

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

OK
R. of S.

1
3
5
7
9
11
13
15
17
19
21
23
25
27
29
31
33
35
37
39
41
43
45
47
49

L.D. 1396

(Filing No. S-276)

STATE OF MAINE
SENATE
114TH LEGISLATURE
FIRST REGULAR SESSION

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 bill by striking out all of sections 1 to 3 and inserting in their 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~~

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

Sec. 2. 17-A MRSA §203, sub-§3, as amended by PL 1983, c. 217, is repealed and the following enacted in its place:

1
3
5
7
9
11
13
15
17
19
21
23
25
27
29
31
33
35
37
39
41
43
45
47
49
51

3. Manslaughter is a Class A crime except that:

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

B. Violation of subsection 1, paragraph C is a Class C crime.

Further amend the bill in section 4 in that part designated "§208." in subsection 1 by striking out all of paragraph D and inserting in its place the following:

'D. Has direct and personal management or control of any employment, place of employment or other employee, and intentionally or knowingly violates any occupational safety or health standard of this State or the Federal Government, and that violation in fact causes serious bodily injury to an employee and that serious bodily injury is a reasonably foreseeable consequence of the violation.'

Further amend the bill by inserting before the statement of fact the following:

'2. Aggravated assault is a Class B crime, except that violation of subsection 1, paragraph D is a Class D crime.'

Further amend the bill by renumbering the sections to read consecutively.

STATEMENT OF FACT

This amendment revises the definitions of work-related manslaughter and work-related aggravated assault as proposed by the original bill.

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

A new category of manslaughter is added to the existing law which is based on the violation of Maine or United States health or safety standards. It applies to any person who has management or control over employment, a place of employment or another employee. The crime has 3 basic parts. First, the person must have intentionally or knowingly violated a Maine or federal health or safety standard. These standards include, for example, hazardous materials handling regulations, requirements for guardrails and protective clothing requirements. The applicable

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

1 standards are not limited to Occupational Safety and Health
 2 Administration Standards. Second, the violation must have in
 3 fact caused the death of an employee. Third, the risk inherent
 4 in the violation must be sufficiently obvious for death to be a
 5 reasonably foreseeable result of the violation. This tracks the
 6 foreseeability requirement which is part of the felony murder
 7 statute. Work-related manslaughter as added by this amendment is
 8 a Class C crime. This does not in any way remove the
 9 prosecutor's discretion to charge the person with murder or Class
 10 A manslaughter if the facts warrant such a charge.

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

17
 18 A new category of aggravated assault which is work-related
 19 is also created. It is structured in the same manner as
 20 work-related manslaughter, except that it is serious bodily
 21 injury that is a foreseeable consequence of the violation, and
 22 the violation in fact causes such serious bodily injury. This
 23 category of aggravated assault is not written using the same
 24 structure as the other categories of aggravated assault in order
 25 to enhance clarity and to be consistent with the crime of
 26 work-related manslaughter.

27
 28 This category of aggravated assault is a Class D crime, but
 29 if the facts are sufficient to charge a higher class of
 30 aggravated assault or another crime, such a charge is not
 31 precluded.

Reported by Senator Gauvreau for the Committee on Judiciary.
 Reproduced and Distributed Pursuant to Senate Rule 12.
 (6/14/89) (Filing No. S-276)