

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-154)
109TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 827, L.D. 1025, Bill, "AN ACT Concerning the Governor and Council of the Penobscot Indian Tribe."

Amend the bill by striking out everything after the enacting clause and inserting in its place the following:

'22 MRSA §4793, 4th ¶, last sentence, as enacted by PL 1973, c. 130, §2, is repealed as follows:

~~Tribal members who have been convicted of a felony shall not be permitted to hold any tribal office, either elective or appointive.~~

Statement of Fact

The Attorney General's office has reviewed the original bill and has given the following opinion:

While a general prohibition against convicted felons holding public office may be constitutional, the system of classification established by Title 22, section 4793, on its face disqualifies only Penobscot felons. This system, when viewed in its entirety, that is, in conjunction with the absence of any such similar restriction on non-Penobscot felons, has an arbitrary and invidiously discriminatory effect on Penobscots as

a race. Furthermore, the statute fails to meet the minimally required "rational basis" test, let alone any of the stricter standards a court would probably apply. Even if the State is seeking through section 4793 to preserve the integrity of the electoral process by preventing convicted felons from becoming candidates, the proscription of only Penobscot felons is clearly underinclusive.

Therefore, the purpose of the amendment is to repeal that portion of the law.

Reported by the Committee on Legal Affairs
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