

MAINE STATE LEGISLATURE

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STATE OF MAINE
115TH LEGISLATURE

SECOND REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY

MAY 1992

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**ONE HUNDRED AND FIFTEENTH LEGISLATURE
SECOND REGULAR SESSION**

**JOINT STANDING COMMITTEE
BILL SUMMARIES**

MAY 1992

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature. The volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries.

All adopted amendments are listed, by paper number (e.g., H-584 or S-222), together with the sponsor for floor amendments. Final action on each bill is listed to the far right of the title. Various types of final action are abbreviated as follows:

PUBLIC XXX	Chapter # of enacted Public Law
P&S XXX	Chapter # of enacted Private & Special Law
RESOLVE XXX	Chapter # of enacted Resolve
CON RES XXX	Chapter # of Constitutional Resolution passed by both Houses
EMERGENCY	Enacted law takes effect sooner than 90 days
CARRIED OVER	Bill carried over to Special Session
ONTP	Ought Not to Pass report accepted
LVWD	Leave to Withdraw report accepted
INDEF PP	Bill Indefinitely Postponed
FAILED EMERGENCY ENACTMENT	Emergency bill failed to get 2/3 vote
DIED BETWEEN BODIES	House and Senate disagree; bill died
CONF CMTE UNABLE TO AGREE	Committee of Conference formed but unable to agree
VETO SUSTAINED	Legislature filed to override Governor's Veto
UNSIGNED	Not signed by Governor within 10 days
DIED ON ADJOURNMENT	Action incomplete when session ended; bill died

These summaries were prepared by the analyst or analysts assigned to the committee. But, this document was produced by the efforts of all the office staff, including secretaries: Charlene Raymond and Valarie Parlin, especially Laurette Knox who coordinated preparation of the overall document.

If you have any suggestions or comments on these summaries, please let us know.

LD 1791 An Act to Clarify Implied or Legal Malice for the Purpose of Awarding Punitive Damages

LV/WD

SPONSOR(S)
CONLEY

COMMITTEE REPORT
LV/WD

AMENDMENTS ADOPTED

SUMMARY

The bill clarified the standard for implied or legal malice in actions involving corporations or motor vehicle operators in which punitive damages are sought.

LD 1802 An Act to Adopt a New Article for the Uniform Commercial Code

PUBLIC 805

SPONSOR(S)
CONLEY
GAUVREAU

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
S-695

SUMMARY

The bill enacts Article 2A into the Uniform Commercial Code. The Article recognizes the differences between consumer and business leasing while resting upon concepts that apply generally to any personal property lease transactions.

Article 2A provides uniformity and gives leasing transactions an appropriate underpinning in the law. Because of the broad similarities between lease and sales transactions that underpinning is largely derived from Article 2 of the Uniform Commercial Code dealing with sales.

Committee Amendment "A" (S-695): The amendment makes the following changes in the original bill.

1. In section 2-1103, subsection (1), paragraph (h) mobile homes are included within the definition of "goods."
2. Section 2-1104 is amended to specify that "consumer protection statute of this State" includes, but is not limited to, the Maine Unfair Trade Practices Act, Title 5, chapter 10; the Maine Consumer Credit Code, Title 9-A; consumer loan and lease agreement laws, Title 10, chapter 202; used car information laws, Title 10, chapter 217; and warranties on new motor vehicles, Title 10, chapter 203-A.
3. Section 2-1209 is amended to provide that in finance leases that are consumer leases the supplier's ability to disclaim, exclude or modify implied warranties and remedies for breach of warranty is governed by section 2-316, subsection (5).
4. Section 2-1214 is amended to provide that in a consumer lease that is not a finance lease the lessor's ability to disclaim, exclude or modify implied warranties or remedies for breach of those warranties is governed by section 2-316, subsection (5).
5. Section 2-1221 is amended to add an additional protection for lessees when leased property is destroyed. It permits a lessee who is not in default to substitute goods satisfactory to the lessor. It also permits the use of insurance to purchase substitute goods or, at the consumer's option, insurance proceeds may be paid to the lessor with the lessee remaining liable for only the insurance deductible plus any amounts owed because of a prior default.
6. Section 2-1303, subsection (8) is amended to clarify that a lessor's remedies with regard to a prohibited transfer or a transfer that results in default is subject to the duty of the lessor to mitigate damages.

7. Section 2-1516 is amended to permit a lessee in a consumer lease to preserve remedies by notifying either the lessor or any assignee of the lessor of any default.
8. The amendment also adds the Uniform Comments that apply to each section and Maine Comments as appropriate.

LD 1812 An Act to Discourage Motor Vehicle Theft ONTP

SPONSOR(S) TWITCHELL	COMMITTEE REPORT ONTP	AMENDMENTS ADOPTED
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SUMMARY

The bill established the Motor Vehicle Chop Shop, Stolen and Altered Property Act.

LD 1822 An Act to Allow Admissible Evidence Concerning the Physical or Sexual Assault or Abuse of a Minor ONTP

SPONSOR(S) BOUTILIER BERUBE HOLLOWAY FARNSWORTH	COMMITTEE REPORT ONTP	AMENDMENTS ADOPTED
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SUMMARY

The bill allowed the prosecution, in a case when the charge is the physical or sexual assault or abuse of a minor, to put before the factfinder evidence of similar acts by the defendant, before or after the act in question, to prove the defendant's motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or absence of accident.

LD 1834 An Act Creating the Victims' Compensation Fund PUBLIC 806

SPONSOR(S) MACBRIDE COLLINS RICHARDS KETTERER	COMMITTEE REPORT OTP-AM MAJ ONTP MIN	AMENDMENTS ADOPTED H-1233 PARADIS P H-965 MAJ REP
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SUMMARY

The bill established the Victims' Compensation Board and the Victims' Compensation Fund.

The Victims' Compensation Fund is not funded from the General Fund, but from assessments added to the fine imposed on individuals convicted of crimes or adjudicated to have committed traffic infractions. The schedule of those assessments is as follows: \$20 for each felony; \$10 for each misdemeanor; and \$5 for each civil violation and traffic infraction. The bill provides that any excess funds in the Victims' Compensation Fund will be transferred to the General Fund on a quarterly basis.

The bill establishes a \$5,000 maximum award to provide a reasonable amount of compensation, while ensuring the availability of funds for as many victims as possible.

Federal legislation requires the Federal Government to reimburse a state 40% of the victim compensation payments actually made to victims, but only if the state law or the victim compensation plan meets