

MAINE STATE LEGISLATURE

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**STATE OF MAINE
117TH LEGISLATURE**

SECOND REGULAR SESSION

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY**

JUNE 1996

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Sen. Sean F. Faircloth

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**ONE HUNDRED SEVENTEENTH LEGISLATURE
SECOND REGULAR SESSION**

***Summary Of Legislation Before The Joint Standing Committees
June 1996***

We are pleased to provide this summary of bills that were considered by the 15 Joint Standing Committees of the Maine Legislature staffed by this office. The document is a compilation of bill summaries which describe each bill, committee amendments and other relevant amendments, as well as the final action taken on the bill. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized alphabetically by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are 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 finally passed 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>

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is July 4, 1996.

LD 1371, a bill carried over from the First Regular Session, proposed several changes to the laws relating to civil actions seeking damages. The bill would have established assumption of risk as an independent defense. Under current law, assumption of risk is relevant only as a factor to be considered in the comparative negligence determination.

The bill also proposed that a product manufacturer or seller could not be held liable for damage caused by an aspect of the product that was an inherent characteristic of that type of product and that was known to the ordinary consumer. LD 1371 also proposed that a plaintiff claiming that a product was defectively designed would have to establish that a safer alternative design existed that would have avoided the harm, a modification of Maine's existing "danger-utility" test for product defects, under which the existence of a feasible alternative design is one of three relevant factors.

LD 1371 also would have established a number of procedural and substantive rules relating to the award of punitive damages in civil cases. The bill would have barred plaintiffs from demanding a specific amount of punitive damages in the complaint, permitted bifurcation of civil trials into liability and punitive damages phases, established factors for consideration in determining the appropriate level of punitive damages, applied existing comparative negligence principles to punitive damages awards, codified the requirement that the plaintiff prove by clear and convincing evidence that the defendant acted with malice in order to sustain a punitive damages award, limited the amount of punitive damages to 2 times the amount of compensatory damages or \$350,000, restricted the availability of multiple punitive damages awards for the same conduct and limited the availability of punitive damages for conduct regulated by the government.

LD 1445 **An Act to Limit the Liability of Property Owners in Cases of Nonnegligent Lead Poisoning** PUBLIC 572
EMERGENCY

<u>Sponsor(s)</u> BERUBE	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-463
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LD 1445, a bill carried over from the First Regular Session, proposed to limit the liability of landlords for lead poisoning to \$250,000 unless the landlord had actual notice of conditions likely to cause lead poisoning and refused to take corrective action.

Committee Amendment "A" (S-463) proposed to replace the original bill. The amendment would have added an emergency preamble, lowered the current cap on lead-poisoning liability from \$750,000 to \$600,000 and changed the repeal date for the cap from April 15, 1996 to October 1, 1999. The amendment also proposed to create a task force to study issues related to the availability of insurance for property owners, the effectiveness of the cap in protecting both property owners and the families of lead-poisoned children and mechanisms to financially assist property owners in lead abatement. The proposed task force would have to report to the legislative committees having jurisdiction over judiciary and human resources matters by November 1, 1998. The amendment also included a fiscal note.

Enacted law summary

Public Law 1995, chapter 572, enacted as an emergency, lowers the cap on lead-poisoning liability from \$750,000 to \$600,000 and changes the repeal date for the cap from April 15, 1996 to October 1, 1999. It also creates a task force to study issues related to the availability of insurance for property owners, the effectiveness of the cap in protecting both property owners and the families of lead-poisoned children and mechanisms to financially assist property owners in

lead abatement. The task force is required to report to the joint standing committees of the Legislature having jurisdiction over judiciary and human resources matters by November 1, 1998. Public Law 1995, chapter 572 is effective March 29, 1996.

LD 1448 An Act to Reconcile Rights and Responsibilities with Respect to Sexual Orientation and Related Matters ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BERUBE	ONTP	

LD 1448 proposed to reconcile the respective rights and responsibilities of individuals, business and organizations with respect to issues of sexual orientation and related matters.

LD 1448 would have amended the Maine Human Rights Act to prohibit discrimination in employment and housing against a person who has been the victim of a crime involving violence or the threat of violence and who reports that crime to law enforcement, provided that person was not involved in criminal conduct or misconduct relating to employment.

LD 1448 would have amended the Maine Human Rights Act to prohibit discrimination in employment, housing, access to public accommodations and credit based on sexual orientation. The bill proposed to define the term "sexual orientation" as the status or tendency toward homosexual or heterosexual attraction but the bill would not have expressly protected any form of sexual behavior, conduct or life-style that may be related to a sexual orientation. LD 1448 would have exempted religious organizations and certain nonprofit organizations from the provisions of the Act relating to sexual orientation.

LD 1448 would have provided that an employer or insurer is not required to provide insurance or other employee benefits to persons involved in homosexual relationships with an employee because the employer provides those benefits to employees' spouses and children and that employers are not required to engage in affirmative action or to keep employment records relating to sexual orientation.

LD 1448 would have prohibited lawsuits under the Maine Human Rights Act that force participation of groups in privately sponsored events such as parades or conventions for the purpose of advocating a certain life-style based on sexual orientation.

LD 1448 would have prohibited lawsuits based on sexual orientation discrimination against employers with less than 15 employees who are exempt from a lawsuit under the federal Americans with Disabilities Act and against landlords who own less than 5 rental units or who reside in the building in question.

LD 1448 would have prohibited lawsuits to force any school to incorporate any particular view of homosexual orientation or behavior in its curriculum and would have expressly left these other decisions under the jurisdiction of local school boards and governing bodies of educational institutions.

LD 1448 would not have required the placement of any child for adoption or foster care when one or more of the prospective parents is homosexual and any person or agency responsible for the placement of a child would have been lawfully able to consider the sexual orientation of the prospective parents. The bill proposed to expressly affirm public policy in support of marriage and makes clear that marriage is limited to one female and one male and that other forms of