LAW WITHOUT GOVERNOR'S SIGNATURE
(Originals not returned by Governor)
JULY 12, 2015

CHAPTER
329
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND AND FIFTEEN

H.P. 936 - L.D. 1381

An Act To Correct Errors and Inconsistencies in the Laws of Maine

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

Whereas, acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; 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:

PART A

Sec. A-1. 12 MRSA §6728, sub-§3, as repealed and replaced by PL 2007, c. 557, §9 and repealed by c. 607, Pt. A, §10, is repealed.

Sec. A-2. 12 MRSA §6728, sub-§3-A, as enacted by PL 2007, c. 607, Pt. A, §11, is amended to read:

3-A. Violation. ~~A~~ Notwithstanding section 6174, a person who violates this section commits a civil violation. The following penalties apply:

A. For the first offense, a mandatory fine of $500 is imposed and all scallops on board may be seized; ~~and~~

B. For the 2nd offense, a mandatory fine of $750 is imposed and all scallops on board may be seized; and

C. For the 3rd and subsequent offenses, a mandatory fine of $750 is imposed and all scallops on board may be seized and the scallop dragging license may be suspended for one year. ~~This~~ The penalty ~~is~~ imposed pursuant to this paragraph is in addition to the penalty imposed under section 6728-B.

Sec. A-3. 20-A MRSA §2902, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. Immunization. Comply with the immunization provisions under ~~section 6351~~ chapter 223, subchapter 2;

Sec. A-4. 20-A MRSA §5161, sub-§§1, 3, 5, 7 and 8, as enacted by PL 2007, c. 451, §6, are repealed.

Sec. A-5. 22 MRSA §1714-E, sub-§§1 and 7, as reallocated by RR 2011, c. 2, §25, are amended to read:

1. Suspension of payments. The department shall suspend payment in whole or in part to a MaineCare provider when a suspension is necessary to comply with Section 6402(h)(2) of the federal Patient Protection and Affordable Care Act ~~of 2010~~, Public Law 111-148 and 42 Code of Federal Regulations, Part 455.

7. Repeal. This section is repealed if Section 6402(h)(2) of the federal Patient Protection and Affordable Care Act ~~of 2010~~, Public Law 111-148 and 42 Code of Federal Regulations, Part 455 are invalidated by the United States Supreme Court.

Sec. A-6. 22 MRSA §2511, sub-§41-A, as enacted by PL 2013, c. 252, §2 and c. 323, §1, is repealed and the following enacted in its place:

41-A. Registered establishment. "Registered establishment" means a person registered under section 2514-A.

Sec. A-7. 22 MRSA §2514, sub-§1, ¶G-1, as enacted by PL 2013, c. 252, §3 and c. 323, §3, is repealed.

Sec. A-8. 22 MRSA §2514-A, as enacted by PL 2013, c. 252, §4, is amended to read:

§2514-A. Registration

1. Registration permitted. A person that is not licensed under section 2514 may engage in intrastate commerce in the business of buying, selling, preparing, processing, packing, storing, transporting or otherwise handling meat, meat food products or poultry products if that person is registered under this section. A person may register under this section if the person is a:

A. Custom slaughterer, except that itinerant custom slaughterers who slaughter solely at a customer's home or farm and who do not own, operate or work at a slaughtering plant are exempt from the registration provisions of this section;

B. Custom processor;

C. Poultry producer who processes fewer than 1,000 birds annually under section 2517-C; ~~and~~ or

D. Person in any other category that the commissioner may by rule establish.

Sec. A-9. 22 MRSA §2515, as enacted by PL 2013, c. 323, §4, is repealed.

Sec. A-10. 22 MRSA §2517-C, as amended by PL 2013, c. 304, §§5 to 7; c. 323, §5; and c. 567, §1, is repealed and the following enacted in its place:

§2517-C. Slaughter and inspection; producer exemptions for poultry

1. Exemption for processing fewer than 1,000 birds annually. Notwithstanding section 2512 and whether or not the poultry are intended for human consumption, inspection is not required for the slaughter of poultry or the preparation of poultry products as long as the poultry are slaughtered by the producer that raised the poultry and the poultry products are prepared on the farm where the poultry were raised and:

A. Fewer than 1,000 birds are slaughtered annually on the farm;

B. No birds are offered for sale or transportation in interstate commerce;

C. Any poultry products sold are sold only as whole birds;

D-1. The poultry producer is registered under section 2514-A;

F. The poultry producer assigns a lot number to all birds sold and maintains a record of assigned lot numbers and the point of sale;

G. The poultry are sold in accordance with the restrictions in subsection 2;

H. The poultry are sold at the farm on which the poultry were raised or delivered to a consumer's home by the poultry producer; and

I. The poultry products are labeled with:

(1) The name of the farm, the name of the poultry producer and the address of the farm including the zip code;

(2) The statement "Exempt under the Maine Revised Statutes, Title 22, section 2517-C NOT INSPECTED"; and

(3) Safe handling and cooking instructions as follows: "SAFE HANDLING INSTRUCTIONS: Keep refrigerated or frozen. Thaw in refrigerator or microwave. Keep raw poultry separate from other foods. Wash working surfaces, including cutting boards, utensils and hands, after touching raw poultry. Cook thoroughly to an internal temperature of at least 165 degrees Fahrenheit maintained for at least 15 seconds. Keep hot foods hot. Refrigerate leftovers immediately or discard."

1-A. Exemption for processing fewer than 20,000 birds annually. A poultry producer may slaughter and process that producer's own poultry without an inspector being present during processing if all the following criteria are met; a producer that does not meet these criteria does not qualify for this exemption and shall seek state or United States Department of Agriculture inspection of poultry products intended to be sold:

A. The producer is licensed as a commercial processor pursuant to section 2514;

B. The producer's facilities conform to the rules of the department governing food processing and manufacturing, including a:

(1) Separate area for slaughter, bleeding and defeathering;

(2) Separate area for evisceration and cooling; and

(3) Water supply that is tested twice annually for nitrates, nitrites and coliforms;

C. The producer raises, slaughters and processes, on that producer's premises, no more than 20,000 poultry in a calendar year. The producer must declare to the Department of Agriculture, Conservation and Forestry that it is exempt under this subsection at the beginning of each calendar year. Records must demonstrate numbers of birds raised. A producer that does not maintain accurate records does not qualify for the exemption under this subsection;

D. The producer's facility is not used to slaughter or process poultry by any other person or business without prior approval from the commissioner in accordance with the requirements of the federal Food Safety and Inspection Service Administrator;

E. The producer does not purchase birds for resale that have been processed under any exemption under this section;

F. Poultry are healthy when slaughtered;

G. Slaughter and processing are conducted using sanitary standards, practices and procedures to produce poultry products that are not adulterated;

H. The producer does not engage in Internet or interstate sales;

I. The shipping containers of the poultry bear the following labeling:

(1) Producer's name, address and zip code;

(2) Common name of product or list of ingredients;

(3) Weight of product in shipping container or immediate container;

(4) Lot number, which must consist of a coded number in some combination of the number of the day of the year on which the poultry was slaughtered;

(5) The statement "Exempt P.L. 90-492"; and

(6) Safe handling and cooking instructions as follows: "SAFE HANDLING INSTRUCTIONS: Keep refrigerated or frozen. Thaw in refrigerator or microwave. Keep raw poultry separate from other foods. Wash working surfaces, including cutting boards, utensils and hands, after touching raw poultry. Cook thoroughly to an internal temperature of at least 165 degrees Fahrenheit

maintained for at least 15 seconds. Keep hot foods hot. Refrigerate leftovers immediately or discard."

The producer may further process poultry carcasses into parts and other products. The producer may sell retail poultry products to the household consumer and may sell wholesale poultry products to retail stores, hotels, restaurants and institutions, with the appropriate licenses.

1-B. Small enterprise exemption. A small enterprise may slaughter, dress and cut up poultry without an inspector being present during processing if all the following criteria are met; a small enterprise that does not meet these criteria does not qualify for the exemption and shall seek state or United States Department of Agriculture inspection of poultry products intended to be sold:

A. The small enterprise is licensed as a commercial processor pursuant to section 2514;

B. The small enterprise's facilities conform to the rules of the department governing food processing and manufacturing, including a:

(1) Separate area for slaughter, bleeding and defeathering;

(2) Separate area for evisceration and cooling; and

(3) Water supply that is tested twice annually for nitrates, nitrites and coliforms;

C. The small enterprise raises, slaughters and dresses poultry, or purchases live poultry to slaughter and dress, or purchases dressed poultry, in a combination of no more than 20,000 birds in a calendar year. The small enterprise must declare to the Department of Agriculture, Conservation and Forestry that it is exempt under this subsection at the beginning of each calendar year. Records must show numbers of birds raised, purchased or purchased as dressed. A small enterprise that does not maintain accurate records does not qualify for the exemption under this subsection;

D. The small enterprise's further processing is limited to whole and cut up poultry only;

E. The facility is not used to slaughter or process poultry by any other person or business without prior approval from the commissioner in accordance with the requirements of the federal Food Safety and Inspection Service Administrator;

F. Slaughter and processing are conducted using sanitary standards, practices and procedures to produce poultry products that are not adulterated;

G. Poultry are healthy when slaughtered;

H. The small enterprise does not engage in Internet or interstate sales;

I. The small enterprise does not cut up and distribute poultry products to a business operating under any exemption under this section;

J. The shipping or immediate containers of the poultry bear the following labeling:

(1) Business name, address and zip code;

(2) Common name of product;

(3) Weight of product in shipping container or immediate container;

(4) Lot number, which must consist of a coded number in some combination of the number of the day of the year on which the poultry was slaughtered;

(5) The statement "Processed by a Licensed Commercial Food Processor/Small Enterprise Exempt from state or United States Department of Agriculture continuous bird-by-bird inspection"; and

(6) Safe handling and cooking instructions as follows: "SAFE HANDLING INSTRUCTIONS: Keep refrigerated or frozen. Thaw in refrigerator or microwave. Keep raw poultry separate from other foods. Wash working surfaces, including cutting boards, utensils and hands, after touching raw poultry. Cook thoroughly to an internal temperature of at least 165 degrees Fahrenheit maintained for at least 15 seconds. Keep hot foods hot. Refrigerate leftovers immediately or discard."

The small enterprise may sell poultry products wholesale to hotels, restaurants and institutions, prepackaged products to retail stores and retail products to household consumers, with the appropriate licenses.

2. Restrictions on point of sale. Except as provided in subsections 1-A and 1-B, poultry products sold under this section may be sold only by the poultry producer and in the following locations or manner:

A. At the farm on which the poultry were raised;

B. At a farmers' market as defined in Title 7, section 415;

C. Delivered to a consumer's home by the poultry producer whose name and address appear on the label under subsection 1 or whose name and license number appear on the label under subsection 1-A or 1-B;

D. Received by a person who is a member of a community supported agriculture farm that has a direct marketing relationship with the poultry producer. For the purposes of this section, "community supported agriculture" means an arrangement whereby individual consumers have agreements with a farmer to be provided with food or other agricultural products produced on that farm;

E. To a locally owned grocery store; or

F. To a locally owned restaurant.

3. Mobile poultry processing unit operators. A mobile poultry processing unit operator may not sell poultry products that have not been inspected at a farmers' market, to a locally owned grocery store or to a locally owned restaurant unless the poultry products are labeled with:

A. The name of the farm, the name of the poultry producer and the address of the farm including the zip code;

B. The number of the license issued to the poultry producer in accordance with section 2514 and the lot number for the poultry products pursuant to subsection 1, paragraph F;

C. The statement "Exempt under the Maine Revised Statutes, Title 22, section 2517-C NOT INSPECTED." The statement must be prominently displayed with such conspicuousness that it is likely to be read and understood; and

D. Safe handling and cooking instructions as follows: "SAFE HANDLING INSTRUCTIONS: Keep refrigerated or frozen. Thaw in refrigerator or microwave. Keep raw poultry separate from other foods. Wash working surfaces, including cutting boards, utensils and hands, after touching raw poultry. Cook thoroughly to an internal temperature of at least 165 degrees Fahrenheit maintained for at least 15 seconds. Keep hot foods hot. Refrigerate leftovers immediately or discard."

4. Rules. The commissioner shall adopt rules to establish requirements for the physical facilities and sanitary processes used by poultry producers whose products are exempt from inspection under this section. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

5. Enforcement. The commissioner shall enforce the provisions of this section.

6. Violation; penalty. A person who violates this section is subject to penalties under section 2524.

Sec. A-11. 22 MRSA §2518, as amended by PL 2013, c. 252, §6 and c. 323, §6, is repealed and the following enacted in its place:

§2518. Periodic review of noninspected licensed and registered establishments

1. Review by inspector. The commissioner may require establishments that are required to be licensed under section 2514 or registered under section 2514-A but are exempt from inspection under section 2512, subsection 2, paragraph K to be periodically reviewed by inspectors to ensure that the provisions of this chapter and the rules adopted under this chapter are satisfied and that the public health, safety and welfare are protected. The commissioner shall require establishments that are required to be licensed under section 2514 or registered under section 2514-A but are exempt from inspection under section 2517-C to be reviewed annually by inspectors to ensure that the provisions of this chapter and the rules adopted under this chapter are satisfied and that the public health, safety and welfare are protected.

2. Review of certain slaughter or preparation establishments. Inspection may not be provided under this chapter at any establishment for the slaughter of livestock or poultry or the preparation of any livestock products or poultry products that are not intended for use as human food, but these products must, prior to their offer for sale or transportation in intrastate commerce, unless naturally inedible by humans, be denatured or otherwise identified, as prescribed by rules of the commissioner, to deter their use for human food. These licensed or registered establishments are subject to periodic review.

3. Subject to review. A periodic review under this section must include an examination of:

A. The licensed or registered establishment's sanitation practices;

B. Sanitation in the areas where meat and poultry products are prepared, stored and displayed;

C. The adequacy of a refrigeration system used for meat food products and poultry products;

D. Labeling; and

E. Meat food products or poultry products for wholesomeness or adulteration.

In addition, the inspector conducting the periodic review may conduct any other examination necessary to ensure compliance with this chapter and the rules adopted pursuant to this chapter.

4. Access. For purposes of a periodic review of a licensed or registered establishment, inspectors have access during normal business hours to every part of a licensed or registered establishment required to have inspection under this chapter, whether the licensed or registered establishment is operated or not.

Sec. A-12. 24 MRSA §2317-B, sub-§7, as amended by PL 1999, c. 790, Pt. A, §27, is further amended to read:

7. Title 24-A, section 2729. Renewability, Title 24-A, section ~~2729-A~~ 2729;

Sec. A-13. 24-A MRSA §2604-A, first ¶, as enacted by PL 1981, c. 150, §5 and c. 175, §2, is repealed and the following enacted in its place:

The lives of a group of individuals may be insured under a policy issued to a creditor or its parent holding company or to a trustee or trustees or agent designated by 2 or more creditors, which creditor, holding company, affiliate, trustee, trustees or agent is considered the policyholder, to insure debtors of the creditor or creditors, subject to the following requirements.

Sec. A-14. 25 MRSA §2803-B, sub-§1, ¶D, as amended by PL 2011, c. 640, Pt. D, §1 and c. 680, §4, is repealed and the following enacted in its place:

D. Domestic violence, which must include, at a minimum, the following:

(1) A process to ensure that a victim receives notification of the defendant's release from jail;

(2) A process for the collection of information regarding the defendant that includes the defendant's previous history, the parties' relationship, whether the commission of an alleged crime included the use of strangulation as defined in Title 17-A, section 208, subsection 1, paragraph C, the name of the victim and a process to relay this information to a bail commissioner before a bail determination is made;

(3) A process for the safe retrieval of personal property belonging to the victim or the defendant that includes identification of a possible neutral location for retrieval, the presence of at least one law enforcement officer during the retrieval and giving the victim the option of at least 24 hours' notice to each party prior to the retrieval;

(4) Standard procedures to ensure that protection from abuse orders issued under Title 19-A, section 4006 or 4007 are served on the defendant as quickly as possible; and

(5) A process for the administration of a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C, and approved by the Department of Public Safety and the conveyance of the results of that assessment to the bail commissioner, if appropriate, and the district attorney for the county in which the domestic violence occurred.

Sec. A-15. 26 MRSA §1043, sub-§24, as repealed and replaced by PL 1979, c. 515, §5-A, is amended to read:

24. Insured worker. An "insured worker" is an individual who has been paid wages of at least $250 for insured work in each of 2 different quarters in ~~his~~ that individual's base period and has been paid total wages of at least $900 in ~~his~~ the base period for insured work. For each individual establishing a benefit year on or after January 1, 1980, an "insured worker" is an individual who has been paid wages equal to or exceeding 2 times the annual average weekly wage for insured work in each of 2 different quarters in ~~his~~ that individual's base period and has been paid total wages equal to or exceeding 6 times the annual average weekly wage in ~~his~~ the base period for insured work. The annual average weekly wage amount to be used for purposes of this subsection ~~shall~~ must be that which is applicable at the time the individual files a request for determination of ~~his~~ insured status.

Sec. A-16. 26 MRSA §1329, as amended by PL 2011, c. 559, Pt. A, §30 and repealed by c. 565, §1, is repealed.

Sec. A-17. 29-A MRSA §2451, sub-§3, as amended by PL 2013, c. 459, §5 and c. 604, §4, is repealed and the following enacted in its place:

3. Suspension period. Unless a longer period of suspension is otherwise provided by law and imposed by the court, the Secretary of State shall suspend the license of a person convicted of OUI for the following minimum periods:

A. One hundred fifty days, if the person has one OUI conviction within a 10-year period;

B. Three years, if the person has 2 OUI offenses within a 10-year period;

C. Six years, if the person has 3 OUI offenses within a 10-year period; or

E. Eight years, if the person has 4 or more OUI offenses within a 10-year period.

For the purposes of this subsection, a conviction or suspension has occurred within a 10-year period if the date of the new conduct is within 10 years of a date of suspension or imposition of sentence.

Sec. A-18. 30-A MRSA §1671, sub-§3, ¶A, as amended by PL 2007, c. 653, Pt. A, §18, is further amended to read:

A. Developing and adopting a mission statement consistent with the purposes of the State Board of Corrections ~~established in~~ under Title 34-A, section ~~1209-A~~ 1801;

Sec. A-19. 34-A MRSA §3406, as amended by PL 1995, c. 502, Pt. E, §30 and PL 2011, c. 657, Pt. W, §§5 and 7; and PL 2013, c. 405, Pt. A, §24, is further amended to read:

§3406. Land grants to the Department of Agriculture, Conservation and Forestry

The following lands of the former Women's Correctional Center at Skowhegan are granted to ~~the divisions of~~ the Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands as follows~~.~~:

1. Land grant to Bureau of Parks and Lands. All of the open land and timberland north of Norridgewock Avenue, excluding the land immediately adjacent to the institutional buildings, is transferred to the Bureau of Parks and Lands, which shall actively manage the timberlands as a working forest~~.~~; and

2. Land grant to Bureau of Parks and Lands. All the land lying between Norridgewock Avenue and the Kennebec River, with the exception of the ~~sewerage~~ sewage treatment plant and access thereto, is transferred to the Bureau of Parks and Lands to be managed by the ~~division~~ bureau.

Sec. A-20. 34-A MRSA §5802, sub-§2, as amended by PL 2013, c. 508, §9, is further amended to read:

2. Custody and control. While on parole, the parolee is under the custody of the warden of the institution from which the parolee was released, but under the immediate supervision of and subject to the rules of the ~~division~~ department or any special conditions of parole imposed by the board.

Sec. A-21. 34-B MRSA §1207, sub-§1, ¶B, as amended by PL 2013, c. 132, §1 and c. 434, §7, is repealed and the following enacted in its place:

B. Information may be disclosed if necessary to carry out the statutory functions of the department; the hospitalization provisions of chapter 3, subchapter 4; the provisions of section 1931; the purposes of section 3608; the purposes of Title 5, section 19506; the purposes of United States Public Law 99-319, dealing with the investigatory function of the independent agency designated with advocacy and investigatory functions under United States Public Law 88-164, Title I, Part C or United States Public Law 99-319; the investigation and hearing pursuant to Title 15, section 393, subsection 4-A; or the provision of mental health services by the Department of Corrections pursuant to Title 34-A, section 3031, 3069-A or 3069-B. This paragraph is repealed August 1, 2017;

Sec. A-22. 34-B MRSA §1207, sub-§1, ¶B-3, as enacted by PL 2013, c. 434, §8, is amended to read:

B-3. Information may be disclosed if necessary to carry out the statutory functions of the department; the hospitalization provisions of chapter 3, subchapter 4; the

provisions of section 1931; the purposes of ~~sections 3607-A and~~ section 3608; the purposes of Title 5, section 19506; the purposes of United States Public Law 99-319, dealing with the investigatory function of the independent agency designated with advocacy and investigatory functions under United States Public Law 88-164, Title I, Part C or United States Public Law 99-319; or the investigation and hearing pursuant to Title 15, section 393, subsection 4-A. This paragraph takes effect August 1, 2017;

Sec. A-23. 38 MRSA §451-A, sub-§2, as amended by PL 1975, c. 700, §1, is further amended to read:

2. Exemptions. Any person, other than a municipality, maintaining a discharge subject to the requirements of ~~section~~ sections 413, 414 and 414-A ~~shall be~~ is exempt from the requirements of section 414-A, subsection 1, paragraph D, ~~Effluent Limitations and Best Practicable Treatment,~~ if, by July 1, 1976 or on the commencement of a licensed discharge, whichever occurs later, such discharger presents to the Department of Environmental Protection and receives approval of a contract agreeing to connect to the existing or planned municipal sewage system immediately upon completion of construction and commencement of operation of such treatment plant. Such contract must insure that, in the case of a new discharge, such new discharge will not cause serious water quality problems, including but not limited to downgrading the receiving waters so as to make them unsuitable for currently existing uses. For the purpose of this section, a "new discharge" is a discharge ~~which~~ that commences or a discharge ~~which~~ that changes characteristics or increases licensed volume by more than 10% on or after ~~the effective date of this Act~~ October 1, 1975.

Sec. A-24. PL 2013, c. 368, Pt. YY, §1, as amended by PL 2013, c. 538, §42 and c. 595, Pt. I, §1 and affected by §2, is repealed and the following enacted in its place:

Sec. 1. Transfer of funds from Carrying Balances - Inland Fisheries and Wildlife, General Fund account. Notwithstanding any other provision of law, the State Controller shall transfer $150,000 on or before August 1, 2013 from the Carrying Balances - Inland Fisheries and Wildlife, General Fund account to the Administrative Services - Inland Fisheries and Wildlife, General Fund account to fund permitting and development costs related to the construction of a new headquarters facility in Gray.

Sec. A-25. Retroactivity. That section of this Part that repeals and replaces Public Law 2013, chapter 368, Part YY, section 1 applies retroactively to June 26, 2013.

PART B

Sec. B-1. 17-A MRSA §1057, sub-§3, as amended by PL 2011, c. 298, §2 and repealed by c. 394, §2, is repealed and the following enacted in its place:

3. It is not a defense to a prosecution under subsection 1 that the person holds a permit to carry a concealed handgun issued under Title 25, chapter 252.

Sec. B-2. 24-A MRSA §2604-A, sub-§3, as enacted by PL 1981, c. 150, §5 and c. 175, §2, is repealed and the following enacted in its place:

3. An insurer may exclude any debtors as to whom evidence of individual insurability is not satisfactory to the insurer.

Sec. B-3. 24-A MRSA §3310, sub-§3, as amended by PL 2013, c. 299, §5, is further amended to read:

3. Upon adoption of an amendment under subsection 1 or 2, the insurer shall make in triplicate a certificate, sometimes referred to as a "certificate of amendment", setting forth the amendment and the date and manner of the adoption of the amendment. The certificate must be executed by the insurer's president or vice-president and secretary or assistant secretary and duly sworn to by one of them. The insurer shall deliver to the superintendent the triplicate originals of the certificate for review, certification and approval or disapproval by the Attorney General and the superintendent, and filing and recording, all as provided for original articles of incorporation under section 3307. The Secretary of State shall charge and collect for the use of the State a fee of $20 for filing and recording the certificate of amendment of a mutual insurer. The amendment is effective when duly approved and filed with the Secretary of State.

Sec. B-4. PL 2013, c. 368, Pt. S, §9, as amended by PL 2013, c. 451, §2 and repealed by c. 595, Pt. X, §1, is repealed.

PART C

Sec. C-1. 10 MRSA §1174, sub-§3, ¶U, as corrected by RR 2013, c. 1, §19, is amended to read:

U. To cancel, terminate, fail to renew or refuse to continue any franchise relationship with a licensed new motor vehicle dealer not less than 180 days prior to the effective date of such termination, cancellation, noncontinuance or nonrenewal that occurs in whole or in part as a result of any change in ownership, operation or control of all or any part of the business of the manufacturer, whether by sale or transfer of assets, corporate stock or other equity interest, assignment, merger, consolidation, combination, joint venture, redemption, operation of law or otherwise; or the termination, suspension or cessation of a part or all of the business operations of the manufacturer; or discontinuance of the sale of the product line or a change in distribution system by the manufacturer, whether through a change in distributors or the manufacturer's decision to cease conducting business through a distributor altogether.

In addition to any other payments or requirements in this chapter, if a termination, cancellation, noncontinuance or nonrenewal was premised in whole or in part upon any of the occurrences set forth in this paragraph, the manufacturer is liable to the licensed new motor vehicle dealer in an amount at least equivalent to the fair market value of the franchise arising from the termination, cancellation, noncontinuance or nonrenewal of the franchise.

(1) If liability is based on the fair market value of the franchise, which must include diminution in value of the facilities leased or owned by the dealer as a result of the loss of the franchise to operate in the facilities, the fair market value

must be computed on the date in divisions (a) to (c) that yields the highest fair market value:

(a) The date the manufacturer announces the action that results in termination, cancellation, noncontinuance or nonrenewal;

(b) The date the action that results in termination, cancellation, noncontinuance or nonrenewal first becomes general knowledge; or

(c) The date 12 months prior to the date on which the notice of termination, cancellation, noncontinuance or nonrenewal is issued.

If the termination, cancellation, noncontinuance or nonrenewal is due to the manufacturer's change in distributors, the manufacturer may avoid paying fair market value to the licensed new motor vehicle dealer if the new distributor or the manufacturer offers the dealer a franchise agreement with terms acceptable to the dealer.

If an entity other than the original manufacturer of a line make becomes the manufacturer for the line make and intends to distribute motor vehicles of that line make in this State, that entity shall honor the franchise agreements of the original manufacturer and its licensed new motor vehicle dealers or offer those dealers of that line make, or of motor vehicles historically of that line make that are substantially similar in their design and specifications and are manufactured in the same facility or facilities, a new franchise agreement with substantially similar terms and conditions; or

Sec. C-2. 10 MRSA §1174, sub-§3, ¶V, as corrected by RR 2013, c. 2, §14, is amended to read:

V. Except as expressly authorized in this paragraph, to require a motor vehicle dealer to provide its customer lists, customer information, consumer contact information, transaction data or service files.

(1) The following definitions apply to this paragraph.

(a) "Dealer management computer system" means a computer hardware and software system that is owned or leased by the dealer, including a dealer's use of web applications, software or hardware, whether located at the dealership or provided at a remote location, and that provides access to customer records and transactions by a motor vehicle dealer and that allows the motor vehicle dealer timely information in order to sell vehicles, parts or services through that motor vehicle dealership.

(b) "Dealer management computer system vendor" means a seller or reseller of dealer management computer systems, a person that sells computer software for use on dealer management computer systems or a person that services or maintains dealer management computer systems, but only to the extent the seller, reseller or other person listed is engaged in such activities.

(c) "Security breach" means an incident of unauthorized access to and acquisition of records or data containing dealership or dealership customer information through which unauthorized use of the dealership or dealership

customer information has occurred or is reasonably likely to occur or that creates material risk of harm to a dealership or a dealership's customer. An incident of unauthorized access to and acquisition of records or data containing dealership or dealership customer information, or an incident of disclosure of dealership customer information to one or more 3rd parties that was not specifically authorized by the dealer or customer, constitutes a security breach.

(2) Any requirement by a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof that a new motor vehicle dealer provide its customer lists, customer information, consumer contact information, transaction data or service files as a condition of the dealer's participation in any incentive program or contest, for a customer or dealer to receive any incentive payments otherwise earned under an incentive program or contest, for the dealer to obtain customers or customer leads or for the dealer to receive any other benefits, rights, merchandise or services that the dealer would otherwise be entitled to obtain under the franchise or any other contract or agreement or that are customarily provided to dealers is voidable at the option of the dealer, unless all of the following conditions are satisfied:

(a) The customer information requested relates solely to the specific program requirements or goals associated with such manufacturers' or distributors' own new vehicle makes or specific vehicles of their own make that are certified preowned vehicles and the dealer is not required to provide general customer information or other information related to the dealer;

(b) The requirement is lawful and would not require the dealer to allow any customer the right to opt out under the federal Gramm-Leach-Bliley Act, 15 United States Code, Chapter 94, Subchapter I; and

(c) The dealer is not required to allow the manufacturer, distributor or a 3rd party to have direct access to the dealer's dealer management computer system, but the dealer is instead permitted to provide the same dealer, consumer or customer data or information specified by the manufacturer or distributor by timely obtaining and pushing or otherwise furnishing the required data in a widely accepted file format in accordance with subparagraph (11).

(3) Nothing contained in this section limits the ability of a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof to require that the dealer provide, or use in accordance with law, customer information related solely to that manufacturer's or distributor's own vehicle makes to the extent necessary to:

(a) Satisfy any safety or recall notice obligations;

(b) Complete the sale and delivery of a new motor vehicle to a customer;

(c) Validate and pay customer or dealer incentives; or

(d) Submit to the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof claims under section 1176.

(4) At the request of a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof, a dealer may be required to provide customer information related solely to that manufacturer's, distributor's, wholesaler's, distributor branch's or division's, factory branch's or division's or wholesale branch's or division's own vehicle makes for reasonable marketing purposes, market research, consumer surveys, market analysis and dealership performance analysis, except that the dealer is required to provide such customer information only if the provision of the information is lawfully permissible, the requested information relates solely to specific program requirements or goals associated with the manufacturer's or distributor's own vehicle makes and does not require the dealer to provide general customer information or other information related to the dealer and the requested information can be provided without requiring that the dealer allow any customer the right to opt out under the federal Gramm-Leach-Bliley Act, 15 United States Code, Chapter 94, Subchapter I.

(5) A manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent, dealer management computer system vendor or other representative thereof, or a 3rd party acting on behalf of a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agency, dealer management computer system vendor or other representative thereof, may not access or obtain dealer or customer data from or write dealer or customer data to a dealer management computer system used by a motor vehicle dealer or require or coerce a motor vehicle dealer to use a particular dealer management computer system, unless the dealer management computer system allows the dealer to reasonably maintain the security, integrity and confidentiality of the data maintained in the system. A manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent, dealer management computer system vendor or other representative thereof, or a 3rd party acting on behalf of a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agency, dealer management computer system vendor or other representative thereof, may not prohibit a dealer from providing a means to regularly and continually monitor the specific data accessed from or written to the dealer's dealer management computer system or from complying with applicable state and federal laws, rules and regulations. Nothing in this subparagraph imposes an obligation on a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent, dealer management computer system vendor or other representative thereof, or a 3rd party acting on behalf of a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or

officer, agency, dealer management computer system vendor or other representative thereof, to provide such capability.

(6) A manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor, or a 3rd party acting on behalf of a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor may not access or use customer or prospect information maintained in a dealer management computer system used by a motor vehicle dealer for purposes of soliciting a customer or prospect on behalf of, or directing a customer or prospect to, any other dealer. The limitations in this subsection do not apply to:

(a) A customer that requests a reference to another dealership;

(b) A customer that moves more than 60 miles away from the dealer whose data were accessed;

(c) Customer or prospect information that was provided to the dealer by the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof; or

(d) Customer or prospect information obtained by the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof in which the dealer agrees to allow the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party acting on behalf of a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor the right to access and use the customer or prospect information maintained in the dealer's dealer management computer system for purposes of soliciting a customer or prospect of the dealer on behalf of or directing a customer or prospect to any other dealer in a separate, stand-alone written instrument dedicated solely to such an authorization.

(7) A manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party acting on behalf of a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor may not provide access to customer or dealership information maintained in a dealer management computer system used by a motor vehicle dealer without first obtaining the dealer's prior express written consent, revocable

by the dealer upon 5 days' written notice, to provide such access. Prior to obtaining such consent and prior to entering into an initial contract or renewal of a contract with a dealer, the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party acting on behalf of or through a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor shall provide to the dealer a written list of all specific 3rd parties to whom any data obtained from the dealer have actually been provided within the 12-month period ending November 1st of the prior year. The list must describe the scope and specific fields of the data provided. In addition to the initial list, a dealer management computer system vendor or a 3rd party acting on behalf of or through a dealer management computer system vendor must provide to the dealer an annual list of 3rd parties to whom such data are actually being provided on November 1st of each year and to whom the data have actually been provided in the preceding 12 months and describe the scope and specific fields of the data provided. Lists required pursuant to this subparagraph must be provided to the dealer by January 1st of each year. A dealer management computer system vendor's contract that directly relates to the transfer or accessing of dealer or dealer customer information must conspicuously state: "NOTICE TO DEALER: THIS AGREEMENT RELATES TO THE TRANSFER AND ACCESSING OF CONFIDENTIAL INFORMATION AND CONSUMER-RELATED DATA." Consent in accordance with this subparagraph does not change any such person's obligations to comply with the terms of this section and any additional state or federal laws, rules and regulations. A dealer management computer system vendor may not refuse to provide a dealer management computer system to a motor vehicle dealer if the dealer refuses to provide consent under this subparagraph.

(8) A dealer management computer system vendor or 3rd party acting on behalf of or through a dealer management computer system vendor may not access or obtain data from or write data to a dealer management computer system used by a motor vehicle dealer unless the dealer management computer system allows the dealer to reasonably maintain the security, integrity and confidentiality of customer and dealer information maintained in the system. A dealer management computer system vendor or 3rd party acting on behalf of or through a dealer management computer system vendor may not prohibit a dealer from providing a means to regularly and continually monitor the specific data accessed from or written to the dealer management computer system and from complying with applicable state and federal laws, rules and regulations. This subparagraph does not impose on a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party acting on behalf of or through a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor an obligation to provide such capability.

(9) A manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party acting on behalf of or through a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor that has electronic access to customer or motor vehicle dealership data in a dealer management computer system used by a motor vehicle dealer shall provide notice to the dealer of any security breach of dealership or customer data obtained through that access, which at the time of the security breach was in the possession or custody of the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party. The disclosure notification must be made without unreasonable delay by the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party following discovery by the person, or notification to the person, of the security breach. The disclosure notification must describe measures reasonably necessary to determine the scope of the security breach and corrective actions that may be taken in an effort to restore the integrity, security and confidentiality of the data; these measures and corrective actions must be implemented as soon as practicable by all persons responsible for the security breach.

(10) Nothing in this section precludes, prohibits or denies the right of the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof to receive customer or dealership information from a motor vehicle dealer for the purposes of complying with federal or state safety requirements or implement any steps related to manufacturer recalls at such times as necessary in order to comply with federal and state requirements or manufacturer recalls as long as receiving this information from the dealer does not impair, alter or reduce the security, integrity and confidentiality of the customer and dealership information collected or generated by the dealer.

(11) Notwithstanding any of the terms or provisions contained in this subparagraph or in any consent, authorization, release, novation, franchise or other contract or agreement, whenever any manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party acting on behalf of or through a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor requires that a new motor vehicle dealer provide any dealer, consumer or customer data or information through direct access to a dealer's dealer management computer system, the dealer is not required to provide, and may not be required to consent to provide in a written agreement, that direct access to its dealer management

computer system. The dealer may instead provide the same dealer, consumer or customer data or information specified by the requesting party by timely obtaining and furnishing the requested data to the requesting party in a widely accepted file format except that, when a dealer would otherwise be required to provide direct access to its dealer management computer system under the terms of a consent, authorization, release, novation, franchise or other contract or agreement, a dealer that elects to provide data or information through other means may be charged a reasonable initial setup fee and a reasonable processing fee based on actual incremental costs incurred by the party requesting the data for establishing and implementing the process for the dealer. A term or provision contained in a consent, authorization, release, novation, franchise or other contract or agreement that is inconsistent with this subsection is voidable at the option of the dealer.

(12) Notwithstanding the terms or conditions of any consent, authorization, release, novation, franchise or other contract or agreement, a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party acting on behalf of or through a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor that has electronic access to consumer or customer data or other information in a dealer management computer system used by a new motor vehicle dealer, or who has otherwise been provided consumer or customer data or other information by the dealer, shall fully indemnify and hold harmless a dealer from whom it has acquired that consumer or customer data or other information from all damages, costs and expenses incurred by that dealer, including, but not limited to, judgments, settlements, fines, penalties, litigation costs, defense costs, court costs and attorney's fees arising out of complaints, claims, civil or administrative actions and, to the fullest extent allowable under the law, governmental investigations and prosecutions to the extent caused by the access, storage, maintenance, use, sharing, disclosure or retention of that dealer's consumer or customer data or other information by the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party acting on behalf of or through a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor~~; or~~.

Sec. C-3. 10 MRSA §1174, sub-§3, ¶W, as enacted by PL 2013, c. 534, §6, is repealed.

Sec. C-4. Retroactivity. This Part applies retroactively to August 1, 2014.

PART D

Sec. D-1. 28-A MRSA §460, sub-§1, as amended by PL 2015, c. 129, §1 and c. 184, §1, is repealed and the following enacted in its place:

1. Taste testing on agency liquor store premises. Subject to the conditions in subsection 2, the bureau may authorize an agency liquor store stocking at least 200 different codes of distilled spirits products to conduct taste testing of distilled spirits on that licensee's premises. An agency liquor store may request authority to conduct a taste testing using forms prescribed by the bureau. The request must indicate if a sales representative licensed under section 1502 will be pouring or providing samples, or both, for taste testing and verification that the sales representative has successfully completed an alcohol server education course approved by the commissioner. Any other consumption of alcoholic beverages on an agency liquor store's premises is prohibited, except as permitted under section 1205 or 1207.

Sec. D-2. 28-A MRSA §1505, first ¶, as amended by PL 2015, c. 129, §9 and c. 184, §5, is repealed and the following enacted in its place:

A sales representative holding a license under section 1502 may participate in a tasting event permitted under section 460; section 1051, subsection 8; section 1205; or section 1207 subject to the provisions of this section.

Sec. D-3. 28-A MRSA §1505, sub-§4, as amended by PL 2015, c. 129, §10 and c. 184, §6, is repealed and the following enacted in its place:

4. Pour or distribute. A sales representative participating in a tasting event pursuant to this section may not pour or distribute to consumers the products being offered for tasting during the event unless the sales representative was listed on a request submitted to the bureau by a licensee to conduct a taste testing in accordance with section 460; section 1051, subsection 8; section 1205; or section 1207. A sales representative who pours or distributes products to consumers at a tasting event under section 460; section 1051, subsection 8; section 1205; or section 1207 must have successfully completed an alcohol server education course approved by the commissioner. A sales representative may purchase spirits for a consumer tasting event in compliance with section 460 if the sales representative has successfully completed an alcohol server education course approved by the commissioner.

Sec. D-4. Effective date. This Part takes effect 90 days after adjournment of the First Regular Session of the 127th Legislature.

PART E

Sec. E-1. 35-A MRSA §1904, sub-§1, ¶¶A and B, as enacted by PL 2013, c. 369, Pt. B, §1, are amended to read:

A. Pursue, in appropriate regional and federal forums, market and rule changes that will reduce the basis differential for gas coming into New England and increase the efficiency with which gas brought into New England and Maine is transmitted,

distributed and used. If the commission concludes that those market or rule changes will, within the same time frame, achieve substantially the same cost reduction effects for Maine electricity and gas customers as the execution of an energy cost reduction ~~contact~~ contract, the commission may not execute an energy cost reduction contract;

B. Explore all reasonable opportunities for private participation in securing additional gas pipeline capacity that would achieve the objectives in subsection 2. If the commission concludes that private transactions, within the same time frame, achieve substantially the same cost reduction effects for Maine electricity and gas customers as the execution of an energy cost reduction ~~contact~~ contract, the commission may not execute an energy cost reduction contract; and

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