

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1272, L.D. 1843, Bill, "An Act to Improve Implementation of the Maine Indian Claims Settlement Laws"

Amend the bill in section 1 in the first paragraph in the 3rd line from the end (page 1, line 15 in L.D.) by inserting after the following: "Passamaquoddy Tribe" the following: 'or the Penobscot Nation'

Further amend the bill in section 2 in that part designated "§165." in the 7th line (page 1, line 30 in L.D.) by inserting after the following: "Passamaquoddy Tribe" the following: 'or the Penobscot Nation'

Further amend the bill in section 2 in that part designated "§165." in the 8th line (page 1, line 31 in L.D.) by striking out the following: "exclusive" and inserting in its place the following: 'exclusive'

Further amend the bill by striking out all of section 3 and inserting in its place the following:

'Sec. 3. 5 MRSA §4573, sub-§4, as amended by PL 1991, c. 99, §11, is further amended to read:

4. Discharge of or refusal to hire employee with physical or mental disability. Nothing in this Act prohibits an employer from refusing to hire or discharging an employee with physical or mental disability, or subjects an employer to any legal liability resulting from the refusing to employ or the discharge of an employee with physical or mental disability, where the employee, because of the physical or mental disability, is unable to perform the duties or perform those duties in a manner which that would not endanger the health or safety of the employee or the health or safety of others or to be at, remain or go to or from the place where the duties of employment are to be performed.; or'

2 Further amend the bill by inserting after section 4 the  
4 following:

6 'Sec. 5. 15 MRSA §55, as amended by PL 1987, c. 736, §20, is  
8 further amended to read:

10 **§55. Search warrants; issuance by district judge or justice of  
12 the peace**

14 A judge of the District Court or a justice of the peace  
16 shall issue search warrants for any place in the State for such  
18 purposes as the Constitution of the United States and the  
20 Constitution of Maine permit, including with respect to any  
22 violation over which the Passamaquoddy Tribe or the Penobscot  
24 Nation exercises exclusive jurisdiction under Title 30, section  
26 6209. The evidence presented to the magistrate in support of the  
search warrant may consist of affidavits and other evidence under  
oath or affirmation which that is capable of being reduced to a  
record for purposes of review. The Supreme Judicial Court shall  
by rule provide the procedure of the application for and issuance  
of search warrants; provided, that where no procedure is  
specified, the judge or justice of the peace shall proceed in any  
reasonable manner which that will allow the issuance of a search  
warrant for any constitutional purpose.'

28 Further amend the bill in section 5 in that part designated  
30 "**§702.**" in the 2nd line from the end (page 2, line 21 in L.D.) by  
inserting after the following: "Passamaquoddy Tribe" the  
following: 'or the Penobscot Nation'

32 Further amend the bill in section 6 in the first paragraph  
34 in the 3rd line (page 2, line 29 in L.D.) by inserting after the  
following: "Passamaquoddy Tribe" the following: 'or the Penobscot  
36 Nation'

38 Further amend the bill by inserting after section 7 the  
following:

40 'Sec. 8. Effective date. That portion of this Act that amends  
42 the Maine Revised Statutes, Title 30, section 6209, subsection 2  
is not effective unless, within 60 days of the adjournment of the  
44 Legislature, the Secretary of State receives written  
certification from the Governor of the Penobscot Nation and the  
46 Penobscot Reservation Tribal Council that the Penobscot Nation  
has agreed to the provisions of that portion of this Act that  
48 amends Title 30, section 6209, subsection 2 and written  
certification from the Joint Tribal Council of the Passamaquoddy  
Tribe that the tribe has agreed to the provisions of that portion  
50 of this Act that amends Title 30, section 6209, subsection 2  
pursuant to 25 United States Code, Section 1725(e)(1), copies of

2 which must be submitted by the Secretary of State to the  
Secretary of the Senate and the Clerk of the House of  
4 Representatives, except that in no event does this Act become  
effective until 90 days after the adjournment of the Legislature.'

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

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

12 **FISCAL NOTE**

14 The additional work load and administrative costs associated  
with judges of the Maine District Court issuing additional arrest  
16 and search warrants will be absorbed within the budgeted  
resources of the Judicial Department.

18 The Department of the Secretary of State will absorb the  
20 costs, within budgeted resources, of receiving and submitting  
written certification as required in this bill.'

22  
24 **STATEMENT OF FACT**

26 This amendment extends the scope of the bill to include  
offenses over which the Penobscot Nation has exclusive  
28 jurisdiction. This amendment also adds a section that allows  
judges of the District Court and justices of the peace to issue  
30 search warrants with respect to violations over which the  
Passamaquoddy Tribe or the Penobscot Nation has exclusive  
32 jurisdiction. The amendment also makes the effectiveness of the  
provision of the bill that amends An Act to Implement the Maine  
34 Indian Claims Settlement, the Maine Revised Statutes, Title 30,  
section 6209 contingent upon approval by the Passamaquoddy Tribe  
36 and the Penobscot Nation, as required under the terms of that Act.

Reported by the Committee on Judiciary  
Reproduced and distributed under the direction of the Clerk of the  
House  
(5/30/91) (Filing No. H-509)