

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1728

S.P. 661

In Senate, December 17, 2003

**An Act To Amend the Penalty Provisions and Reporting Deadlines
of the Campaign Reports and Finances Laws**

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 17, 2003. Referred to the Committee on Legal and Veterans Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator GAGNON of Kennebec.

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

PART A

Sec. A-1. 21-A MRSA §1004-A is enacted to read:

§1004-A. Penalties

The commission may assess the following penalties in addition to the other monetary sanctions authorized in this chapter.

1. Late campaign finance report. A person that files a late campaign finance report containing no contributions or expenditures may be assessed a penalty of no more than \$100.

2. Contribution in excess of limitations. A person that accepts or makes a contribution that exceeds the limitations set out in section 1015, subsections 1 and 2 may be assessed a penalty of no more than the amount by which the contribution exceeded the limitation.

3. Contribution in name of another person. A person that makes a contribution in the name of another person, or that knowingly accepts a contribution made by one person in the name of another person, may be assessed a penalty not to exceed \$5,000.

4. Substantial misreporting. A person that files a campaign finance report that substantially misreports contributions, expenditures or other campaign activity may be assessed a penalty not to exceed \$5,000.

5. Material false statements. A person that makes a material false statement in a document that is required to be submitted to the commission, or that is submitted in response to a request by the commission, may be assessed a penalty not to exceed \$5,000.

When the commission has reason to believe that a violation has occurred, the commission shall provide written notice to the candidate, political action committee, committee treasurer or other respondent and shall afford them an opportunity to appear before the commission before assessing any penalty. In determining any penalty under subsections 3, 4 and 5, the commission shall consider, among other things, the level of intent to mislead, the penalty necessary to deter similar misconduct in the future and the harm suffered by the public from the incorrect disclosure.

2 **Sec. A-2. 21-A MRSA §1020-A, sub-§2**, as amended by PL 1999, c.
729, §5, is further amended to read:

4 **2. Campaign finance reports.** A campaign finance report is
not timely filed unless a properly signed copy of the report,
6 substantially conforming to the disclosure requirements of this
subchapter, is received by the commission before 5 p.m. on the
8 date it is due. Except as provided in subsection 7, the
commission shall determine whether a report satisfies the
10 requirements for timely filing. The commission may waive a
penalty if the commission determines that the penalty is
12 disproportionate to the size of the candidate's campaign, the
level of experience of the candidate, treasurer or campaign staff
14 or the harm suffered by the public from the late disclosure. The
commission may waive the penalty in whole or in part if the
16 commission determines the failure to file a timely report was due
to mitigating circumstances. For purposes of this section,
18 "mitigating circumstances" means:

20 A. A valid emergency determined by the commission, in the
interest of the sound administration of justice, to warrant
22 the waiver of the penalty in whole or in part;

24 B. An error by the commission staff;

26 C. Failure to receive notice of the filing deadline; or

28 D. Other circumstances determined by the commission that
warrant mitigation of the penalty, based upon relevant
30 evidence presented that a bona fide effort was made to file
the report in accordance with the statutory requirements,
32 including, but not limited to, unexplained delays in postal
service.

34 **Sec. A-3. 21-A MRSA §1020-A, sub-§8**, as enacted by PL 1995, c.
36 483, §15, is amended to read:

38 **8. Failure to file report.** A candidate or treasurer who
fails to file a report as required by this subchapter within 30
40 days of the filing deadline is guilty of a Class E crime, except
that, if a penalty pursuant to subsection 8-A is assessed and
42 collected by the commission, the State may not prosecute a
violation under this subsection.

44 **Sec. A-4. 21-A MRSA §1020-A, sub-§8-A** is enacted to read:

46 **8-A. Penalties for failure to file report.** The penalty for
48 failure to file a report required under this subchapter may not
exceed:

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2 A. Five thousand dollars for reports required under section
3 1017, subsection 2, paragraph B, C, D, E or H; section 1017,
4 subsection 3-A, paragraph B, C, D or F; section 1017,
5 subsection 4; and section 1019-B, subsection 3;

6 B. Five thousand dollars for state party committee reports
7 required under section 1017-A, subsection 4-A, paragraphs B,
8 C and E;

10 C. One thousand dollars for reports required under section
11 1017, subsection 2, paragraphs A and F; section 1017,
12 subsection 3-A, paragraphs A and E; and state party
13 committee reports required to be filed under section 1017-A,
14 subsection 4-A, paragraph B;

16 D. Five hundred dollars for municipal, district and county
17 committees for reports required under section 1017-A,
18 subsection 4-A; or

20 E. Three times the unreported amount for reports required
21 under section 1017, subsection 3-B if the unreported amount
22 is less than \$5,000 and the commission finds that the
23 candidate in violation has established, by a preponderance
24 of the evidence, that a bona fide effort was made to file an
25 accurate and timely report.

26 **Sec. A-5. 21-A MRSA §1062-A, sub-§2,** as amended by PL 1999, c.
28 729, §9, is further amended to read:

30 **2. Campaign finance reports.** A campaign finance report is
31 not timely filed unless a properly signed copy of the report,
32 substantially conforming to the disclosure requirements of this
33 subchapter, is received by the commission before 5 p.m. on the
34 date it is due. Except as provided in subsection 6, the
35 commission shall determine whether a required report satisfies
36 the requirements for timely filing. The commission may waive a
37 penalty if it is disproportionate to the level of experience of
38 the person filing the report or to the harm suffered by the
39 public from the late disclosure. The commission may waive the
40 penalty in whole or in part if the commission determines the
41 failure to file a timely report was due to mitigating
42 circumstances. For purposes of this section, "mitigating
43 circumstances" means:

44 **A.** A valid emergency of the committee treasurer determined
45 by the commission, in the interest of the sound
46 administration of justice, to warrant the waiver of the
47 penalty in whole or in part;

50 **B.** An error by the commission staff; or

2 C. Other circumstances determined by the commission that
warrant mitigation of the penalty, based upon relevant
4 evidence presented that a bona fide effort was made to file
the report in accordance with the statutory requirements,
6 including, but not limited to, unexplained delays in postal
service.

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10 **Sec. A-6. 21-A MRSA §1062-A, sub-§8**, as enacted by PL 1995, c.
483, §21, is amended to read:

12 **8. Failure to file.** A person who fails to file a report as
required by this subchapter within 30 days of the filing deadline
14 is guilty of a Class E crime, except that, if a penalty pursuant
to subsection 8-A is assessed and collected by the commission,
16 the State may not prosecute a violation under this subsection.

18 **Sec. A-7. 21-A MRSA §1062-A, sub-§8-A** is enacted to read:

20 **8-A. Penalties for failure to file report.** The maximum
penalty for failure to file a report required under section 1059,
22 subsection 2, paragraph B, C or E is \$10,000. The maximum
penalty for failure to file a report required under section 1059,
24 subsection 2, paragraph A is \$5,000.

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PART B

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30 **Sec. B-1. 21-A MRSA §1017, sub-§2, ¶D**, as amended by PL 1991,
c. 839, §14 and affected by §34, is further amended to read:

32 D. Contributions aggregating \$1,000 or more from any one
contributor or single expenditures of \$1,000 or more, made
34 after the 12th day before the election, and more than 48 24
hours before 5 p.m. on the day of the election, must be
36 reported within 48 24 hours of those contributions or
expenditures or by noon of the first business day after the
38 contributions or expenditures, whichever is later.

40 **Sec. B-2. 21-A MRSA §1017, sub-§3-A, ¶C**, as amended by PL
1991, c. 839, §15, is further amended to read:

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44 C. Contributions aggregating \$1,000 or more from any one
contributor or single expenditures of \$1,000 or more, made
46 after the 12th day before any election and more than 48 24
hours before 5 p.m. on the day of any election must be
48 reported within 48 24 hours of those contributions or
expenditures, or by noon of the first business day after the
contributions or expenditures, whichever is later.

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2 Part B of this bill shortens the deadline for the reporting
of large campaign contributions and expenditures from within 48
4 hours of the contribution or expenditure to within 24 hours.