

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 704

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H.P. 499

House of Representatives, February 10, 2005

**An Act To Amend the Laws Governing De Minimis Infractions of  
the Maine Criminal Code**

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Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative SHERMAN of Hodgdon.  
Cosponsored by Representative: JOY of Crystal.

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

4 **Sec. 1. 17-A MRSA §12, sub-§1,** as enacted by PL 1975, c. 499,  
§1, is amended to read:

6 ~~1. The court~~ A judge or a jury may ~~dismiss a prosecution~~  
~~if, upon notice to or motion of the prosecutor and opportunity to~~  
8 ~~be heard, having regard to the nature~~ consider the facts of the  
conduct alleged and the nature of the attendant circumstances, ~~it~~  
10 ~~finds~~ concerning a defendant's act and base a verdict upon  
whether the defendant's conduct:

12 A. Was within a customary license or tolerance, ~~which that~~  
14 was not expressly refused by the person whose interest was  
infringed and ~~which that~~ is not inconsistent with the  
16 purpose of the law defining the crime; or

18 B. Did not actually cause or threaten the harm sought to be  
prevented by the law defining the crime or did so only to an  
20 extent too trivial to warrant the condemnation of  
conviction; or

22 C. Presents such other extenuations that it cannot  
24 reasonably be regarded as envisaged by the Legislature in  
defining the crime.

26 **SUMMARY**

28 This bill changes the process for determining whether  
30 conduct alleged to violate the Maine Criminal Code is a de  
minimis infraction. Current law provides that the court may  
32 dismiss a prosecution if it finds the defendant's conduct is a de  
minimis infraction. This bill provides instead that a judge or  
34 jury may base a verdict upon whether the defendant's conduct is a  
de minimis infraction.

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