

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
FIRST SPECIAL SESSION (Filing No. H-1171)
107TH LEGISLATURE

HOUSE AMENDMENT "f" to S.P. 777, L.D. 2334, Bill, "AN ACT to Revise the Maine Criminal Code as Recommended by the Criminal Law Revision Commission."

Amend said Bill by inserting after section 2 the following:

'Sec. 2-A. 16 MRSA §201, as amended by PL 1975, c. 430, §22, is repealed and the following enacted in place thereof: §201. Self-incrimination; waiver

No defendant shall be compelled to testify in any action when the pleadings in that action imply or charge an offense against the criminal law or a traffic infraction or a violation of Title 22, section 2383, on his part. If he offers himself as a witness, he waives his privilege of not incriminating or testifying against himself, but his testimony shall not be used in evidence against him in any criminal prosecution, or other infraction proceeding or in any other civil violation proceeding arising under Title 22, section 2383, involving the same subject matter.'

Further amend said Bill in section 13 in that part designated "§4." in subsection 3 by adding at the end the following sentence: 'Evidence obtained pursuant to an unlawful search and seizure shall not be admissible in a civil violation proceeding arising under Title 22, section 2383.'

Further amend said Bill in section 22 in that part designated "§15." by striking out all of subsection 3,

Further amend said Bill in section 22 in that part designated "§17." in subsection 1 by striking out all of the first sentence and inserting in place thereof the following: 'A law enforcement officer who has probable cause to believe that a civil violation of Title 22, section 2383, has been committed shall deliver a citation to such person directing him to appear in the District Court to answer the allegation that he has committed the violation.'

Further amend said Bill in section 22 in that part designated "§17." by striking out all of subsection 2 and inserting in place thereof the following:

'2. Any person to whom a law enforcement officer is authorized to deliver a citation pursuant to subsection 1 who intentionally fails or refuses to provide such officer reasonably credible evidence of his name and address is guilty of a Class E crime, provided that he persists in such failure or refusal after having been informed by the officer of the provisions of this subsection. If such person furnishes the officer evidence of his name and address and the evidence does not appear to be reasonably credible, the officer shall attempt to verify the evidence as quickly as is reasonably possible. During the period

such verification is being attempted, the officer may require the person to remain in his presence for a period not to exceed 2 hours. During this period, if the officer reasonably believes that his safety or the safety of others then present so requires, he search for any dangerous weapon by an external patting of such person's outer clothing. If in the course of such search he feels an object which he reasonably believes to be a dangerous weapon, he may take such action as is necessary to examine such object, but he may take permanent possession of any such object only if it is subject to forfeiture. The requirement that the person remain in the presence of the officer shall not be deemed an arrest.

After informing the person of the provisions of this subsection, the officer may arrest the person either if the person intentionally refuses to furnish any evidence of his name and address or if, after attempting to verify the evidence as provided for in this subsection, the officer has probable cause to believe that the person has intentionally failed to provide reasonably credible evidence of his name and address.'

Statement of Fact

The purposes of this amendment are to clarify the provisions relative to self-incrimination and to apply them to traffic infractions and violations of Title 22, section 2383; to provide that evidence obtained pursuant to an unlawful search

and seizure cannot be used in certain civil violations and to revise the provisions pertaining to the detention of persons for up to 2 hours for identification purposes in order to better protect the rights of those persons.

Filed by Mr. Spencer of Standish.

Reproduced and distributed under the direction of the Clerk of the House.
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