

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Create the Children's Wireless Protection Act

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

Sec. 1. 22 MRSA c. 261-B is enacted to read:

CHAPTER 261-B

CHILDREN'S WIRELESS PROTECTION ACT

§ 1537. Warning labels for cellular telephones

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Cellular telephone" means a device used to access a wireless telephone service.

2. Warning label required. A manufacturer of cellular telephones may not sell at retail in this State, to a retailer in this State, or for use in this State a cellular telephone unless the cellular telephone and its packaging bear a warning label that is legible, nonremovable, is located in a prominent place that is conspicuous and not obscured by other written matter, contrasts with the type, layout and color of the other printed matter, includes a color graphic symbol, appears on both the front and back of the packaging, takes up at least 30% of the back surface of the cellular telephone and contains the following statement:

"WARNING, THIS DEVICE EMITS ELECTROMAGNETIC RADIATION, EXPOSURE TO WHICH MAY CAUSE BRAIN CANCER. USERS, ESPECIALLY CHILDREN AND PREGNANT WOMEN, SHOULD KEEP THIS DEVICE AWAY FROM THE HEAD AND BODY."

The requirements of this subsection may not result in a cost to the retailer or distributor of cellular telephones.

3. Violation. A violation of this section is a violation of the Maine Unfair Trade Practices Act.

4. Rulemaking. The department shall adopt rules to implement this section, including, but not limited to, rules establishing requirements for uniform warning labels for cellular telephones and cellular telephone packaging under this section. Rules adopted under this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. 2. Rulemaking; requirements. In adopting initial rules establishing requirements for uniform warning labels pursuant to the Maine Revised Statutes, Title 22, section 1537, the Department of Health and Human Services shall adopt rules requiring that warning labels:

1. Be a permanent nonremovable advisory of risk, in black type, except for the word "warning," which must be large and in red, capital letters, all on a field of white, with a narrow red border; and
2. Include a color graphic of "Brain of 5-year-old" depicted by O.P. Gandhi et al., in IEEE Transactions on Microwave Theory and Techniques, "Electromagnetic Absorption in the Human Head and Neck for Mobiletelephones at 835 and 1900 MHz," 1996 44(10): 1884-1897, which must be positioned beside the words of warning using small red arrows labeled "cell phone" and "radiation area," pointing to those respective areas of the graphic and containing beneath the graphic the label, "Brain of 5-year-old," with attribution in tiny print as appropriate, the entire graphic taking up 30% of the label.

SUMMARY

This bill provides that a manufacturer may not sell at retail in this State, or to a retailer in this State or for use in this State a cellular telephone unless, at no cost to the Maine retailer or Maine distributor, the cellular telephone and its packaging bear a warning label relating to the potential for brain cancer associated with electromagnetic radiation of the form emitted from cellular telephones, with the recommendation that users, especially children and pregnant women, keep the device away from the head and body. A violation of this provision is a violation of the Maine Unfair Trade Practices Act.