116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1993

Legislative Document **No. 1587**

H.P. 1190 House of Representatives, December 29, 1993

An Act Concerning the Possession of Firearms by Persons under the Influence of Intoxicating Liquor or Drugs or with an Excessive Blood-alcohol Level.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Received by the Clerk of the House on December 27, 1993. Referred to the Committee on Legal Affairs and 1200 ordered printed pursuant to Joint Rule 14.

JOSEPH W. MAYO, Clerk

Presented by Representative LIPMAN of Augusta.

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

Sec. 1. 12 MRSA §7077, sub-§1-A, ¶B, as enacted by PL 1993, c. 136, §1, is repealed.

Sec. 2. 12 MRSA §7077-A, sub-§2-A is enacted to read:

2-A. Hunting under the influence. Notwithstanding any other provision of this Part, a person convicted of hunting under the influence in violation section 7406, subsection 3 is not eligible to obtain a license to hunt in this State for a period of 3 years from the date of the conviction.

Sec. 3. 12 MRSA §7406, sub-§3, as repealed and replaced by PL 1991, c. 443, §21, is amended to read:

3. Hunting under the influence or with excessive blood-alcohol level. A person is guilty of a Class ~~E~~ D crime if that person hunts wild animals or wild birds:

A. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs; or

B. While having 0.08% or more by weight of alcohol in that person's blood.

Sec. 4. 17-A MRSA §1058 is enacted to read:

§1058. Possession of firearms while under the influence

1. A person is guilty of criminal possession of a firearm while intoxicated if the person possesses a firearm:

A. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs; or

B. While having 0.08% or more by weight of alcohol in the person's blood.

2. It is not a defense to a prosecution under subsection 1 that the person holds a permit to carry a concealed firearm issued under Title 25, chapter 252.

3. A law enforcement officer who has probable cause to believe that a person has violated subsection 1 may require that person to submit to chemical testing to determine blood-alcohol level or drug concentration. If the court is satisfied that the law enforcement officer had probable cause to believe that the defendant was in violation of subsection 1 and that the person was informed of the requirement to submit to chemical testing,

the person's failure to submit to chemical testing is admissible evidence on the issue of whether that person was under the influence of intoxicating liquor or drugs or a combination of liquor and drugs.

4. For purposes of this section, the term "under the influence of intoxicating liquor or drugs or a combination of liquor and drugs" has the same meaning as in Title 29, section 1312-B, subsection 1. Standards, tests and procedures applicable in determining whether a person is under the influence or has an excessive blood-alcohol level within the meaning of this section are those applicable to Title 29, section 1312-B.

5. Criminal possession of a firearm while intoxicated is a Class D crime.

STATEMENT OF FACT

This bill makes possession of a firearm while under the influence of alcohol or drugs or with an excessive blood-alcohol level a Class D crime. The bill also increases the class of crime for hunting under the influence or with an excessive blood-alcohol level from Class E to Class D and requires a 3-year suspension of a violator's privilege to hunt.

This document has not yet been reviewed to determine the need for cross-reference, stylistic and other technical amendments to conform existing law to current drafting standards.