

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
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FIRST REGULAR SESSION
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NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1997

E. Energy consumption analysis of the major equipment of the facility's heating, ventilating and cooling system, lighting system, hot water system and all other major energy-consuming equipment and systems as appropriate. This analysis ~~shall~~ must include:

- (1) The comparison of alternative systems;
- (2) A projection of the annual energy consumption of major energy-consuming equipment and systems for a range of operations of the facility over the life of the facility; and
- (3) The evaluation of the energy consumption of component equipment in each system, considering operation of ~~such~~ the components at other than full or rated outputs.

4. Annual updating of rules. ~~Such rules shall~~ Rules must be based on the best currently available methods of analysis and provisions ~~shall~~ must be made for an annual updating of rules and standards as required.

See title page for effective date.

CHAPTER 542

S.P. 188 - L.D. 606

An Act to Amend the Off-track Betting Laws as They Pertain to Reduced Payments for Small Market Licensees

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

Sec. 1. 8 MRSA §275-O, sub-§1, as enacted by PL 1995, c. 403, §1, is amended to read:

1. Eligible licensees. This section grants reduced payments to licensees of off-track betting ~~licensees~~ facilities that were licensed and open for business before ~~January 1, 1995~~ April 1, 1997 and that have a market area, as described in section 275-D, subsection 4, with a population of less than 50,000.

See title page for effective date.

CHAPTER 543

S.P. 509 - L.D. 1571

An Act to Amend the Maine Bail Code

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

Sec. 1. 15 MRSA §1002, last ¶, as enacted by PL 1987, c. 870, §1, is amended to read:

It is the purpose and intent of this chapter that bail be set for a defendant in order to reasonably ensure the appearance of the defendant as required, to otherwise reasonably ensure the integrity of the judicial process and, when applicable, to reasonably ensure the safety of others in the community. ~~Finally,~~ It is also the purpose and intent of this chapter that the judicial officer consider, relative to crimes bailable as of right preconviction, the least restrictive release alternative ~~which that~~ that will reasonably ensure the attendance of the defendant as required, or otherwise reasonably ensure the integrity of the judicial process. Finally, it is also the intent and purpose of this chapter that a defendant, while at liberty on bail, refrain from committing new crimes.

Sec. 2. 15 MRSA §1002, as amended by PL 1987, c. 870, §1, is further amended by adding at the end 2 new paragraphs to read:

The Legislature finds that personal recognizance bail or an unsecured appearance bond should not be available for offenders who have a pending charge.

The Legislature further believes that, as a matter of public policy, personal recognizance bail or an unsecured appearance bond should not be available to repeat offenders or to those who commit serious crimes.

Sec. 3. 15 MRSA §1003, sub-§1, ¶A, as amended by PL 1987, c. 870, §2, is further amended to read:

A. In the preconviction context, "bail" means the obtaining of the release of the defendant upon an undertaking that the defendant shall appear at the time and place required ~~and may include conditions,~~ that the defendant shall conform to any condition imposed, in accordance with section 1026, designed to ensure the integrity of the judicial process and that the defendant shall refrain from any new criminal conduct. For crimes bailable only as a matter of discretion preconviction, bail ~~may also include conditions~~ means the obtaining of the release of the defendant upon an undertaking that the defendant shall conform to each condition that is designed to ensure the safety of others in the community.

Sec. 4. 15 MRSA §1003, sub-§1, ¶B, as enacted by PL 1987, c. 758, §20, is amended to read:

B. In the post-conviction context, "bail" means the obtaining of the release of the defendant

upon an undertaking that the defendant shall appear and surrender into custody at the time and place required, that the defendant shall refrain from any new criminal conduct and may include conditions that the defendant shall conform to each condition imposed that is designed to otherwise ensure the integrity of the judicial process or and to ensure the safety of others in the community.

Sec. 5. 15 MRSA §1003, sub-§5, as enacted by PL 1987, c. 758, §20, is repealed and the following enacted in its place:

5. Ensure the integrity of the judicial process.

To "ensure the integrity of the judicial process." when used in the context of the granting or denial of bail, means:

A. Safeguarding the role of the courts in adjudicating the guilt or innocence of defendants by ensuring the presence of the defendant in court and otherwise preventing the defendant from obstructing or attempting to obstruct justice by threatening, injuring or intimidating a victim, prospective witness, juror, attorney for the State, judge, justice or other officer of the court or otherwise affecting public safety; and

B. Accurately ensuring that the defendant will comply with conditions of release and the court's order to refrain from new criminal conduct by giving due consideration to the defendant's prior criminal record and prior failures to obey bail conditions; probation conditions; and other court orders, including, but not limited to, violating protection from abuse orders pursuant to Title 19, section 769 or Title 19-A, section 4011.

Sec. 6. 15 MRSA §1003, sub-§8-A is enacted to read:

8-A. New criminal conduct. "New criminal conduct" refers to criminal activity by a defendant occurring after bail has been set.

Sec. 7. 15 MRSA §1026, as amended by PL 1995, c. 356, §5, is further amended to read:

§1026. Standards for release for crime bailable as of right preconviction

1. In general. At the initial appearance before a judicial officer of a defendant in custody for a crime bailable as of right preconviction, the judicial officer ~~shall~~ may issue an order that, pending trial, the defendant be released:

A. On personal recognizance or upon execution of an unsecured appearance bond under subsection 2; or

B. On a condition or combination of conditions under subsection 3; or

C. On personal recognizance or execution of an unsecured appearance bond, accompanied by one or more conditions under subsection 3.

Every order for the pretrial release of any defendant ~~shall~~ must include a waiver of extradition by the defendant and the conditions that the defendant refrain from new criminal conduct and not violate any pending protection from abuse orders pursuant to Title 19, section 769 or Title 19-A, section 4011.

2. Release on personal recognizance or unsecured appearance bond. The judicial officer ~~shall~~ may order the pretrial release of the defendant on personal recognizance or upon execution of an unsecured appearance bond in an amount specified by the judicial officer, ~~unless the judicial officer determines that the release will not reasonably ensure the appearance of the defendant as required or will not otherwise reasonably ensure the integrity of the judicial process.~~ Before any defendant is released on personal recognizance or an unsecured appearance bond, the judicial officer must determine that the defendant will appear as required and that the defendant's release will not otherwise affect the integrity of the judicial process.

The judicial officer may not order the pretrial release of the defendant on personal recognizance or upon execution of an unsecured appearance bond on new criminal conduct if the defendant has pending criminal charges.

In determining whether the pretrial release of the defendant on personal recognizance or upon execution of an unsecured appearance bond is appropriate, the judicial officer shall consider:

A. The defendant's prior criminal history, including, but not limited to, whether the defendant has previously violated conditions of release, whether the defendant has been or is on probation and whether the defendant has previously violated court orders, such as protection from abuse orders pursuant to Title 19, section 769 or Title 19-A, section 4011;

B. The severity, nature and circumstances of the crime charged;

C. The defendant's failures to appear when required;

D. The defendant's failure to pay fines;

E. Any other factors that may enhance a sentence of incarceration; and

F. Any other factors that may be considered relevant to the judicial officer, including, but not limited to, those enumerated in subsection 4.

In considering all the factors enumerated in paragraphs A to F, the judicial officer shall give the greatest weight to the defendant's criminal history and the severity of the crime. The judicial officer may not order the defendant released on personal recognizance or an unsecured appearance bond if the defendant's crime is serious or the judicial officer finds the defendant's criminal record inappropriate for granting the defendant release on personal recognizance or an unsecured appearance bond.

3. Release on conditions. Conditions that will reasonably ensure the appearance of the defendant and ensure the integrity of the judicial process ~~shall~~ **must** be imposed as provided in this subsection.

A. If the judicial officer determines that the release described in subsection 2 will not reasonably ensure the appearance of the defendant as required or will not otherwise reasonably ensure the integrity of the judicial process, the judicial officer shall order the pretrial release of the defendant subject to the least restrictive further condition or combination of conditions that the judicial officer determines will reasonably ensure the appearance of the defendant as required and will otherwise reasonably ensure the integrity of the judicial process. These conditions may include that the defendant:

- (1) Remain in the custody of a designated person or organization agreeing to supervise the defendant, including a public official, public agency or publicly funded organization, if the designated person or organization is able to reasonably ensure both the appearance of the defendant as required and the integrity of the judicial process. When feasible, the judicial officer shall impose the responsibility upon the defendant to produce the designated person or organization. The judicial officer may interview the designated person or organization to ensure satisfaction of both the willingness and ability required. The designated person or organization shall agree to notify immediately the judicial officer of any violation of release by the defendant;
- (2) Maintain employment or, if unemployed, actively seek employment;
- (3) Maintain or commence an educational program;
- (4) Abide by specified restrictions on personal associations, place of abode or travel;

(5) Avoid all contact with a victim of the alleged crime, a potential witness regarding the alleged crime or with any other family or household members of the victim or the defendant or to contact those individuals only at certain times or under certain conditions;

(6) Report on a regular basis to a designated law enforcement agency or other governmental agency;

(7) Comply with a specified curfew;

(8) Refrain from possessing a firearm or other dangerous weapon;

(9) Refrain from use or excessive use of alcohol and from any use of drugs;

(10) Undergo, as an outpatient, available medical or psychiatric treatment, or enter and remain, as a voluntary patient, in a specified institution when required for that purpose;

(11) Execute an agreement to forfeit, upon failing to appear as required, such designated property, including money, as is reasonably necessary to ensure the appearance of the defendant as required and to ensure the integrity of the judicial process and post with an appropriate court such evidence of ownership of the property or such percentage of the money as the judicial officer specifies;

(12) Execute a bail bond with sureties in such amount as is reasonably necessary to ensure the appearance of the defendant as required and to ensure the integrity of the judicial process;

(13) Return to custody for specified hours following release for employment, schooling or other limited purposes;

(14) Report on a regular basis to the defendant's attorney;

(15) Notify the court of any changes of address or employment;

(16) Provide to the court the name, address and telephone number of a designated person or organization that will know the defendant's whereabouts at all times;

(17) Inform any law enforcement officer of the defendant's condition of release if the defendant is subsequently arrested or summoned for new criminal conduct; and

(18) Satisfy any other condition that is reasonably necessary to ensure the appearance of the defendant as required and to otherwise reasonably ensure the integrity of the judicial process.

B. The judicial officer may not impose a financial condition ~~which that~~, either alone or in combination with other conditions of bail, is in excess of that reasonably necessary to ensure the appearance of the defendant as required or to otherwise ensure the integrity of the judicial process.

C. Upon motion by the attorney for the State or the defendant and after notice and upon a showing of changed circumstances or upon the discovery of new and significant information, the court may amend the bail order to relieve the defendant of any condition of release, modify the conditions imposed or impose further conditions authorized by this subsection as the court determines will reasonably ensure the appearance of the defendant as required and will otherwise reasonably ensure the integrity of the judicial process.

4. Factors to be considered in release decision. In setting bail, the judicial officer shall, on the basis of an interview with the defendant, information provided by the defendant's attorney and information provided by the attorney for the State or an informed law enforcement officer if the attorney for the State is not available and other reliable information ~~which that~~ can be obtained, take into account the available information concerning the following:

- A. The nature and circumstances of the crime charged;
- B. The nature of the evidence against the defendant; and
- C. The history and characteristics of the defendant, including, but not limited to:
 - (1) The defendant's character and physical and mental condition;
 - (2) The defendant's family ties in the State;
 - (3) The defendant's employment history in the State;
 - (4) The defendant's financial resources;
 - (5) The defendant's length of residence in the community and the defendant's community ties;

(6) The defendant's past conduct, including any history relating to drug or alcohol abuse;

(7) The defendant's criminal history, if any;

(8) The defendant's record concerning appearances at court proceedings;

(9) Whether, at the time of the current offense or arrest, the defendant was on probation, parole or other release pending trial, sentencing, appeal or completion of a sentence for an offense in this jurisdiction or another; ~~and~~

(10) Any evidence that the defendant has obstructed or attempted to obstruct justice by threatening, injuring or intimidating a victim or a prospective witness, juror, attorney for the State, judge, justice or other officer of the court; and

(11) Whether the defendant has previously violated conditions of release, probation or other court orders, including, but not limited to, violating protection from abuse orders pursuant to Title 19, section 769 or Title 19-A, section 4011.

5. Contents of release order. In a release order issued under subsection 2 or 3, the judicial officer shall:

A. Include a written statement that sets forth all the conditions to which the release is subject in a manner sufficiently clear and specific to serve as a guide for the defendant's conduct; and

B. Advise the defendant of:

(1) The penalties if the defendant fails to appear as required; and

(2) The penalties for and consequences of violating a condition of release, including the immediate issuance of a warrant for the defendant's arrest.

6. Initial appearance in court. Nothing contained in this chapter may be construed as limiting the authority of a judge or justice to consider the issue of preconviction bail at a defendant's initial appearance in court.

7. Applicability of conditions of release. A condition of release takes effect and is fully enforceable as of the time the judicial officer sets the condition, unless the bail order expressly excludes it from immediate applicability.

Sec. 8. 15 MRSA §1027, sub-§3, ¶¶A and B, as enacted by PL 1987, c. 758, §20, are amended to read:

A. There is a substantial risk that the capital defendant will not appear as required or will otherwise pose a substantial risk to the integrity of the judicial process; ~~or~~

B. There is a substantial risk that the capital defendant will pose a danger to another or to the community; ~~or~~

Sec. 9. 15 MRSA §1027, sub-§3, ¶C is enacted to read:

C. There is a substantial risk that the capital defendant will commit new criminal conduct.

Sec. 10. 15 MRSA §1028, sub-§1, ¶A, as enacted by PL 1987, c. 758, §20, is amended to read:

A. If the defendant chooses to have a de novo determination of bail, the defendant ~~shall~~ must be furnished with a petition and, upon execution of the petition and without the issuance of any writ or other process, the sheriff of the county in which the decision was made shall provide for the transportation of the defendant together with the petition and all papers relevant to the petition or copies of the petition or papers to the Superior Court.

If no Justice of the Superior Court will be available within 24 ~~48~~ hours, excluding Saturdays, Sundays and holidays, arrangements ~~shall~~ must be made for a de novo determination of bail in the nearest county in which a Justice of the Superior Court is then sitting. The defendant's custodian shall provide transportation to the Superior Court as required by this chapter without the issuance of any writ or other process.

If there is no Justice of the Superior Court available, the defendant ~~shall~~ must be retained in custody until the petition can be considered.

Sec. 11. 15 MRSA §1028, sub-§1, ¶C is enacted to read:

C. Upon receipt of a pro se petition or upon oral or written request of the attorney for the defendant, the clerk shall set a time for hearing and provide oral or written notice to the attorney for the State. The hearing must be scheduled for a time not less than 24 hours nor more than 48 hours after the clerk notifies the attorney for the State.

Sec. 12. 15 MRSA §1051, sub-§1, as amended by PL 1995, c. 356, §8, is further amended to read:

1. Application to presiding judge or justice.

After post-conviction, except as provided in this section, a defendant may apply to the judge or justice who presided at the trial for bail pending imposition or execution of sentence or entry of judgment or appeal. If the trial judge or justice is not available, the defendant may apply for bail under this section to another judge or justice of the court in which the defendant was convicted. Post-conviction bail is not available to a defendant convicted of:

A. Murder;

B. Any other formerly capital offense for which preconviction bail was denied under section 1027; or

C. Any crime when the defendant's preconviction bail was revoked and denied under sections 1096 and 1097.

The judge or justice shall hold a hearing on the record on the bail application and shall state in writing or on the record the reasons for denying or granting bail. If bail is granted, the judge or justice shall also state, in writing or on the record, the reasons for the kind and amount of bail set, for any condition of release imposed and for the omission of any condition of release sought by the State.

The judge or justice may enter an order for bail pending appeal before a notice of appeal is filed, but conditioned upon its timely filing.

Every order for post-conviction release of a defendant must include a waiver of extradition by the defendant as well as a condition of bail that the defendant refrain from new criminal conduct and not violate any pending protection from abuse order pursuant to Title 19, section 769, or Title 19-A, section 4011.

Sec. 13. 15 MRSA §1051, sub-§2, as enacted by PL 1987, c. 758, §20, is amended to read:

2. Standards. Except as provided in subsection 4, a defendant may not be admitted to bail under this section unless the judge or justice has probable cause to believe that:

A. There is no substantial risk that the defendant will fail to appear as required and will not otherwise pose a substantial risk to the integrity of the judicial process; ~~and~~

B. There is no substantial risk that the defendant will pose a danger to another or to the community; ~~and~~

C. There is no substantial risk that the defendant will commit new criminal conduct.

In determining whether to admit a defendant to bail, the judge or justice shall consider the factors relevant to preconviction bail listed in section 1026, as well as the facts proved at trial, the length of the term of imprisonment imposed, any history of dangerousness and any previous unexcused failure to appear as required before any court or ~~to submit as required to the defendant's prior failure to obey an order or judgment of any court, including, but not limited to, violating a protection from abuse order pursuant to Title 19, section 769 or Title 19-A, section 4011.~~

If the judge or justice decides to set post-conviction bail for a defendant, the judge or justice shall apply the same factors in setting the kind and amount of that bail.

Sec. 14. 15 MRSA §1051, sub-§3, as amended by PL 1995, c. 356, §9, is further amended to read:

3. Conditions of release. Except as provided in subsection 4, the judge or justice may impose, in lieu of or in addition to an appearance or bail bond, any condition considered reasonably necessary to minimize the risk that the defendant may fail to appear as required, may compromise the integrity of the judicial process, may commit new criminal conduct, may fail to comply with conditions of release or may constitute a danger to another person or the community.

Sec. 15. 15 MRSA §1071, sub-§1, as amended by PL 1989, c. 147, §4, is further amended to read:

1. Statement by surety. Any person who offers to act as surety ~~for the appearance before in~~ the Superior Court ~~of~~ for any defendant in a criminal prosecution, whether or not the defendant is an appellant from the finding of a Judge of the District Court, is to be admitted to bail to await the action of the grand jury, or is arrested in vacation on a warrant issued on an indictment pending in the Superior Court, may be required to file with the judicial officer a written statement signed and sworn to by the surety describing all real estate owned by the surety within the State with sufficient accuracy to identify it.

A. The statement ~~shall~~ must provide in detail all encumbrances and the value of the land. The value of the land ~~shall~~ must be based on the judgment of the surety.

B. The certificate ~~shall~~ must remain on file with the original papers in the case and a certified copy ~~shall~~ must be transmitted by the judicial officer taking the bail to the clerk of court before which the defendant is to appear.

C. Upon motion to the court and notice to the defendant, the defendant shall produce and the

State ~~shall have~~ has the right to examine all evidence of ownership, valuation and all encumbrances on the land.

Sec. 16. 15 MRSA §1072, as amended by PL 1995, c. 356, §13, is further amended to read:

§1072. Responsibility of sureties

1. Preconviction. Each surety for a defendant admitted to preconviction bail is responsible for the appearance of the defendant at all times as well as the defendant's compliance with each condition of release, including that the defendant refrain from new criminal conduct, until a verdict or finding or plea of guilty or until the acceptance of a plea of guilty or nolo contendere, unless the surety has sooner terminated the agreement to act as surety and has been relieved of the responsibility in accordance with section 1073.

A preconviction surety is not responsible for the appearance of a defendant after conviction nor for the defendant's compliance with the conditions of release, unless the surety has agreed to act as postconviction surety.

2. Post-conviction. Each surety for a defendant admitted to bail after conviction is responsible for the defendant's appearance at all times until the defendant enters into execution of any sentence of imprisonment as well as the defendant's compliance with each condition of release, including that the defendant refrain from new criminal conduct, unless the surety has sooner terminated the agreement to act as surety and has been relieved of the responsibility in accordance with section 1073.

Sec. 17. 15 MRSA §1072-A is enacted to read:

§1072-A. Advising the surety

Prior to undertaking the responsibility as a surety for a defendant the surety must be:

1. Written release order. Provided with a copy of the written release order pertaining to the defendant;

2. Appearance and conditions of release. Orally advised of the appearance requirement and of each of the conditions of release pertaining to the defendant for which the surety is responsible and the consequences to the surety if the defendant fails to appear as required or violates any condition of release; and

3. Responsibilities and consequences. Provided with a written statement advising the surety as to the general responsibilities of a surety under section 1072 and the consequences to the surety if the

defendant fails to appear as required or fails to abide by each condition.

The Supreme Judicial Court shall by rule specify who is responsible for providing to the prospective surety the required oral and written advice as well as the copy of the written release order pertaining to the defendant.

Sec. 18. 15 MRSA §1073, 3rd ¶, as amended by PL 1995, c. 356, §14, is further amended to read:

The judge or justice may absolve the person of responsibility to pay all or part of the bond or may order the return of cash bail, except that a person may not be absolved of the responsibility to pay all or part of the bond, or receive any cash deposited as bail, if, prior to terminating the agreement, the defendant has failed to appear as required or, if the precondition in section 1073-A has been satisfied, the defendant has failed to comply with each condition of release. Nothing in this section may be construed to relieve or release a person of the responsibility for the appearance of the defendant, notwithstanding the termination of the agreement, until the defendant is in the custody of the sheriff of the county in which the case is pending, new or substitute sureties have appeared, new cash bail has been deposited or the defendant has otherwise been admitted to bail.

Sec. 19. 15 MRSA §1073-A is enacted to read:

§1073-A. Precondition to forfeiture of cash or other property of surety if a defendant violates a condition of release; notice

1. Precondition. A person responsible for a defendant's compliance with each condition of release under section 1072 and who has agreed to act as surety or has deposited cash bail for a defendant who subsequently is admitted to preconviction or post-conviction bail and fails to comply with each condition of release must be absolved by the judge or justice of the responsibility to pay the bond and must have returned the deposited cash bail unless the person had, on a prior occasion, acted as surety or deposited cash bail for the defendant's compliance with each condition of release and that defendant on that prior occasion failed to comply with each condition.

2. Notice. Prior to a hearing under section 1096 or 1099, the attorney for the State shall make a good faith effort to give a surety notice of the upcoming hearing and notice that the result of that hearing may affect whether or not the surety may wish to continue to act as surety. At that hearing, the court shall orally advise the surety of the consequences of subsection 1 if:

A. The surety is present;

B. The court finds that the defendant violated a condition of release; and

C. The court finds that the defendant's bail should be reset.

Sec. 20. 15 MRSA §1074, sub-§1, as enacted by PL 1987, c. 758, §20, is amended to read:

1. Cash. Whenever cash is deposited as bail to secure the appearance of and conformance to conditions of release by a defendant in a criminal proceeding, either preconviction or post-conviction, the cash ~~shall be~~ is deemed to be the property of the defendant unless, at the time the cash is deposited, the defendant or the person offering the cash as bail, designates under oath another person to whom the cash belongs. If a person other than the defendant has been designated as the owner of the cash, it ~~shall~~ must be returned to that person unless otherwise forfeited. If the defendant is deemed to be the owner of the cash, it ~~shall~~ must be returned to the defendant unless otherwise forfeited or subject to setoff as provided in this section.

Sec. 21. 15 MRSA §1094, first ¶, as repealed and replaced by PL 1991, c. 393, §4, is amended to read:

When a defendant who has been admitted to either preconviction or post-conviction bail in a criminal case fails to appear as required, or has violated the conditions of release, the court shall declare a forfeiture of the bail. The obligation of the defendant and any sureties may be enforced in such manner as the Supreme Judicial Court shall by rule provide and in accordance with section 224-A. The rules adopted by the Supreme Judicial Court must provide for notice to the defendant and any sureties of the consequences of failure to comply with the conditions of bail.

Sec. 22. 15 MRSA §1095, sub-§2, as enacted by PL 1995, c. 356, §19, is amended to read:

2. Arrest. A law enforcement officer may arrest with a warrant, or without a warrant pursuant to Title 17-A, section 15, any defendant who the law enforcement officer has probable cause to believe has failed to appear as required, has violated a condition of preconviction bail or has been charged with a crime allegedly committed while released on preconviction bail. If the defendant is charged with new criminal conduct, a bail commissioner is authorized only to set bail for the new charged crimes in accordance with this chapter. A defendant under arrest pursuant to subsection 1 or this subsection must be brought before any judge or justice of the appropriate court. The judge or justice shall determine without hearing whether the existing preconviction bail order should

be modified or whether the defendant should be committed without bail pending the bail revocation hearing. A copy of the motion for revocation must be furnished to the defendant prior to the hearing on the alleged violation, unless the hearing must be conducted in the absence of the defendant.

Sec. 23. 15 MRSA §1097, sub-§§1 and 2, as enacted by PL 1995, c. 356, §19, are repealed and the following enacted in their place:

1. New criminal conduct. If the judge or justice finds that there are conditions of release that will reasonably ensure that the defendant will not continue to commit new crimes while out on bail, the judge or justice shall issue an order under section 1026. If the judicial finding is otherwise, the judge or justice shall issue an order denying bail.

2. Appearance of the defendant; ensuring the integrity of the judicial process. If the judge or justice finds that there are conditions of release that will reasonably ensure the defendant's appearance when required and will otherwise ensure the integrity of the judicial process, the judge or justice shall issue an order under section 1026. If the judicial finding is otherwise, the judge or justice shall issue an order denying bail.

See title page for effective date.

CHAPTER 544

H.P. 920 - L.D. 1263

An Act to Eliminate the Need for a Retail Seafood License to Sell Prepared Seafood

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is necessary that this legislation take effect before the summer begins so that retailers may take full advantage of this legislation; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 12 MRSA §6302, as enacted by PL 1977, c. 661, §5, is amended to read:

§6302. General exceptions

Notwithstanding any licensing provision, ~~no~~ a license or certificate ~~shall be~~ is not required for a person to:

1. Personal use. Possess or transport any marine organism ~~which~~ that has been lawfully acquired and is for personal use. A receipt or bill of sale ~~shall be~~ is required for lawful acquisition;

2. Common carrier. Carry any marine organism by a common carrier; ~~or~~

3. Hermetically sealed containers. Buy, sell, ship or transport within or beyond the state limits or possess any marine organism ~~which~~ that is in a ~~hermetically~~ hermetically sealed container; ~~or~~

4. Retail sale of certain seafood products. Sell at retail:

A. Shucked shellfish, if the shucked shellfish is purchased from a wholesale seafood license holder certified under section 6856; or

B. Lobster parts or meat, if they are purchased from a wholesale seafood license holder who possesses a lobster meat permit under section 6857 or if they have been lawfully imported.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 12, 1997.

CHAPTER 545

H.P. 551 - L.D. 742

An Act to Promote Wildlife Rehabilitation Centers

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

Sec. 1. 36 MRSA §1760, sub-§60, as amended by PL 1993, c. 678, §4, is further amended to read:

60. Sales to incorporated nonprofit animal shelters. Sales to incorporated nonprofit animal shelters of tangible personal property used in the operation and maintenance of those shelters or in the maintenance and care of any animal, including wildlife, housed in those shelters.

See title page for effective date.