

# MAINE STATE LEGISLATURE

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*State Of Maine  
122nd Legislature*

*Second Regular Session*

*Bill Summaries*

*Joint Standing Committee  
on  
Criminal Justice and Public Safety*

*July 2006*

**Members:**

*Sen. Bill Diamond, Chair  
Sen. John M. Nutting  
Sen. Dean F. Clukey*

*Rep. Patricia A. Blanchette, Chair  
Rep. Stan Gerzofsky  
Rep. Carol A. Grose*

*Rep. Rosaire "Ross" Paradis, Jr.  
Rep. Stephen P. Hanley  
Rep. Richard M. Sykes  
Rep. John W. Churchill  
Rep. Christian D. Greeley  
Rep. Kimberly J. Davis  
Rep. Gary E. Plummer*

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# Maine State Legislature



## Office of Policy and Legal Analysis Office of Fiscal and Program Review

### 122nd Maine Legislature Second Regular Session

#### Summary of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet ([www.state.me.us/legis/opla/billsumm.htm](http://www.state.me.us/legis/opla/billsumm.htm)).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CON RES XXX.....	Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE.....	Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....	House & Senate disagree; bill died
DIED IN CONCURRENCE.....	One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....	Action incomplete when session ended; bill died
EMERGENCY.....	Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....	Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....	Bill failed to get majority vote
FAILED MANDATE ENACTMENT.....	Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY.....	Ruled out of order by the presiding officers; bill died
INDEF PP.....	Bill Indefinitely Postponed
ONTP.....	Ought Not To Pass report accepted
OTP-ND.....	Committee report Ought To Pass In New Draft
P&S XXX.....	Chapter # of enacted Private & Special Law
PASSED.....	Joint Order passed in both bodies
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED (Pocket Veto).....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is August 23, 2006.

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previous 10 years. If a person has 2 prior convictions, the minimum fine for this Class C crime is \$2,000 and the minimum term of imprisonment is 2 years.

D. A person is guilty of a Class C crime if the person commits the crime of aggravated operating after habitual offender and has 3 or more convictions for committing aggravated operating after habitual offender revocation, operating under the influence or operating after habitual offender revocation within the previous 10 years. If a person has 3 or more prior convictions, the minimum fine for this Class C crime is \$3,000 and the minimum term of imprisonment is 5 years.

9. It directs the Secretary of State to take reasonable actions to confiscate suspended licenses.
10. It requests that the Maine Sheriff's Association by January 30, 2007 report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters regarding the impact these increased motor vehicle penalties have on the county jail population and to make any suggested changes, if necessary.

**LD 1938**

**An Act To Protect Victims of Domestic Violence**

**DIED BETWEEN  
BODIES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING SIMPSON	OTP-AM	S-525

LD 1938 proposed to require the Department of Public Safety, upon learning through a criminal background check that an individual subject to a protection from abuse order has illegally attempted to purchase a firearm, to promptly make every reasonable effort to share the information with the individual who is intended to be protected by the order and the local law enforcement agency where the individual resides, so that adequate precautions can be taken to minimize the risk of further domestic violence.

LD 1938 proposed that the State, a political subdivision of the State or a law enforcement officer may not be held liable for damage that may be caused by the failure or inability to inform an individual who is intended to be protected by the protection from abuse order.

**Committee Amendment “A” (S-525)** proposed to specify that, upon receiving information from a federal agency that through a criminal background check an individual subject to a protection from abuse order has illegally attempted to purchase a firearm, the Department of Public Safety shall share that information with the individual who is intended to be protected by the order and with another law enforcement agency with jurisdiction in the municipality in which that individual resides as quickly as practicable.

The amendment also proposed to specify that the Department of Public Safety may accomplish the notification process by notifying another law enforcement agency within the county in which the individual intended to be protected by the protection from abuse order resides. Committee Amendment “A” proposed that when the department makes notification through such a law enforcement agency, that agency then must make reasonable effort to notify as quickly as practicable the individual intended to be protected by the protection from abuse order. The amendment further proposed that if, when notifying another law enforcement agency, the department is informed by that agency that it cannot notify the individual intended to be protected by the protection from abuse order, the department must continue to make its own reasonable effort to notify that individual as quickly as

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practicable, and this may be accomplished through a different law enforcement agency within the county in which the individual resides.

The amendment also proposed to clarify that the immunity provision does not prohibit the State or a political subdivision of the State from pursuing legally authorized disciplinary action.

**House Amendment “A” to Committee Amendment “A” (H-954)**, which was not adopted, proposed to do the following:

1. Amend the provision of law granting immunity from civil suit to governmental entities to hold a law enforcement agency liable for damage or loss of firearms seized, confiscated or received by that law enforcement agency pursuant to an order of the court in a protection from abuse proceeding;
2. Require a court to order a person seeking a protection from abuse order in bad faith to pay damages and reasonable attorney's fees to the defendant;
3. Require a law enforcement agency seizing, confiscating or receiving a firearm pursuant to an order of a court in a protection from abuse proceeding to provide the owner of the firearm with a signed and dated receipt, which must include the serial number and condition of the firearm and any firearm accessories obtained with the firearm; and
4. Prohibit a law enforcement agency seizing, confiscating or receiving a firearm pursuant to an order of a court in a protection from abuse proceeding from engraving, permanently marking or, unless reasonable suspicion exists to believe the firearm was used in the commission of a crime, test firing the firearm. The amendment proposed that a law enforcement agency that violates this prohibition is liable for any reduction in value of the firearm.

**House Amendment “B” to Committee Amendment “A” (H-990)**, which was not adopted, proposed to do the following:

1. Amend the provision of law granting immunity from civil suit to governmental entities to hold a law enforcement agency liable for damage or loss of firearms seized, confiscated or received by that law enforcement agency pursuant to an order of the court in a protection from abuse proceeding;
2. Require a law enforcement agency seizing, confiscating or receiving a firearm pursuant to an order of a court in a protection from abuse proceeding to provide the owner of the firearm with a signed and dated receipt, which must include the serial number and condition of the firearm and any firearm accessories obtained with the firearm; and
3. Prohibit a law enforcement agency seizing, confiscating or receiving a firearm pursuant to an order of a court in a protection from abuse proceeding from engraving, permanently marking or, unless reasonable suspicion exists to believe the firearm was used in the commission of a crime, test firing the firearm. The amendment proposed that a law enforcement agency that violates this prohibition is liable for any reduction in value of the firearm.

**House Amendment “C” to Committee Amendment “A” (H-1030)**, which was not adopted, proposed to do the following:

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1. Direct the Maine Criminal Justice Academy to provide training for municipal, county and state law enforcement officers regarding the proper handling, storage and safekeeping of firearms received pursuant to a protection from abuse order;
2. Provide that in developing materials for training in domestic violence issues, the Maine Criminal Justice Academy may consult with a statewide organization involved in advocacy for victims of domestic violence and with an organization having statewide membership representing the interests of firearms owners; and
3. Provide that a law enforcement officer who receives custody of a firearm pursuant to a protection from abuse order shall exercise reasonable care to avoid loss, damage or reduction in value of such firearm. Any liability for damage or reduction in value to such a firearm is governed by the Maine Tort Claims Act, Maine Revised Statutes, Title 14, chapter 741.

**House Amendment “D” to Committee Amendment “A” (H-1044)**, which was not adopted, proposed to do the same as paragraphs 1 and 2 described in House Amendment “C” to Committee Amendment “A” above, except that this amendment also provides that a law enforcement officer who receives custody of a firearm pursuant to a protection from abuse order shall exercise reasonable care to avoid loss, damage or reduction in value of such firearm and may not permanently mark the firearm or fire the firearm unless there is reasonable suspicion that the firearm has been used in the commission of a crime. As in House Amendment “C”, this amendment also proposed that any liability for damage or reduction in value to such a firearm is governed by the Maine Tort Claims Act, Maine Revised Statutes, Title 14, chapter 741.

**Senate Amendment “A” to Committee Amendment “A” (S-565)**, which was not adopted, proposed to do the same as House Amendment “A” to Committee Amendment “A” (H-954).

**Senate Amendment “B” to Committee Amendment “A” (S-596)**, which was not adopted, proposed to do the same as House Amendment “A” to Committee Amendment “A” (H-954).

LD 1938 as amended by Committee Amendment “A” (H-954) died between the bodies but see LD 2116, “An Act to Provide Protection for Victims of Domestic Violence” and LD 2118, “An Act Related to the Handling of Firearms Confiscated by Law Enforcement Officers Pursuant to a Court Order.”

**LD 1997**                      **An Act To Amend the Laws Dealing with a Work-restricted License**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON	ONTP      MAJ	
MARTIN	OTP        MIN	

LD 1997 proposed to authorize the Secretary of State to consider a first-time OUI offender’s eligibility for a work-restricted license after 30 days of the suspension has passed. Current law authorizes the Secretary of State to consider issuing a work-restricted license to a first-time OUI offender after at least 2/3 of that offender’s license suspension has expired.