

# MAINE STATE LEGISLATURE

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L.D. 1567

DATE: 6-10-03

(Filing No. H-557)

JUDICIARY

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
121ST LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1149, L.D. 1567, Bill, "An Act To Implement Recommendations of the MCJUSTIS Policy Board Concerning the Drafting of Crimes and Civil Violations Pursuant to Resolve 1997, Chapter 105, as Amended"

Amend the bill by inserting after the title and before the enacting clause the following:

'Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.'

Further amend the bill in Part B in section 9 in that part designated "§718." in subsection 1 in paragraph F in the last line (page 5, line 32 in L.D.) by striking out the following: "3" and inserting in its place the following: '2'

Further amend the bill in Part B in section 12 in that part designated "§769." in the section headnote (page 7, line 34 in L.D.) by striking out the following: "Forfeitures" and inserting in its place the following: 'Fines'

Further amend the bill in Part B in section 21 in that part designated "§3950-A." in subsection 4 in the 2nd line (page 11, line 18 in L.D.) by inserting after the following "prosecutions" the following: 'to be'

Further amend the bill in Part B by striking out all of section 22 (page 11, lines 23 and 24 in L.D.) and inserting in its place the following:

COMMITTEE AMENDMENT

2           'Sec. B-22. 7 MRSA §3991, as amended by PL 2003, c. 405, §22,  
is repealed.'

4

6           Further amend the bill in Part B, in section 23 in that part  
designated "~~§3991-A.~~" in subsection 3 in the 3rd line (page 12,  
line 6 in L.D.) by striking out the following: "§50" and  
8           inserting in its place the following: '§200'

10           Further amend the bill in Part B in section 26 in subsection  
9 in paragraph A in the 2nd line (page 15, line 43 in L.D.) by  
12           inserting after the following: "accordance" the following:  
'with'

14

16           Further amend the bill in Part B by inserting after section  
28 the following:

18           'Sec. B-29. 7 MRSA §4209, as amended by PL 1999, c. 530, §6,  
is repealed.'

20

22           Further amend the bill in Part E in section 1 in that part  
designated "§1602." in subsection 3 by striking out all of the  
last underlined sentence (page 23, lines 17 to 20 in L.D.)

24

26           Further amend the bill in Part E by striking out all of  
sections 5 and 6.

28           Further amend the bill in Part E in section 8 in that part  
designated "§2368." in subsection 1 in the first line (page 25,  
line 19 in L.D.) by striking out the following: "violations" and  
30           inserting in its place the following: 'penalties'

32

34           Further amend the bill in Part F by striking out all of  
section 7 and inserting in its place the following:

36           'Sec. F-7. 12 MRSA §6204, as amended by PL 2003, c. 248, §6,  
is further amended to read:

38

**§6204. General penalty**

40

42           A violation of any provision of marine resources' laws is a  
Class D crime, unless another penalty has been expressly  
provided. Except as otherwise specifically provided, these  
44           crimes are strict liability crimes as defined in Title 17-A,  
section 34, subsection 4-A.'

46

48           Further amend the bill in Part F by striking out all of  
section 25 and inserting in its place the following:

50           'Sec. F-25. 12 MRSA §6804, sub-§1, as amended by PL 2003, c.  
248, §10, is further amended to read:

2           **1. License required.** A person may not engage in the  
activities authorized under this section without a current  
4 ~~commercial-northern-shrimp-license;~~

6           A. Resident commercial northern shrimp license;

8           B. Resident with crew commercial northern shrimp license; or

10          C. Nonresident with crew commercial northern shrimp  
12          license.'

Further amend the bill in Part F by striking out all of  
14 section 43 (page 44, lines 30 and 31 in L.D.) and inserting in  
its place the following:

16           '**Sec. F-43. 12 MRSA §8883**, as amended by PL 2003, c. 345, §1,  
18 is repealed.'

20          Further amend the bill in Part F in section 44 in that part  
designated "~~§8883-B.~~" in subsection 6 in paragraph C in the first  
22 line (page 47, line 3 in L.D.) by inserting after the following:  
"Harvesting" the following: 'performed by the landowner'

24          Further amend the bill in Part I in section 13 by striking  
26 out all of the amending clause (page 55, lines 42 and 43 in L.D.)  
and inserting in its place the following:

28           '**Sec. I-13. 17 MRSA §1031, sub-§1**, as amended by PL 2003, c.  
30 414, Pt. B, §30, is further amended to read:'

32          Further amend the bill in Part I in section 13 in subsection  
1 in paragraph G in the 3rd line (page 57, line 26 in L.D.) by  
34 striking out the following: "10" and inserting in its place the  
following: '13'

36          Further amend the bill in Part I in section 15 by striking  
38 out all of the amending clause (page 59, lines 1 and 2 in L.D.)  
and inserting in its place the following:

40           '**Sec. I-15. 17 MRSA §1031, sub-§1-B**, as amended by PL 2003, c.  
42 405, §24, is further amended to read:'

44          Further amend the bill in Part I in section 15 in subsection  
1-B in paragraph B by striking out the following: "Kills" and  
46 inserting in its place the following: 'Causes the death of'

48          Further amend the bill by striking out all of Part K.

2 Further amend the bill in Part L in section 2 by striking  
out all of the amending clause (page 83, line 44 in L.D.) and  
4 inserting in its place the following:

6 'Sec. L-2. 22 MRSA §49 is enacted to read:'

8 Further amend the bill in Part L in section 2 in the  
headnote (page 83, line 46 in L.D.) by striking out the  
10 following: "~~§48.~~" and inserting in its place the following:  
'~~§49.~~'

12 Further amend the bill in Part M in section 4 in subsection  
1 in the 5th line (page 98, line 33 in L.D.) by striking out the  
14 following: "\$250" and inserting in its place the following:  
'\$250 \$500'

16 Further amend the bill in Part O by striking out all of  
18 section 1 and inserting in its place the following:

20 'Sec. O-1. 25 MRSA §2001, as amended by PL 2003, c. 414, Pt.  
B, §36, is repealed.'

22 Further amend the bill in Part O in section 2 in that part  
24 designated "~~§2001-A.~~" in subsection 2 by striking out all of  
paragraph C (page 103, lines 31 and 32 in L.D.) and inserting in  
26 its place the following:

28 'C. Knives used to hunt, fish or trap as defined in Title  
12, section 10001;'

30 Further amend the bill in Part O in section 2 in that part  
32 designated "~~§2001-A.~~" in subsection 2 in paragraph E in the 3rd  
line from the end (page 103, line 41 in L.D.) by striking out the  
34 following: "section 7377, subsections 1 and 2" and inserting in  
its place the following: 'section 11108 and section 12202,  
36 subsection 1'

38 Further amend the bill in Part R in section 4 in subsection  
10 in the last blocked paragraph in the first line (page 128,  
40 line 50 in L.D.) by striking out the following: "civil  
violation" and inserting in its place the following: 'traffic  
42 infraction'

44 Further amend the bill in Part R in section 5 in subsection  
11 in the last 2 lines (page 129, lines 8 and 9 in L.D.) by  
46 striking out the following: "civil violation" and inserting in  
its place the following: 'traffic infraction'

Further amend the bill in Part R in section 17 in subsection 1 by striking out all of paragraphs B and C (page 133, lines 11 to 19 in L.D.) and inserting in their place the following:

'B. In violation of a condition or restriction on the license. Violation of this paragraph is a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A;

C. Without a license issued by this State if a resident of this State for more than 30 days but fewer than 90 days. Violation of this paragraph is a traffic infraction; or

D. Without a license issued by this State if a resident of this State for more than 90 days. Violation of this paragraph is a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.'

Further amend the bill in Part R in section 49 in subsection 3 in the first paragraph in the first line (page 141, line 23 in L.D.) by striking out the following: "The operator of one" and inserting in its place the following: 'The-operator A person operating any'

Further amend the bill in Part R in section 53 in that part designated "~~§2101-A.~~" in subsection 1 in the 2nd line from the end (page 142, line 41 in L.D.) by striking out the following: "violation the driver commits is" and inserting in its place the following: 'conduct of the driver is punishable as'

Further amend the bill in Part R in section 53 in that part designated "~~§2101-A.~~" in subsection 2 in the last line (page 142, line 48 in L.D.) by striking out the following: "violation the driver commits is" and inserting in its place the following: 'conduct of the driver is punishable as'

Further amend the bill in Part U by striking out all of section 1 (page 166, lines 9 to 23 in L.D.)

Further amend the bill in Part X in section 1 in that part designated "~~§101.~~" in subsection 1 in the 4th line (page 176, line 2 in L.D.) by striking out the following: "suspended pilot" and inserting in its place the following: 'pilot whose license has been revoked or suspended'

Further amend the bill in Part X in section 3 by striking out all of subsection 2 and inserting in its place the following:

'2. Civil penalties. Any Except as otherwise specifically provided, a person who violates any-provision-of-the-laws a law

2 administered by the department, including, without limitation, a  
violation of the terms or conditions of any an order, rule,  
4 license, permit, approval or decision of the board or  
commissioner, or who disposes of more than 500 pounds or more  
6 than 100 cubic feet of litter for a commercial purpose, in  
violation of Title 17, section 2264 ~~2265-A~~, is subject to a civil  
8 penalty, payable to the State, of not less than \$100 ~~per~~ and not  
more than \$10,000 for each day of that violation or, if the  
10 violation relates to hazardous waste, of not more than \$25,000  
for each day of the violation. This penalty is recoverable in a  
civil action.'

12

Further amend the bill in Part X in section 6 by striking  
14 out all of the amending clause (page 178, lines 5 and 6 in L.D.)  
and inserting in its place the following:

16

'**Sec. X-6. 38 MRSA §423**, as amended by PL 2003, c. 414, Pt.  
18 B, §70, is repealed and the following enacted in its place:'

20

Further amend the bill in Part X in section 6 in that part  
designated "~~§423.~~" in subsection 3 in the 3rd line (page 178,  
22 line 35 in L.D.) by striking out the following: "section 7791,  
subsection 14" and inserting in its place the following:  
24 'section 13001, subsection 28'

26

Further amend the bill in Part X by striking out all of  
section 9 and inserting in its place the following:

28

'**Sec. X-9. 38 MRSA §972** is repealed.'

30

Further amend the bill in Part X in section 10 in subsection  
32 4 in the 2nd line (page 181, line 8 in L.D.) by striking out the  
following: "in fact"

34

Further amend the bill in Part X in section 10 in subsection  
36 4 in the 8th line (page 181, line 14 in L.D.) by inserting after  
the following: "tires" the following: 'without a license or'

38

Further amend the bill in Part X in section 11 by striking  
40 out all of subsection 5 and inserting in its place the following:

42

'5. Transporting after summons or arrest. A person who,  
after being issued a summons or arrested for a violation of the  
license or manifest requirements, transports the scrap tires to  
an unlicensed, nonexempt waste facility commits a Class D crime.  
Violation of this subsection is a strict liability crime as  
defined in Title 17-A, section 34, subsection 4-A.  
Notwithstanding Title 17-A, section 1301, the maximum fine under  
this subsection is not more than \$25,000 per violation.'

50

Further amend the bill in Part Y by striking out all of section 2 (page 182, line 22 in L.D.) and inserting in its place the follow:

**'Sec. Y-2. Effective Date.** This Act takes effect July 1, 2004 except that section of this Part that enacts the Maine Revised Statutes, Title 14, section 5604 takes effect 90 days after adjournment of the First Regular Session of the 121st Legislature.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

### SUMMARY

This amendment makes the following changes to the bill.

It changes a cross-reference in the laws governing livestock feeds.

It changes the term "forfeitures" to "fines" for civil violations.

It inserts the word "with," which was inadvertently omitted, in the nutrient management laws.

It corrects language referring to the Commissioner of Agriculture's responsibility with regard to enforcement of animal welfare laws and the duties of municipal officers to clarify that the commissioner is required to direct proceedings, actions and prosecutions to be instituted.

It adds a section repealing the Maine Revised Statutes, Title 7, section 4209 because the provisions of Title 7, section 4209, concerning penalties in the nutrient management laws, are incorporated into Title 7, sections 4204, 4205 and 4207.

It deletes a sentence from the remedies subsection concerning violation of the trademark rights of the Maine Potato Commission. This sentence, which is archaic language, refers to fines collected by county treasurers, which no longer occurs.

It deletes 2 sections concerning violation of the trademark rights of the Maine Sardine Council. The Maine Sardine Council is no longer in existence, although the trademark protection laws are still in existence. These 2 sections are deleted from the bill to avoid any confusion.



2 It changes the terminology in the wood measurement laws from  
civil "violations" to civil "penalties" because the violations  
4 are not civil violations enforced by the State, but are enforced  
by the person who is aggrieved by the violator.

6 It reflects changes made to the general marine resources  
penalty in Public Law 2003, chapter 248 in order to avoid a  
8 conflict.

10 It reflects changes made to commercial shrimp licenses in  
Public Law 2003, chapter 248 to avoid a conflict.

12 It reflects changes proposed to timber harvesting laws this  
14 year in Public Law 2003, chapter 345.

16 It strikes all of Part K of the bill because the corrections  
in Part K are proposed in L.D. 1548.

18 It makes the maximum fine for Maine Turnpike traffic  
20 infractions the same as for traffic violations under Title 29-A,  
which is \$500.

22 It changes the type of violation of the temporary  
24 registration of vehicles laws from "civil violation" to "traffic  
26 infraction." All violations in Title 29-A that are civil and not  
criminal are to be termed traffic infractions.

28 It clarifies the law concerning obtaining a Maine driver's  
license. Residents of the State are required to obtain a Maine  
30 license within 30 days of becoming residents. Operating without  
obtaining a Maine license is a crime if the operator has been a  
32 resident of the State for more than 90 days; otherwise it is a  
traffic infraction. This "failure to obtain a Maine license"  
34 offense with graduated penalty provisions is distinct from  
operating altogether without a license or beyond the restrictions  
36 imposed on a license issued by any jurisdiction.

38 It clarifies that any person operating one of a set of  
specified vehicles is responsible for certain safety procedures  
40 when approaching and crossing railroad tracks.

42 It clarifies that, under the permitting unlawful use laws, a  
driver does not have to be convicted or adjudicated as a  
44 requirement for convicting or adjudicating the person who  
authorizes or permits the use of the vehicle.

46 It deletes changes to a subsection in the public utilities  
48 laws that is repealed in another bill.

50 It clarifies language concerning pilots in coastal waters.

2           It clarifies that violations that are enforced by the  
4 Department of Environmental Protection when those violations are  
civil are not considered "civil violations," but are violations  
that are enforced in a civil action.

6  
8           It removes a section that states that conversion of floating  
timber is a form of theft because all thefts are covered by the  
Maine Criminal Code, chapter 15.

10  
12           It removes the term "in fact" from the new language  
concerning transporting scrap tires because the violation is  
14 termed a strict liability crime, making the use of "in fact"  
duplicative.

16           It provides that the fines concerning scrap tires apply to  
18 transporting without a license as well as transporting without a  
manifest.

20           It clarifies that the violations concerning the  
22 transportation of scrap tires are crimes. There is also a change  
to include reference to transporting without a license in  
24 addition to without a manifest. Finally, the language is  
corrected to clarify that violation for transporting the scrap  
26 tires to an unlicensed, nonexempt waste facility after being  
summonsed or arrested for transporting without a license or  
28 manifest is a Class D crime if the tires being transported are  
the same tires that were the subject of the earlier arrest or  
summons.

30  
32           It provides that the provisions concerning terminology for  
civil monetary sanctions take effect 90 days after adjournment of  
the First Regular Session of the 121st Legislature, while the  
34 rest of the bill as amended takes effect July 1, 2004.

36           This amendment also adds a mandate preamble.

38

**FISCAL NOTE REQUIRED**  
(See attached)

40



**121st Maine Legislature  
Office of Fiscal and Program Review**

**LD 1567**

**An Act To Implement Recommendations of the MCJUSTIS Policy Board  
Concerning the Drafting of Crimes and Civil Violations Pursuant to  
Resolve 1997, Chapter 105, as Amended**

**LR 0526(02)**

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Judiciary**

**Fiscal Note Required: Yes**

**Fiscal Note**

Exempt State Mandate

Potential current biennium cost increase - General Fund

**State Mandate**

**New or Expanded Activity**

This bill requires changes to be made to the District Attorneys' "Justware" computer system. Additional staff time and consultant services at the county level to change current templates could create significant costs. Pursuant to the Mandate Preamble, the two-thirds vote of all members elected to each House exempts the State from the constitutional requirement to fund 90% of the additional local costs.

**Unit Affected**

County

**Costs**

Significant

**Fiscal Detail and Notes**

This bill makes technical and statutory cite changes to ensure that each crime and civil violation has its own unique statutory cite. This bill will require changes to be made to the "Justware" computer system used by the District Attorneys. In addition, the requirement to implement changes in Part R of the bill may require the Judicial Department to hire a contracted programmer. The estimated cost could be as high as \$30,000. The Judicial Department has two legislative bond initiatives, LD 665 and LD 1591, that would replace the Violations Bureau computer system and would allow the changes identified in this bill to be incorporated into the new system without any additional costs.