine Administrative Procedure Act, ~~Title 5, chapter 375~~. In the case of any person who refuses to obey a cease and desist order issued to enforce the rules adopted pursuant to section 802, the department may impose a fine, which may not be less than \$250 or greater than \$1,000 for each violation. Each day that the violation remains uncorrected may be counted as a separate offense. A fine may be imposed for each violation of the rules. If the imposition of a fine under this subsection does not result in compliance, the department may bring an action in District Court to obtain an injunction enforcing the cease and desist order or to request a civil fine not to exceed \$500 \$1,500, or both. Alternatively, the department may seek relief pursuant to section 810 or 812. The District Court shall have has jurisdiction to determine the validity of the cease and desist order whenever an action for injunctive relief or civil penalty is brought before it under this subsection.

**Sec. 9. 22 MRSA §804, sub-§3** is enacted to read:

**3. License suspension.** A licensing agency under the department may immediately suspend a license pursuant to Title 5, section 10004, subsection 3 for a violation under this section. Notwithstanding Title 5, section 10004, subsection 3, a suspension under this subsection remains in effect until:

A. The licensing agency determines that the licensee's conduct no longer poses an imminent risk to public health or safety; or

B. The District Court, after conducting a hearing at the licensee's request, finds that the licensee's conduct does not pose an imminent risk to public health or safety. The suspension remains in effect pending the District Court's review under this paragraph.