

# MAINE STATE LEGISLATURE

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R.S.

L.D. 2479

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DATE: 3-31-00

(Filing No. H-986)

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**CRIMINAL JUSTICE**

10 Reproduced and distributed under the direction of the Clerk of  
12 the House.

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
119TH LEGISLATURE  
SECOND REGULAR SESSION**

18  
20 COMMITTEE AMENDMENT "A" to H.P. 1766, L.D. 2479, Bill, "An  
22 Act to Enhance Public Safety By Updating the Laws Pertaining to  
Explosives and Flammable Liquids"

24 Amend the bill in section 3 in that part designated "**§2440.**"  
26 in the indented paragraph in the first line (page 1, line 17 in  
L.D.) by striking out the following: "2432, 2433, 2436-A" and  
inserting in its place the following: '2432, 2433, 2436-A'

28 Further amend the bill in section 9 in that part designated  
30 "**§2472.**" by striking out all of subsection 3 (page 2, lines 33 to  
40 in L.D.) and inserting in its place the following:

32 '3. Exceptions. This section does not apply to:

34 A. The possession, use, storage or intrastate  
36 transportation of 50 pounds or less of smokeless powder or  
black powder; or

38 B. The possession, use, storage or intrastate  
40 transportation of 10,000 or fewer primers.'

42 Further amend the bill in section 9 by striking out all of  
44 that part designated "**§2473.**" and inserting in its place the  
following:

46 '§2473. Permits; requirements

48 A person may not possess, use, store or transport explosives  
without a permit. The commissioner shall issue a permit to an  
applicant who:

**COMMITTEE AMENDMENT**

2        1. Application. Completes an application form furnished by  
3        the commissioner;

4        2. Financial responsibility. Includes proof in the  
5        application that the applicant maintains financial responsibility  
6        in the form of liability insurance or a surety bond as follows:

7                A. To obtain a permit with endorsements to possess, use or  
8                store explosives, a person must maintain financial  
9                responsibility in the form of liability insurance in an  
10               amount not less than \$500,000; and

11               B. To obtain a permit with an endorsement for intrastate  
12               transportation of explosives, a person must comply with the  
13               requirements in rules adopted pursuant to section 2103-A or  
14               2110, as applicable;

15        3. Examination. Passes a written examination administered  
16        by the Department of Public Safety;

17        4. Citizenship. Is a citizen or resident alien of the  
18        United States; and

19        5. Character. Demonstrates good moral character and has  
20        not been convicted of a crime punishable by a maximum term of  
21        imprisonment equal to or exceeding one year. The determination  
22        of good moral character must be made in writing by the  
23        commissioner, based upon evidence recorded by a governmental  
24        entity. The commissioner shall consider matters recorded within  
25        the previous 5 years, including, but not limited to, the  
26        following:

27               A. Records of incidents of abuse of family or household  
28               members by the applicant provided pursuant to Title 19-A,  
29               section 4012, subsection 1;

30               B. Records provided by the Department of Human Services  
31               regarding the failure of the applicant to meet child or  
32               family support obligations;

33               C. Records of 3 or more convictions of the applicant for  
34               Class D or E crimes;

35               D. Records of 3 or more civil violations by the applicant;  
36               and

37               E. Records that the applicant has engaged in recklessness  
38               or negligence that endangered the safety of others.'

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COMMITTEE AMENDMENT "A" to H.P. 1766, L.D. 2479

2 Further amend the bill in section 9 in that part designated  
"§2474." by striking out all of the first line (page 3, line 46  
4 in L.D.) and inserting in its place the following:

6 **'§2474. Suspension or revocation of permit'**

8 Further amend the bill in section 9 in that part designated  
"§2475." by striking out all of subsection 2 (page 4, lines 37 to  
10 41 in L.D.) and inserting in its place the following:

12 '2. Duration of suspension. The suspension remains in  
effect for 30 days unless a revocation procedure under section  
2474 is commenced within 30 days, in which case the suspension  
14 continues until the revocation proceeding is complete.'

16 Further amend the bill in section 9 by striking out all of  
that part designated "§2476." and inserting in its place the  
18 following:

20 **'§2476. Fees; permits; required inspections'**

22 1. Fees. All fees received by the Department of Public  
Safety under this subchapter must be used for carrying out the  
24 purposes of this subchapter. Any balance of these fees does not  
lapse but must be carried forward as a continuing account to be  
26 expended for the same purposes in the following fiscal years.

28 2. Permit. A permit is valid for 3 years from the date of  
issue. The fee for a permit is \$30.

30 3. Inspection of storage magazines and vehicles used to  
32 transport explosives. All storage magazines and vehicles used to  
transport explosives in intrastate commerce must be inspected  
34 prior to issuance of a permit. The cost of each inspection is  
\$30. Reinspection of storage magazines and vehicles used to  
36 transport explosives must be conducted upon renewal of a permit.'

38 Further amend the bill in section 9 by striking out all of  
those parts designated "§2483." and "§2484." and inserting in  
40 their place the following:

42 **'§2483. Permits; requirements; fees'**

44 A person may not install, construct or otherwise establish  
an aboveground flammable liquid storage facility without a  
46 permit. The commissioner shall issue a permit to a person who:

48 1. Application. Submits to the commissioner a completed  
application form furnished by the commissioner; and

50

2 2. Construction plans; technical specifications. Submits  
3 with the application a complete set of construction plans and  
4 technical specifications showing the layout of the aboveground  
5 flammable liquid storage facility.

6 **§2484. Fees; permits**

8 1. Fees. All fees received by the department under this  
9 subchapter must be used for carrying out the purposes of this  
10 subchapter. Any balance of these fees does not lapse but must be  
11 carried forward as a continuing account to be expended for the  
12 same purposes in the following fiscal years.

14 2. Permit. The cost of a permit and an inspection of an  
15 aboveground flammable liquid storage facility is \$15.

16 **§2485. Violations**

18 A person who violates a provision of this subchapter or a  
19 rule adopted pursuant to this subchapter commits a civil  
20 violation for which a forfeiture of not less than \$100 or more  
21 than \$500 may be adjudged for each offense.'

24 Further amend the bill by inserting at the end before the  
25 summary the following:

28 **'FISCAL NOTE**

30 The State Fire Marshal's Office within the Department of  
31 Public Safety will incur some minor additional costs to adopt  
32 certain rules. These costs can be absorbed within the office's  
33 existing budgeted resources.

34 This bill may increase prosecutions for Class E crimes. If  
35 a jail sentence is imposed, the additional costs to the counties  
36 are estimated to be \$83.36 per day per prisoner. The number of  
37 prosecutions that may result in a jail sentence and the resulting  
38 costs to the county jail system are expected to be insignificant.

40 The additional workload and administrative costs associated  
41 with the minimal number of new cases filed in the court system  
42 can be absorbed within the budgeted resources of the Judicial  
43 Department. The collection of additional fines may increase  
44 General Fund revenue by minor amounts.'

48 **SUMMARY**

50 This amendment makes the following changes.

2           1. It corrects a cross-reference in the Maine Revised  
Statutes.

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6           2. It clarifies new provisions of law pertaining to the  
regulation of explosives and flammable liquids, including the  
permitting procedure, fees and penalties.

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10           3. It makes Maine law consistent with federal law by  
specifying that permitting provisions in the Maine Revised  
12 Statutes, Title 25, chapter 318 do not apply to a person who  
possesses, uses, stores or transports within the State 50 pounds  
14 or less of smokeless powder or black powder or 10,000 or fewer  
primers.

16           4. It adds a fiscal note to the bill.