

MAINE STATE LEGISLATURE

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STATE OF MAINE
117TH LEGISLATURE

FIRST REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
CRIMINAL JUSTICE

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:

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

8. For years in which the Department of Corrections fails to completely reimburse the county for jailed prisoners it rescinds the requirement that the department is to withhold 30% of reimbursement pending demonstration that the funds will be used for community corrections.

COMMITTEE AMENDMENT "A" (H-287) replaces the bill. The amendment repeals the provision of law that limits the Department of Corrections' reimbursement of community corrections funds to the counties to the actual amount appropriated in fiscal years 1993-94 and 1994-95. This repeal takes effect July 1, 1997, so the department must budget the full cost of reimbursements to the counties into its budget beginning in that year. The amendment also adds a fiscal note.

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" (S-395) incorporates changes made to the Maine Revised Statutes, Title 34-A, section 1210, subsection 2 by Public Law 1995, chapter 368, Part K, section 3. This change limits the obligation of the Department of Corrections to reimburse counties to the actual amount appropriated during fiscal years 1993-94, 1995-96 and 1996-97.

LD 1127 An Act to Provide Funds to Reimburse the Counties for the ONTP
Cost of Housing Certain Prisoners

| SPONSOR(S) | COMMITTEE REPORT | AMENDMENTS ADOPTED |
|-------------------|-------------------------|---------------------------|
| LOOK | ONTP | |

SUMMARY

This bill would have required the Department of Corrections to identify the cost of reimbursement to the counties under the community corrections laws along with an impact statement detailing the local impact if funding were not included in the Governor's biennial budget recommendations. It also would have provided a General Fund appropriation to pay counties for the amounts not reimbursed during fiscal years 1991-92 through 1994-95, when the department's obligation was statutorily limited to the appropriated amount.

LD 1167 An Act to Amend the Operating-under-the-influence Laws INDEF PP

| SPONSOR(S) | COMMITTEE REPORT | AMENDMENTS ADOPTED |
|-------------------|-------------------------|---------------------------|
| GWADOSKY | OTP-AM | H-543 |

SUMMARY

This bill would have made it a mandatory condition of bail that a person arrested for operating under the influence could not be released until the person was no longer under the influence of alcohol or drugs or until a 3rd party who was not under the influence of alcohol or drugs agreed to take responsibility for that person.

The bill would have changed the time period used to calculate first and subsequent OUI offenses from 6 years to 10 years.

The bill would have changed the implied consent warnings and the classification of a refusal as a crime to ensure consistency in the various OUI laws.

The bill would have increased the penalties for offenders of the operating-under-the-influence laws and would have established the criminal penalties for persons who refused to submit to chemical tests to determine blood-alcohol and drug concentrations.

The bill would have enacted new provisions that increased the criminal penalties for persons who drove after their licenses had been suspended for operating under the influence.

The bill would have required the impoundment of a motor vehicle of a person arrested for OUI until that person was no longer under the influence of intoxicating liquor or drugs or until a 3rd party who was not under the influence of intoxicating liquor or drugs, and who was either the legal owner of the vehicle or had been authorized by either the person arrested or the legal owner to retrieve the vehicle. A vehicle could not have been released until all towing and storage charges had been paid.

The bill would have made actions on administrative license suspension taken by the Secretary of State consistent with the enhanced criminal penalty provisions of the bill relating to OUIs.

The bill would have required the Secretary of State to revoke permanently the license of any person convicted of homicide using a vehicle if the person were under the influence of liquor or drugs at the time of the offense, granted the Secretary of State discretionary authority to relicense a person whose license had been permanently revoked 10 years after the person was no longer incarcerated and required the Secretary of State to revoke the license permanently if a person subsequently relicensed were convicted of another OUI offense.

The bill would have subjected conditional and provisional license holders to administrative license suspension for operating a motor vehicle with any amount of alcohol in the blood.

The bill would have granted the Secretary of State discretionary authority to reinstate the license of a repeat offender of operating under the influence prior to the expiration of the total period of license suspension if the offender installed an approved ignition interlock device in the motor vehicle the offender operated.

The bill also would have modified the warnings a law enforcement officer would have had to give to a person arrested for operating under the influence before a chemical test was administered. The period of license suspension for refusing to take a chemical test to determine blood-alcohol or drug concentration levels would have been increased from 180 days to 6 years based on the number of prior refusals.

COMMITTEE AMENDMENT "A" (H-543) replaced the bill. It would have replaced the term "probable cause" with "reasonable and articulable suspicion" as the standard for when a law enforcement officer could stop a motor vehicle.

This amendment would have changed the definition of "chemical test" to mean one or more tests to determine blood-alcohol level or drug concentration by analysis of blood, breath or urine.

This amendment would have clarified that a person would have had to submit to a chemical test or tests to determine blood-alcohol level and drug concentration if a law enforcement officer had probable cause to believe the person operated a motor vehicle while under the influence of intoxicants. The license of a person who failed to submit to a test or tests to determine blood-alcohol level or drug concentration would have had to be suspended by the Secretary of State.

It would have eliminated the provision that as a mandatory condition of bail a person arrested for operating under the influence could not be released until the person was no longer under the influence of alcohol or drugs or until a 3rd party who was not under the influence of alcohol or drugs agreed to take responsibility for that person.

The amendment would have changed the time period used to calculate first and subsequent OUI offenses from 6 years to 10 years.

The amendment would have eliminated the provisions that changed the implied consent warnings and classified a refusal to submit to a test as a crime.

The amendment would have increased the penalties for persons who refuse to submit to a test and for offenders of the operating-under-the-influence laws and would have established new provisions that increase the criminal penalties for persons who drive after their licenses had been suspended for operating under the influence.

The amendment would have allowed for the impoundment of a motor vehicle of a person arrested for OUI for at least 8 hours and until all towing and storage charges had been paid.

The amendment would have made actions on administrative license suspension taken by the Secretary of State consistent with the enhanced criminal penalty provisions of the bill relating to OUIs.

The amendment would have required the Secretary of State to revoke permanently the license of any person convicted of homicide using a vehicle if the person were under the influence of liquor or drugs at the time of the offense, granted the Secretary of State discretionary authority to relicense a person whose license had been permanently revoked 10 years after the person was no longer incarcerated and required the Secretary of State to revoke the license permanently if a person subsequently relicensed were convicted of another OUI offense.

The amendment would have subjected conditional and provisional license holders to administrative license suspension for operating a motor vehicle with any amount of alcohol in the blood.

The amendment would have granted the Secretary of State discretionary authority to reinstate the license of a repeat offender of operating under the influence prior to the expiration of the total period of license suspension if the offender installed an approved ignition interlock device in the motor vehicle the offender operated.

This amendment would have changed the implied consent law to require law enforcement officers to inform persons for whom the officers had probable cause to believe had operated a motor vehicle while under the influence of intoxicants that a refusal to comply with the duty to submit to a chemical test or tests would be considered an aggravating factor at sentencing and would subject the person to, in addition to other penalties, a mandatory minimum period of incarceration. This amendment was intended to comply with the requirements of the United States Court of Appeals for the First Circuit's decision in Alan D. Roberts v. State of Maine, No. 93-2392.

The amendment also would have added a fiscal note.

This bill and all its accompanying papers were indefinitely postponed, because House Amendment "A" (H-528) to LD 706, "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1996 and June 30, 1997," PL 1995, chapter 368, incorporated the entire Committee Amendment "A" (H-543) that replaced LD 1167.

**LD 1173 An Act to Amend the Maine Criminal Code Sentence
Alternative for Forfeiture of Firearms**

PUBLIC 252

SPONSOR(S)
BUNKER

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
H-286

SUMMARY

This bill requires the forfeiture of a firearm or firearms illegally owned, possessed or under a defendant's control. It is modelled after the sentence alternative currently found in the Maine Criminal Code.