

§555. Bureau of State Police; enforcement

1. Rulemaking authority. The Bureau of State Police, in this section referred to as "the bureau," may, in accordance with the Maine Administrative Procedure Act, modify or decline to adopt any of the federal regulations or amendments referenced in this section, adopt rules to ensure proper enforcement of this subchapter and to promote the safety of the operation of motor carriers over the highways. This authority includes the right to make rules related to the length of duty of drivers. [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

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

A. Except as provided in paragraph A-1, the Maine Administrative Procedure Act does not apply to the adoption by reference of federal regulations under this subsection. [PL 2007, c. 505, §1 (AMD).]

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

- (1) Adopts by reference any provision of the federal regulations described under this subsection that would substantively change any amendment to the federal regulations adopted by the bureau; or
- (2) Adopts an amendment to any federal regulation described under this subsection. [PL 2013, c. 50, §1 (AMD).]

A-2. The bureau may not adopt any rule that exempts motor carriers, vehicles or drivers transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with 49 Code of Federal Regulations, Part 172 from any federal regulation adopted and incorporated by reference into any rule adopted by the bureau pursuant to this subsection. Notwithstanding paragraph A-1, the Maine Administrative Procedure Act does not apply to the amendment of any rule consistent with the prohibition set forth in this paragraph. [PL 2009, c. 251, §1 (NEW).]

B. [PL 1999, c. 183, §2 (RP).]

C. For the rule adopted under this subsection:

- (1) The bureau shall file with the Secretary of State:
 - (a) A certified copy of the rule;
 - (b) A published copy of the federal regulation or amendment as printed in the Federal Register; and
 - (c) Annually, a published copy of the updated volume of the Code of Federal Regulations containing the federal regulation.

The bureau shall make available for inspection at no charge, and for copying at actual cost, a current published copy of the referenced federal regulations. [PL 2013, c. 50, §1 (AMD).]

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

- (1) A statement that the rule has been adopted and its effective date;
- (2) A brief description of the substance of the rule and the referenced federal regulation or amendment; and

(3) The addresses at which copies of the rule and the federal regulation or amendment may be obtained. [PL 2005, c. 679, §1 (AMD).]

E. The Secretary of State shall maintain and make available at the Secretary of State's office for inspection at no charge, and for copying or purchase at actual cost, current copies of the rule and include it within the compilations subject to Title 5, section 8056, subsection 3, paragraphs A-1 and B. The Secretary of State shall also make available for inspection at no charge and for copying at actual cost a current published copy of the referenced federal regulations and amendments. [PL 2013, c. 50, §1 (AMD).]

F. A rule adopted under this section may not take effect until at least 5 days after filing with the Secretary of State, except that, if the bureau finds that immediate adoption of the rule is necessary to avoid an immediate threat to public health, safety or general welfare, the bureau may adopt the rule as an emergency rule in accordance with Title 5, section 8054, and that rule takes effect immediately. [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]
[PL 2013, c. 50, §1 (AMD).]

2-A. Agreement. The bureau may make cooperative agreements with the Interstate Commerce Commission and the United States Department of Transportation to enforce the laws and regulations of the United States and this State concerning highway transportation.
[RR 1993, c. 2, §17 (RNU).]

2-B. Participation in federal pilot program; temporary exemptions from hours-of-service regulations. The bureau may grant temporary exemptions from the weekly restrictions in the intrastate hours-of-service regulations for the transportation of home heating oil during the winter months for the purpose of enabling intrastate motor carriers conducting such operations to do so under terms and conditions identical to those used in the Pilot Program for Drivers Delivering Home Heating Oil published in the Federal Register Vol. 66, No. 135. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2003, c. 340, §1 (AMD).]

3. Precedence of rules. For vehicles to which this chapter applies, if a conflict exists between these safety rules adopted pursuant to this section and other laws requiring safety equipment, rules adopted pursuant to this section control.
[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

4. Enforcement. Enforcement is as follows.

A. [PL 2009, c. 598, §10 (RP).]

B. [PL 2009, c. 598, §10 (RP).]

C. A law enforcement officer must investigate an alleged violation of this subchapter or a rule adopted by the bureau or by the United States Department of Transportation, prosecute violators and aid in the enforcement of the provisions of this subchapter. [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

D. A state police officer or motor carrier inspector designated by the Chief of the State Police who has satisfactorily completed a prescribed course of instruction established by the Federal Motor Carrier Safety Administration and the bureau with respect to the Federal Motor Carrier Safety Administration regulations adopted pursuant to this section must investigate an alleged violation of this subchapter or a rule adopted by the bureau or by the United States Department of Transportation, prosecute violators and aid in the enforcement of the provisions of this subchapter.
[PL 2011, c. 164, §2 (NEW).]

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

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

(2) To inspect and copy records and inspect and examine lands, buildings and equipment of motor carriers for the purposes of verifying compliance with the Federal Motor Carrier Safety Administration regulations adopted pursuant to this section. [PL 2011, c. 164, §3 (NEW).]

[PL 2011, c. 164, §§2, 3 (AMD).]

SECTION HISTORY

RR 1993, c. 2, §17 (COR). PL 1993, c. 683, §A2 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1997, c. 653, §6 (AMD). PL 1999, c. 183, §§2,3 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2001, c. 507, §1 (AMD). PL 2003, c. 340, §1 (AMD). PL 2005, c. 679, §1 (AMD). PL 2007, c. 505, §§1, 2 (AMD). PL 2009, c. 251, §1 (AMD). PL 2009, c. 598, §10 (AMD). PL 2011, c. 164, §§1-3 (AMD). PL 2013, c. 50, §1 (AMD).

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