

# MAINE STATE LEGISLATURE

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(Governor's Bill)  
SECOND REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 1925**

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S. P. 750

In Senate, February 7, 1980

Referred to the Committee on Judiciary. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Collins of Knox.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

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**AN ACT Concerning Revisions in the Maine Criminal Code and Other Criminal Laws.**

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

**Sec. 1. 17 MRSA § 1609-A, sub-§ 1, last sentence, as repealed and replaced by PL 1975, c. 623, § 18-E, is repealed and the following enacted in its place:**

**An intentional violation of any provision of this subsection by any person, corporation, organization or other legal entity is a Class D crime.**

**Sec. 2. 17 MRSA § 1609-A, sub-§ 2, as repealed and replaced by PL 1975, c. 623, § 18-F, is repealed and the following enacted in its place:**

**2. Misrepresentation. A person or corporation, organization or other legal entity is guilty of misrepresentation if:**

**A. He disconnects changes or tampers with the odometer of any motor vehicle with the intent to change the number of miles indicated thereon; or**

**B. He intentionally offers or exposes for sale a motor vehicle if the odometer reading differs from the number of miles the vehicle has been driven, without disclosing that the actual vehicle mileage is unknown.**

**Misrepresentation is a Class D crime.**

**Sec. 3. 17 MRSA § 1609-A, sub-§ 3, last sentence**, as repealed and replaced by PL 1973, c. 178, is amended to read:

**Any failure to attach such notice to the left door frame or any removal or alteration of such notice so affixed shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both is a Class D crime.**

**Sec. 4. 17-A MRSA § 108, sub-§ 2, ¶ A, sub-¶ (2)**, as repealed and replaced by PL 1975, c. 740, § 34, is amended to read:

(2) Committing or about to comit a kidnapping, robbery or a ~~foreible sex offense~~ **violation of section 252, subsection 1, paragraph B, or section 253, subsection 1, paragraph A**, against himself or a 3rd person; or

**Sec. 5. 17-A MRSA § 202, sub-§ 1**, as repealed and replaced by PL 1977, c. 510, § 39, is amended to read:

1. A person is guilty of felony murder if acting alone or with one or more other persons in the commission of, or an attempt to commit, or immediate flight after committing or attempting to commit murder, robbery, burglary, kidnapping, ~~aggravated arson~~ arson, rape, gross sexual misconduct, or escape, he or another participant in fact causes the death of a human being, and such death is a reasonably foreseeable consequence of such commission, attempt or flight.

**Sec. 6. 17-A MRSA § 253, sub-§ 2, ¶ C**, as enacted by PL 1975, c. 499, § 1, is amended to read:

C. The other person suffers from mental ~~illness or defect~~ **disability** that is reasonably apparent or known to the actor, and which in fact renders the other substantially incapable of appraising the nature of the contact involved; or

**Sec. 7. 17-A MRSA § 255, sub-§ 1, ¶ D**, as enacted by PL 1975, c. 499, § 1, is amended to read:

D. The other person suffers from a mental ~~disease or defect~~ **disability** that is reasonably apparent or known to the actor which in fact renders the other person substantially incapable of appraising the nature of the contact involved; or

**Sec. 8. 17-A MRSA § 402**, as last amended by PL 1977, c. 510, § 53, is repealed and the following enacted in its place:

#### § 402. Criminal trespass

1. A person is guilty of criminal trespass if, knowing that he is not licensed or privileged to do so:

A. He enters any dwelling place;

B. He enters any structure that is locked or barred;

C. He enters any place from which persons may lawfully be excluded and

which is posted in a manner reasonably likely to come to the attention of intruders or which is fenced or otherwise enclosed in a manner designed to exclude intruders;

**D. He remains in any place in defiance of a lawful order to leave, which was personally communicated to him by the owner or other authorized person; or**

**E. He enters any place in defiance of a lawful order not to enter, which was personally communicated to him by the owner or other authorized person.**

**2. Violation of subsection 1, paragraph A, is a Class D crime. Violation of subsection 1, paragraph B, C, D or E, is a Class E crime.**

#### STATEMENT OF FACT

This bill contains amendments to the Maine Criminal Code and related criminal laws as recommended by the Criminal Law Advisory Commission. The substance of significant changes is indicated below.

Sections 1, 2 and 3 conform the penalty provisions of the odometer statutes to Title 17-A classification.

Section 4 restricts the use of deadly force to only the most serious sex offenses, and would overrule **State v. Philbrick**, Me., 401 A.2nd 59 (1979), which interpreted the current provision to allow the use of deadly force during the course of a violation of section 255, unlawful sexual contact. Under section 108, subsection 1, a person may still use nondeadly force to prevent a lesser sex offense which is committed with nondeadly force.

Section 5 deletes the reference to a crime repealed by Public Law 1979, chapter 322, section 1.

Sections 6 and 7 replace the inappropriate language of the insanity defense relative to certain victims of sexual offenses.

Section 8 reorganizes the criminal trespass statute.