

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 647

S.P. 250

In Senate, February 28, 1995

**An Act to Amend the Laws Regarding Use and Acquisition of State
Property.**

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by President BUTLAND of Cumberland.
Cosponsored by Senators: AMERO of Cumberland, CARPENTER of York, Representative:
ROBICHAUD of Caribou.

2
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 5 MRSA §20, sub-§2,** as enacted by PL 1985, c. 737, Pt. A, §15, is amended to read:

6 **2. State property.** "State property" means personal property, including, but not limited to, furnishings, supplies and equipment ~~which--are~~ that is owned or leased by or in the control of the State or any department or agency of the State or independent state agency. "State property" includes property purchased with funds, such as fees for conferences and seminars conducted by a state agency, received by or on behalf of the State or any department or agency outside of the normal system of accounts and controls.

16 **Sec. 2. 5 MRSA §20-A,** as amended by PL 1991, c. 780, Pt. Y, §8, is repealed and the following enacted in its place:

18 **§20-A. Use and acquisition of state property**

20 **1. Use of state property.** An employee of the State may not take state property off the premises of the State for personal use or for the use of others without prior written approval of the head of the department for which that employee works.

26 **2. Acquisition of state property.** Within 3 months of leaving office or employment with the State, an employee of the State, in accordance with rules adopted by the Commissioner of Administrative and Financial Services and this chapter, may purchase at fair market value state property that was assigned to the employee or state property of which the employee was the principal user at the time of that employee's employment. The commissioner, by rule, shall determine state property that may be offered for sale under this chapter. State property may not be offered for sale under this chapter until the commissioner determines that the property is eligible for sale and that no state agency has any need or use for the property. This section may not be interpreted to prohibit an employee of the State or any other person from purchasing state property at fair market value in accordance with this chapter as a gift to an employee of this State upon that employee's retiring or leaving office.

42 **3. Return of state property.** If an employee or former employee of the State is in possession of state property in violation of subsection 1, the State may bring an action for injunctive relief seeking the return of the state property. The action may be brought in Superior Court in the county where the alleged violation occurred, Kennebec County or the county where the person against whom the civil complaint is filed resides. If

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2 a violation of subsection 1 is established, the court may enjoin
3 the violation and order the return of the state property. The
4 State may bring an action for injunctive relief under this
5 subsection in lieu of or in addition to a criminal action under
6 Title 17-A, chapter 15.

7
8 4. Theft. A person who violates the provisions of this
9 chapter commits theft and is subject to the penalties set out in
10 Title 17-A, section 362.

11
12 **STATEMENT OF FACT**

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14 This bill revises the provisions on state employees using
15 state property off the premises by amending the definition of
16 "state property" to include property acquired with funds received
17 by an agency outside of the normal system of accounts and
18 controls. The section on the use and acquisition of state
19 property is restructured and a provision is added, allowing the
20 State to bring an action in Superior Court for injunctive relief
21 seeking the return of the property. This action does not affect
22 any criminal prosecution for theft. The use of state property
23 off the premises for personal use is not prohibited if the
24 employee has the prior written approval of the head of the
department for which that employee works.