

MAINE STATE LEGISLATURE

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L.D. 1396

(Filing No. S-318)

STATE OF MAINE
SENATE
114TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "A " to COMMITTEE AMENDMENT "A" to S.P. 508, L.D. 1396, Bill, "An Act to Protect Maine Workers from Needless Injury and Death by Creating the Offenses of Work-related Manslaughter and Work-related Aggravated Assault"

Amend the amendment by striking out all of the title and inserting in its place the following:

'An Act to Protect Maine Workers from Needless Injury and Death by Creating the Offense of Work-related Manslaughter'

Further amend the amendment by striking out everything after the title and inserting in its place the following:

'Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 17-A MRSA §203, sub-§1, as amended by PL 1983, c. 372, §2, is further amended to read:

- 1. A person is guilty of manslaughter if he that person:
 - A. Recklessly, or with criminal negligence, causes the death of another human being; ~~or~~
 - B. Intentionally or knowingly causes the death of another human being under circumstances which do not constitute murder because he the person causes the death while under the influence of extreme anger or extreme fear brought about by adequate provocation. Adequate provocation has the same meaning as in section 201, subsection 4. The fact that he the person causes the death while under the influence of extreme anger or extreme fear brought about by adequate provocation constitutes a mitigating circumstance reducing murder to manslaughter and need not be proved in any prosecution initiated under this subsection; or

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3 C. Has direct and personal management or control of any
4 employment, place of employment or other employee, and
5 intentionally or knowingly violates any occupational safety
6 or health standard of this State or the Federal Government,
7 and that violation in fact causes the death of an employee
8 and that death is a reasonably foreseeable consequence of
9 the violation.

10
11 **Sec. 2. 17-A MRSA §203, sub-§3, as amended by PL 1983, c. 217,**
12 **is repealed and the following enacted in its place:**

13 3. Manslaughter is a Class A crime except that:

14 A. Manslaughter is a Class B crime if it occurs as a result
15 of the reckless or criminally negligent operation of a motor
16 vehicle; and

17
18 B. Violation of subsection 1, paragraph C is a Class C
19 crime.'

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23 **STATEMENT OF FACT**

24
25 This amendment replaces the committee amendment. It revises
26 the definition of work-related manslaughter and deletes the crime
27 of work-related aggravated assault as proposed by the original
28 bill.

29
30 This amendment makes the Maine Revised Statutes, Title 17-A,
31 section 203, subsection 1, gender neutral by replacing a
32 masculine pronoun with a noun.

33
34 A new category of manslaughter is added to the existing law
35 which is based on the violation of Maine or United States health
36 or safety standards. It applies to any person who has management
37 or control over employment, a place of employment or another
38 employee. The crime has 3 basic parts. First, the person must
39 have intentionally or knowingly violated a Maine or federal
40 health or safety standard. These standards include, for example,
41 hazardous materials handling regulations, requirements for
42 guardrails and protective clothing requirements. The applicable
43 standards are not limited to Occupational Safety and Health
44 Administration Standards. Second, the violation must have in
45 fact caused the death of an employee. Third, the risk inherent
46 in the violation must be sufficiently obvious for death to be a
47 reasonably foreseeable result of the violation and accordingly
48 will involve a substantial deviation from the standard of conduct
49 that a reasonable and prudent person would observe in the same
50 situation. The requirement of intentionally or knowingly
51 violating a standard is intended to prevent prosecutions for
merely negligent or inadvertent violations, errors in judgment

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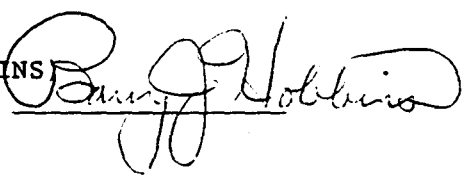
SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 508,
L.D. 1396

1 and disregard of the work rules by the employee who dies, and to
3 limit prosecution to intentional and deliberate violations in
5 circumstances likely to lead to death. Work-related manslaughter
7 as added by this amendment is a Class C crime. This does not in
any way remove the prosecutor's discretion to charge the person
with murder or Class A manslaughter if the facts warrant such a
charge.

9 This category of Class C manslaughter will allow the State
11 to prosecute cases to which the existing murder and manslaughter
13 laws do not clearly apply, but in which a person has
intentionally or knowingly violated a duty and that violation
caused a foreseeable death.

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(Senator HOBBS)
SPONSORED BY:



COUNTY: York

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