

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 672

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H.P. 491

House of Representatives, February 28, 1995

**An Act to Ensure Appropriate and Equitable Penalties for Violation of  
Electoral Laws.**

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Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative DAGGETT of Augusta.

Cosponsored by Representative: KEANE of Old Town, Senator: MILLS of Somerset.

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

2           **Sec. 1. 21-A MRSA §32, sub-§1, ¶¶A and B**, as enacted by PL  
4 1993, c. 473, §2 and affected by §46, are amended to read:

6           A. Knowingly violates a provision of this Title for which  
8           ~~no~~ a penalty has not been provided; ~~or~~

10           B. Knowingly displays or distributes political  
12 advertisements in or on state-owned or state-leased property.

14           This paragraph does not apply to acts on state highways or  
16 to displays on motor vehicles not owned by the State while  
18 temporarily parked in parking areas on land maintained by  
20 the State. This paragraph does not apply to acts in or on a  
state-owned or state-leased building for a period beginning  
48 hours before and ending 48 hours after that building is  
used by a political party to conduct a political activity  
within the building; or

22           **Sec. 2. 21-A MRSA §32, sub-§1, ¶C** is enacted to read:

24           C. Is a public official and knowingly fails or refuses to  
perform a duty required of that official under this Title.

26           **Sec. 3. 21-A MRSA §32, sub-§2**, as enacted by PL 1993, c. 473,  
28 §2 and affected by §46, is repealed.

30           **Sec. 4. 21-A MRSA §167**, as amended by PL 1993, c. 473, §9 and  
affected by §46, is further amended to read:

32           **§167. Violation and penalty**

34           A person who places or removes the name of another on or  
36 from a voting list or general register with the intent to affect  
the other person's eligibility to vote, knowing that person has  
no legal right to do so, commits a Class -C- D crime.

38           **Sec. 5. 21-A MRSA §674, sub-§2, ¶¶A and B**, as repealed and  
40 replaced by PL 1993, c. 473, §18 and affected by §46, are amended  
to read:

42           A. Assists another person in voting, knowing that the other  
44 person is not eligible to vote; ~~or~~

46           B. Solicits votes from another person, knowing that the  
48 other person is under guardianship because of mental  
illness; or

50           **Sec. 6. 21-A MRSA §674, sub-§2, ¶E** is enacted to read:

2           E. Causes a delay in the registration or enrollment of  
4           another or causes a delay in the delivery of an absentee  
6           ballot or absentee ballot application with the intent to  
              prevent a person from voting or to render that person's vote  
              ineffective.

8           **Sec. 7. 21-A MRSA §674, sub-§3, ¶A,** as enacted by PL 1993, c.  
10           473, §18 and affected by §46, is repealed.

12           **Sec. 8. 21-A MRSA §682, sub-§3,** as amended by PL 1993, c. 473,  
              §20 and affected by §46, is further amended to read:

14           **3. Advertising prohibited.** A person may not display any  
16           advertising material, operate any advertising medium, including a  
              sound amplification device, or distribute campaign literature,  
18           posters, palm cards, buttons or stickers intended to influence  
              the opinion of any a voter within 250 feet of the entrance to  
20           either the voting place or the registrar's office. The term  
              "sound amplification device" includes, but is not limited to,  
22           sound trucks, loudspeakers and blowhorns.

24           Party workers and others who remain in the voting place outside  
              the guardrail enclosure may not use, with the intent of affecting  
26           the outcome of any election, within the voting place cellular  
              phones, beepers, voice or signal pagers or similar devices that  
28           make noise or allow direct audible voice communication within the  
              voting place.

30           A. This subsection does not apply to advertising material  
32           on automobiles traveling to and from the voting place. It  
              does not prohibit a person from passing out stickers at the  
34           voting place to be pasted on the ballot at a primary  
              election. It does not prohibit a person who is at the polls  
36           solely for the purpose of voting from wearing a campaign  
              button when the longest dimension of the button does not  
38           exceed 3 inches.

40           B. A person who knowingly engages in activities prohibited  
              by this section commits a Class E crime.

42           **Sec. 9. 21-A MRSA §791, sub-§2, ¶A,** as repealed and replaced  
44           by PL 1993, c. 473, §37 and affected by §46, is amended to read:

46           A. Delivers, receives, accepts, notarizes or witnesses an  
              absentee ballot for any compensation. This paragraph does  
48           not apply to a governmental employee handling ballots in the  
              course of that employee's official duties or a person who  
              handles absentee ballots before the unvoted ballots are

2 delivered to the municipality or after the voted ballots are  
returned to the clerk; or

4 **Sec. 10. 21-A MRSA §791, sub-§2, ¶D** is enacted to read:

6 D. Is a candidate who, notwithstanding the other provisions  
8 of this subchapter, delivers, receives, accepts, notarizes  
10 or witnesses an absentee ballot, other than the candidate's  
12 own absentee ballot, furnished by the clerk of a  
14 municipality in this State. This paragraph does not apply  
16 to an elected municipal clerk in an election when no other  
18 name for the office of clerk appears on the ballot. In a  
contested election for the office of clerk, a clerk is not  
exempt from the provisions of this paragraph but shall  
instead appoint a deputy or an assistant to whom the  
municipality shall pay all associated costs for the duration  
of the deputy's or assistant's temporary employment in that  
capacity.

20 **Sec. 11. 21-A MRSA §791, sub-§3, ¶A**, as enacted by PL 1993, c.  
22 473, §38 and affected by §46, is amended to read:

24 A. Forges Notwithstanding Title 17-A, section 702, forges  
26 the name of another on an absentee ballot, the return  
28 envelope or the application for an absentee ballot; or.

**Sec. 12. 21-A MRSA §791, sub-§3, ¶B**, as enacted by PL 1993, c.  
473, §38 and affected by §46, is repealed.

30 **Sec. 13. 21-A MRSA §860**, as amended by PL 1993, c. 473, §40  
32 and affected by §46, is further amended to read:

34 **§860. Violation and penalty**

36 Any A person who, before, during or after an election, with  
38 the intent to change the outcome of any election, tampers with or  
40 willfully injures any damages a voting device, ballot cards or  
other records or equipment used in the election, or interferes or  
attempts to interfere with the correct operation of such a device  
or equipment or the secrecy of voting, commits a Class C crime.

42 **Sec. 14. 30-A MRSA §2501, first ¶**, as repealed and replaced by  
44 PL 1989, c. 104, Pt. D, §2, is amended to read:

46 Except as otherwise provided by this Title or by charter,  
48 the method of voting and, the conduct of a municipal election and  
violations of the municipal election laws are governed by Title  
21-A.

50

## STATEMENT OF FACT

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4       The purpose of this bill is to amend the penalties for  
6       violation of election laws to ensure that they are both adequate  
      and consistent with the context of the rest of state law,  
      including the Maine Criminal Code.

8

10       The bill amends the general penalty section of the Maine  
      Revised Statutes, Title 21-A, restating the crime as a Class E  
      crime.

12

14       This bill adds the specific intent of adding or removing  
      names on a voting list without the right to do so to affect the  
      other person's eligibility to vote and reduces that crime to a  
      Class D crime.

16

18       This bill reduces to a Class D crime the act of causing a  
      delay in registration, enrollment or delivery of absentee ballots  
      or absentee ballot applications if done with the intent to  
      prevent a person from voting or to render that person's vote  
      ineffective.

22

24       This bill makes it a crime to use cellular phones and other  
      devices with the intent of affecting the outcome of any election

26

28       The bill reclassifies impermissible candidate involvement in  
      the absentee ballot process from a Class C crime to a Class D  
      crime.

30

32       The bill clarifies that the penalty specified for forging  
      another's name on an absentee ballot, return envelope or absentee  
      ballot application is a Class C crime.

34

36       The bill amends the law regarding tampering with or damaging  
      voting devices, ballot cards or other records or equipment,  
      specifying that the intent of engaging in those activities has to  
      be to change the outcome of any election.

38

40       The bill clarifies that unless otherwise specified, the  
      penalties established in Title 21-A for violations of the  
      election laws also apply to violations of the municipal election  
42       laws in Title 30-A.