

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2010

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Legislative Document

No. 1588

H.P. 1126

House of Representatives, December 22, 2009

### An Act To Change the Penalties for Writing Bad Checks

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 18, 2009. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative SHAW of Standish.  
Cosponsored by Senator DIAMOND of Cumberland and  
Representatives: BRIGGS of Mexico, CLARK of Millinocket, HAYES of Buckfield,  
PENDLETON of Scarborough, SARTY of Denmark, SCHATZ of Blue Hill, STRANG  
BURGESS of Cumberland.

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

2       **Sec. 1. 14 MRSA §6071, sub-§1**, as amended by PL 1995, c. 288, §1, is further  
3 amended to read:

4       **1. Recovery of costs.** In any action against a person liable for a dishonored check,  
5 the holder may recover 3 times the amount of the check, the court costs and the  
6 processing charges incurred by the holder, plus interest at the rate of 12% per annum  
7 from the date of dishonor if:

8           A. The holder gives notice pursuant to section 6073 for payment of the check; and

9           B. The person liable fails to tender the amount of the check, plus bank fees and  
10 mailing costs, within 10 days of receiving the notice set forth in section 6073.

11       **Sec. 2. 14 MRSA §6071, sub-§1-A** is enacted to read:

12       **1-A. Filing action.** An action to recover costs under this section may be made  
13 within 18 months after the date on the dishonored check.

14       **Sec. 3. 14 MRSA §6071, sub-§2**, as amended by PL 1995, c. 288, §1, is further  
15 amended to read:

16       **2. Attorney's fees.** If the person liable does not pay 3 times the amount of the  
17 check, plus costs and interest, before the hearing, then the court may award reasonable  
18 attorney's fees to the prevailing party. In addition, the court ~~may~~ shall award to the holder  
19 of the check a civil penalty, not to exceed \$50, to be paid by the person liable for the  
20 check.

21       **Sec. 4. 17-A MRSA §353, sub-§1**, as amended by PL 2007, c. 476, §10, is  
22 further amended to read:

23       **1.** A person is guilty of theft if:

24           A. The person obtains or exercises unauthorized control over the property of  
25 another with intent to deprive the other person of the property. Violation of this  
26 paragraph is a Class E crime;

27           B. The person violates paragraph A and:

28               (1) The value of the property is more than \$10,000. Violation of this  
29 subparagraph is a Class B crime;

30               (2) The property stolen is a firearm or an explosive device. Violation of this  
31 subparagraph is a Class B crime;

32               (3) The person is armed with a dangerous weapon at the time of the offense.  
33 Violation of this subparagraph is a Class B crime;

34               (4) The value of the property is more than \$1,000 but not more than \$10,000.  
35 Violation of this subparagraph is a Class C crime;

(5) The value of the property is more than \$500 but not more than \$1,000. Violation of this subparagraph is a Class D crime; or

(6) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime; or

C. The person knowingly operates an audiovisual or audio recording function of any device in a motion picture theater while a motion picture is being exhibited for the purpose of making a copy of the motion picture, without the written consent of the motion picture theater owner. Violation of this paragraph is a Class D crime; or

D. The person negotiates a worthless instrument as described under section 708 and 30 days have passed since there was a transfer of property in exchange for the worthless instrument.

**Sec. 5. 17-A MRSA §708, sub-§1**, as amended by PL 2007, c. 476, §28, is further amended to read:

1. A person is guilty of negotiating a worthless instrument if:

A. The person intentionally issues or negotiates a negotiable instrument knowing that it will not be honored by the maker or drawee. Violation of this paragraph is a Class E D crime; or

B. The person violates paragraph A and:

(1) The face value of the written instrument or the aggregate value of the instruments is more than \$10,000. Violation of this subparagraph is a Class B crime;

(2) The face value of the written instrument or the aggregate value of the instruments is more than \$1,000 \$500 but not more than \$10,000. Violation of this subparagraph is a Class C crime; or

~~(3) The face value of the negotiable instrument is more than \$500 but not more than \$1,000. Violation of this subparagraph is a Class D crime; or~~

(4) At the time of negotiating a worthless instrument, the person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of this section; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702 or 703; or

1 attempts to commit any of these crimes. Section 9-A governs the use of prior  
2 convictions when determining a sentence. Violation of this subparagraph is a  
3 Class C crime.

#### 4 SUMMARY

5 This bill increases the classification of certain crimes involving negotiating a  
6 worthless instrument, provides a statute of limitations of 18 months for filing a civil  
7 action for issuing a dishonored check and increases the amount that may be recovered in  
8 a civil action for issuing a dishonored check.