

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 444

H.P. 332

House of Representatives, February 10, 2009

An Act To Allow a Verdict in a Criminal Trial To Be Considered a De Minimis Infraction

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CLEARY of Houlton.

Cosponsored by Representatives: BEAUDETTE of Biddeford, CRAY of Palmyra, EATON of Sullivan, HINCK of Portland, SMITH of Monmouth, THERIAULT of Madawaska, Senators: GERZOFKY of Cumberland, JACKSON of Aroostook.

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

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

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

9 A. Was within a customary license or tolerance, which was not expressly refused by
10 the person whose interest was infringed and which is not inconsistent with the
11 purpose of the law defining the crime; or

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

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

17 The court may dismiss a prosecution pursuant to this subsection at any time upon notice
18 to or motion of the prosecutor and opportunity to be heard.

19 **SUMMARY**

20 This bill changes the requirements of allowing a court to dismiss a criminal offense
21 based upon de minimis conduct by eliminating the requirement that a prosecutor be
22 noticed and afforded an opportunity to be heard, by limiting the consideration to a Class
23 D or Class E crime and by allowing a jury to also consider the de minimis conduct.