

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

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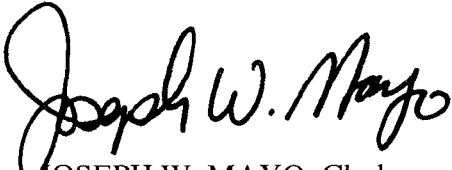
H.P. 545

House of Representatives, January 28, 1999

An Act to Clarify the Criminal Code Relative to Strict Liability Crimes.

Reported by Representative POVICH for the Criminal Law Advisory Commission pursuant to Maine Revised Statutes, Title 17-A, section 1354, subsection 2.

Reference to the Joint Standing Committee on Criminal Justice suggested and printing ordered under Joint Rule 218.


JOSEPH W. MAYO, Clerk

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

2
4 **Sec. 1. 17-A MRSA §2, sub-§23-A** is enacted to read:

6 23-A. "Strict liability crime" has the meaning set forth in
section 34.

8 **Sec. 2. 17-A MRSA §34**, as amended by PL 1981, c. 470, Pt. B,
§6, is further amended to read:

10 **§34. Culpable state of mind as an element**

12 1. A person is not guilty of a crime unless he that person
14 acted intentionally, knowingly, recklessly or negligently, as the
law defining the crime specifies, with respect to each other
16 element of the crime, except as provided in subsection 5 4. When
the state of mind required to establish an element of a crime is
18 specified as "willfully," "corruptly," "maliciously" or by some
other term importing a state of mind, that element is satisfied
20 if, with respect thereto, the person acted intentionally or
knowingly.

22 2. When the definition of a crime specifies the state of
24 mind sufficient for the commission of that crime, but without
distinguishing among the elements thereof, the specified state of
26 mind ~~shall-apply~~ applies to all the other elements of the crime,
~~unless-a-contrary-purpose-plainly-appears~~ except as provided in
28 subsection 4.

30 3. When the law provides that negligence is sufficient to
establish an element of a crime, that element is also established
32 if, with respect thereto, a person acted intentionally, knowingly
or recklessly. When the law provides that recklessness is
34 sufficient to establish an element of a crime, that element is
also established if, with respect thereto, a person acted
36 intentionally or knowingly. When the law provides that acting
knowingly is sufficient to establish an element of the crime,
38 that element is also established if, with respect thereto, a
person acted intentionally.

40 4. Unless otherwise expressly provided, a culpable mental
42 state need not be proved with respect to:

44 A. Any fact which that is solely a basis for sentencing
classification; or

46 B. Any element of the crime as to which it is expressly
48 stated that it must "in fact" exist.

2 C. Any element of the crime as to which the statute
expressly provides that a person may be guilty without a
4 culpable state of mind as to that element;

6 D. Any element of the crime as to which a legislative
intent to impose liability without a culpable state of mind
8 as to that element otherwise appears;

10 E. Any criminal statute as to which it is expressly stated
to be a "strict liability crime" or otherwise expressly
12 reflects a legislative intent to impose criminal liability
without proof by the State of a culpable mental state with
14 respect to any of the elements of the crime; or

16 F. Any criminal statute as to which a legislative intent to
impose liability without a culpable state of mind as to any
18 of the elements of the crime otherwise appears.

20 4-A. As used in this section, "strict liability crime"
means a crime that, as legally defined, does not include a
22 culpable mental state element with respect to any of the elements
of the crime and thus proof by the State of a culpable state of
24 mind as to that crime is not required.

26 5.---If--a--statute--defining--a--crime--does--not--expressly
prescribe--a--culpable--mental--state--with--respect--to--some--or--all--of
28 the--elements--of--the--crime,--a--culpable--mental--state--is
nevertheless--required,--pursuant--to--subsections--1,--2--and--3,
30 unless--

32 A.---The--statute--expressly--provides--that--a--person--may--be
guilty--of--a--crime--without--a--culpable--state--of--mind--as--to
34 those--elements,--or

36 B.---A--legislative--intent--to--impose--liability--without--a
culpable--state--of--mind--as--to--these--elements--otherwise
38 appears.

40 SUMMARY

42 This bill does 5 things to the Maine Revised Statutes, Title
44 17-A, section 34.

46 First, it merges the substantive content of Title 17-A,
48 section 34, subsection 5 in that of Title 17-A, section 34,
subsection 4.

50 Second, it expressly recognizes in Title 17-A, section 34,
subsection 4 that, in addition to specific elements of a crime

2 not being accompanied by a culpable mental state by legislative
design, the Legislature can also impose criminal liability
4 relative to an entire criminal statute without requiring proof by
the State of a culpable mental state as to any of the elements of
6 that crime. See e.g., State v. Boyce, 1998 Me. 219, ¶4, 718 A.2d
1097, 1099 (depraved indifference murder); State v. Seamen's
Club, 1997 Me. 70, ¶11, 691 A.2d 1248, 1252 (crime of possession
8 of short lobsters).

10 Third, it defines "strict liability crime" in a new
subsection 4-A in Title 17-A, section 34 and provides for its use
12 in subsection 4 of that section as a nonexclusive legislative
means of expressly signaling an intent to impose criminal
14 liability without the State having to prove a culpable state of
mind as to any of the elements of the crime.

16 Fourth, it makes Title 17-A, section 34 gender neutral.

18 Fifth, the bill enacts Title 17-A, section 2, subsection
20 23-A to reference the section 34 definition of "strict liability
crime."