



# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 1512

H.P. 1115

House of Representatives, April 26, 2011

### **An Act To Ensure That the State Is in Compliance with Certain Federal Motor Carrier Safety Regulations**

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Submitted by the Department of Public Safety pursuant to Joint Rule 204.  
Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative CEBRA of Naples.

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

2 **Sec. 1. 29-A MRSA §555, sub-§2**, as amended by PL 2009, c. 251, §1, is further  
3 amended to read:

4 **2. Adoption of federal regulations.** The bureau may adopt rules to incorporate by  
5 reference federal regulations in 49 Code of Federal Regulations, Parts 40, 382, 383, 385,  
6 390, 391, 392, 393, 395 and 396, and appendices, as amended, and may adopt  
7 amendments to those federal regulations. The following provisions apply to the adoption  
8 of federal regulations under this section.

9 A. Except as provided in paragraph A-1, the Maine Administrative Procedure Act  
10 does not apply to the adoption by reference of federal regulations under this  
11 subsection.

12 A-1. A rule adopted by the bureau under this subsection is a major substantive rule  
13 as defined in Title 5, chapter 375, subchapter 2-A if it:

14 (1) Adopts by reference any provision of the federal regulations described under  
15 this subsection that would result in a modification of the substance or effect of  
16 any amendment to the federal regulations adopted by the bureau and in effect on  
17 the effective date of this paragraph; or

18 (2) Adopts an amendment to any federal regulation described under this  
19 subsection.

20 A-2. The bureau may not adopt any rule that exempts motor carriers, vehicles or  
21 drivers transporting hazardous materials of a type or quantity that requires the vehicle  
22 to be marked or placarded in accordance with 49 Code of Federal Regulations, Part  
23 172 from any federal regulation adopted and incorporated by reference into any rule  
24 adopted by the bureau pursuant to this subsection. Notwithstanding paragraph A-1,  
25 the Maine Administrative Procedure Act does not apply to the amendment of any rule  
26 consistent with the prohibition set forth in this paragraph.

27 C. For every rule adopted under this subsection:

28 (1) The bureau shall file with the Secretary of State:

29 (a) A certified copy of the rule;

30 (b) A published copy of the federal regulation or amendment as printed in  
31 the Federal Register; and

32 (c) Annually, a published copy of the updated volume of the Code of Federal  
33 Regulations containing the federal regulation.

34 The bureau shall make available for inspection at no charge, and for copying at actual  
35 cost, a current published copy of the referenced federal regulations.

36 D. The Secretary of State shall publish, pursuant to Title 5, section 8053, subsection  
37 5, a notice containing the following information:

38 (1) A statement that the rule has been adopted and its effective date;

1 (2) A brief description of the substance of the rule and the referenced federal  
2 regulation or amendment; and

3 (3) The addresses at which copies of the rule and the federal regulation or  
4 amendment may be obtained.

5 E. The Secretary of State shall maintain and make available at the Secretary of  
6 State's office for inspection at no charge, and for copying or purchase at actual cost,  
7 current copies of these rules and include them within the compilations subject to Title  
8 5, section 8056, subsection 3, paragraphs A-1 and B. The Secretary of State shall  
9 also make available for inspection at no charge and for copying at actual cost a  
10 current published copy of the referenced federal regulations and amendments.

11 F. A rule adopted under this section may not take effect until at least 5 days after  
12 filing with the Secretary of State, except that, if the bureau finds that immediate  
13 adoption of the rule is necessary to avoid an immediate threat to public health, safety  
14 or general welfare, the bureau may adopt the rule as an emergency rule in accordance  
15 with Title 5, section 8054, and that rule takes effect immediately.

16 **Sec. 2. 29-A MRSA §555, sub-§4, ¶D** is enacted to read:

17 D. A state police officer or motor carrier inspector designated by the Chief of the  
18 State Police who has satisfactorily completed a prescribed course of instruction  
19 established by the Federal Motor Carrier Safety Administration and the bureau with  
20 respect to the Federal Motor Carrier Safety Administration regulations adopted  
21 pursuant to this section must investigate an alleged violation of this subchapter or a  
22 rule adopted by the bureau or by the United States Department of Transportation,  
23 prosecute violators and aid in the enforcement of the provisions of this subchapter.

24 **Sec. 3. 29-A MRSA §555, sub-§4, ¶E** is enacted to read:

25 E. A state police officer or motor carrier inspector designated in paragraph D is  
26 authorized:

27 (1) To stop, enter upon and inspect all commercial motor vehicles using the  
28 interstate highway system or public ways; and

29 (2) To inspect and copy records and inspect and examine lands, buildings and  
30 equipment of motor carriers for the purposes of verifying compliance with the  
31 Federal Motor Carrier Safety Administration regulations adopted pursuant to this  
32 section.

33 **SUMMARY**

34 This bill requires a state police officer or a motor carrier inspector who has  
35 satisfactorily completed a prescribed course of instruction established by the Federal  
36 Motor Carrier Safety Administration and the Department of Public Safety, Bureau of  
37 State Police to investigate an alleged violation of federal safety regulations.