

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1485

H.P. 1094 House of Representatives, May 8, 1987
Submitted by the Department of Defense and Veterans'
Services pursuant to Joint Rule 24.
Reference to the Committee on Aging, Retirement and
Veterans suggested and ordered printed.
EDWIN H. PERT, Clerk
Presented by Representative PARADIS of Old Town.
Cosponsored by Senators PERKINS of Hancock, ERWIN of
Oxford and Representative HICKEY of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Clarify Existing Law
2 Regarding the Loss of Military Property.
3

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

6 Sec. 1. 37-B MRSA §266, sub-§1, as amended by PL
7 1983, c. 594, §12, is repealed and the following en-
8 acted in its place:

9 1. Destruction of equipment. The penalties for
10 destruction of equipment are as follows.

11 A. Any person who knowingly or recklessly de-
12 stroys, injures or defaces any article of mili-
13 tary property belonging to the State or the
14 United States, or uses it for an unauthorized
15 purpose, or has or retains the property in viola-

1 tion of law or rule is guilty of a Class E crime.

2 B. In case an officer or enlisted man of the
3 state military forces through carelessness or
4 inattention loses, destroys or causes the loss or
5 destruction of government property which has been
6 issued for his use, the Adjutant General shall
7 retain, out of the pay, allowances or money due
8 the officer or enlisted man for any military ser-
9 vices an amount equal to the value of the proper-
10 ty lost or destroyed. That portion of the money
11 which is for state property shall be turned in to
12 the Treasurer of State and credited to the Mili-
13 tary Fund. That portion which is for United
14 States property shall be turned into the United
15 States Treasury and credited to the State on its
16 property returns.

17 Sec. 2. 37-B MRSA §266, sub-§2, as enacted by PL
18 1983, c. 460, §3, is repealed and the following en-
19 acted in its place:

20 2. Equipment not to be sold. Except as other-
21 wise provided by law, the clothes, arms, military
22 outfits and accoutrements furnished by or through the
23 State to any member of the state military forces
24 shall not be sold, bartered, exchanged, pledged,
25 loaned or given away. Any unauthorized person who
26 has possession of clothes, arms, military outfits or
27 accoutrements furnished as a result of unlawful dis-
28 position shall have no right, title or interest in
29 them. Those items may be seized as contraband by a
30 civil officer of the State and shall be delivered to
31 a commanding officer or other officer authorized to
32 receive them, who shall make an immediate report to
33 the Adjutant General. The possession of the clothes,
34 arms, military outfits or accoutrements by any person
35 not a member of the military forces of the State or
36 of the United States shall be prima facie evidence of
37 unauthorized sale, barter, exchange, pledge, loan or
38 gift.

39 A. Any person who knowingly sells or offers for
40 sale, barters, exchanges, pledges, loans or gives
41 away, secretes or who retains, after demand made
42 by any civil or military officer of the State,
43 any clothes, arms, military outfits or accoutre-

1 ments furnished by or through the State to a mem-
2 ber of the state military forces is guilty of a
3 Class E crime.

4 B. Whoever knowingly receives by purchase, bar-
5 ter, exchange, pledge, loan or gift any such
6 clothes, arms, military outfits or accoutrements
7 commits a civil violation for which a forfeiture
8 of not more than \$500 may be adjudged.

9 STATEMENT OF FACT

10 The bill makes the following changes in the Maine
11 Revised Statutes, Title 37-B, section 266.

12 1. In subsection 1, the words "knowingly" or
13 "recklessly" have been substituted for the words
14 "willfully" or "maliciously" to make subsection 1
15 consistent with the Maine Criminal Code. Subsection
16 1 contains no other substantive changes, except that
17 paragraphs A and B in subsection 1 are inserted to
18 clearly distinguish between criminal responsibility
19 for willful and malicious destruction of property in
20 paragraph A and civil responsibility for negligence
21 in paragraph B.

22 2. In subsection 2, the word "knowingly" is in-
23 serted to make the section more consistent with lan-
24 guage in the Maine Criminal Code. Additionally, par-
25 agraphs A and B are created to distinguish between
26 criminality of sale of military equipment and new
27 civil penalties substituted for criminal penalties
28 for knowingly possessing or receiving military items.

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