

MAINE STATE LEGISLATURE

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STATE OF MAINE
117TH LEGISLATURE

FIRST REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY

AUGUST 1995

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**ONE HUNDRED AND SEVENTEENTH LEGISLATURE
FIRST REGULAR SESSION**

**SUMMARY OF LEGISLATION BEFORE
THE JOINT STANDING COMMITTEES**

AUGUST 1995

This document is a compilation of the bill summaries prepared by this office for the Joint Standing 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. The publication, History and Final Disposition of Legislative Documents, is helpful in determining to which committee any particular bill was referred.

In this document, the committee report or reports, the prime sponsor for each bill and the lead co-sponsor in each house if one has been designated are listed below each bill title. All adopted amendments are listed, by paper number, together with the sponsor for floor amendments. Final action on each bill is listed to the right of the title. Various categories of final action are abbreviated as follows:

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

These summaries were prepared by the analyst or analysts assigned to the committee. If more detailed information is needed on a bill, contact the committee analyst.

5581LHS

LD 383 An Act to Exclude Out-of-court Statements by Juveniles in Child Protection Cases

ONTP

SPONSOR(S)
BAILEY

COMMITTEE REPORT
ONTP

AMENDMENTS ADOPTED

SUMMARY

Current law allows a court in a child protection proceeding to admit and consider out-of-court statements made by children. This bill would have repealed that ability.

LD 396 An Act to Amend the Laws Governing Wrongful Death Caused by Truck Drivers

PUBLIC 401

SPONSOR(S)
LEMKE

COMMITTEE REPORT
OTP-AM A
ONTP B
OTP-AM C

AMENDMENTS ADOPTED
H-212

SUMMARY

This bill proposed the following changes to the laws governing drivers of commercial trucks.

1. It would have extended criminal responsibility for manslaughter to a person with indirect control or management over a driver of a commercial truck if that person intentionally or knowingly causes that driver to violate the rules that prohibit commercial truck drivers from driving more than 10 consecutive hours and that require drivers to maintain a record of duty status. Violation of this provision would be a Class C crime.
2. It would have provided that, for purposes of the laws governing manslaughter, a person is presumed to have acted with criminal negligence if, while violating the rules prohibiting commercial truck drivers from driving more than 10 consecutive hours and requiring drivers to maintain a record of duty status, the driver of a commercial truck causes the death of another person.
3. It would have removed the cap on damages for loss of companionship and punitive damages for wrongful death actions when death is caused by a person driving a commercial vehicle in violation of rules that prohibit such truck drivers from driving more than 10 consecutive hours and that require such drivers to maintain a record of duty status.
4. It would have increased the penalty for violating rules prohibiting commercial truck drivers from driving more than 10 consecutive hours and requiring maintenance of records of duty status from a Class E crime to a Class D crime and would have required the impoundment of the truck for a period of 7 calendar days.

COMMITTEE AMENDMENT "A" (H-212) is the Majority Report. This amendment replaces the bill. It creates a new Class C crime covering situations in which a federal trucking regulation adopted by rule by the State Police is intentionally or knowingly violated, the violation in fact causes a death or serious bodily injury, and the death or serious bodily injury is a foreseeable result of the violation. The person killed or injured must be a person whose health or safety is protected by the rule that was violated. This provision applies to truck operators, supervisors and trucking companies who violate the rules or who knowingly permit the violation of the rules.

COMMITTEE AMENDMENT "B" (H-213) is a Minority Report. This amendment would have rewritten the manslaughter provision governing truck drivers and their supervisors. It would have created a Class C crime of manslaughter for operators or supervisors of operators who intentionally or knowingly violate a

federal regulation governing hours of service and record keeping, and that violation in fact causes a person's death. The amendment would have deleted sections 3 and 4 of the bill, and revised section 6 of the bill to delete the provisions concerning impoundment of vehicles. It instead would have required the Secretary of State to suspend the commercial operating license of a driver who has 3 or more violations of the hours of service or record-keeping regulations within a 12-month period. The minimum suspension would be 30 days.

LD 401 An Act to Continue Protection Under a Protection From Abuse Order

PUBLIC 125

SPONSOR(S)
DESMOND

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
H-174

SUMMARY

This bill would have changed the duration of a protection from abuse order or approved consent agreement from a one-year limit to an indefinite period of time. It would have allowed the order to be terminated upon motion by one of the parties, if both parties agree.

COMMITTEE AMENDMENT "A" (H-174) replaces the bill. It increases the maximum length of time that an initial or subsequent protection from abuse order may be in effect from one year to 2 years. In addition, this amendment authorizes the court to continue the effect of an existing order if the plaintiff has filed a motion to extend the order upon its expiration. The order remains in effect until a hearing is held on the motion to extend, which must be within 21 days of filing the complaint.

LD 408 An Act to Exempt Individual Retirement Accounts from Attachment

PUBLIC 35

SPONSOR(S)
NADEAU

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
H-55

SUMMARY

The purpose of this bill is to make individual retirement accounts exempt from attachment.

COMMITTEE AMENDMENT "A" (H-55) replaces the bill. It amends the exemption provisions relating to pension and similar plans to include individual retirement accounts. The amount of the exemption depends on how much is reasonably necessary for the support of the debtor and any dependent of the debtor.

LD 410 An Act to Amend the Notice Requirements of the Maine Tort Claims Act

ONTP

SPONSOR(S)
MORRISON
MILLS

COMMITTEE REPORT
ONTP

AMENDMENTS ADOPTED

SUMMARY

This bill would have waived the notice requirements of the Maine Tort Claims Act in cases when the insurance carrier for the governmental entity is in contact with the claimant or the claimant's representative during the 180-day notice period.