

MAINE STATE LEGISLATURE

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**STATE OF MAINE
118TH LEGISLATURE**

**FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION**

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
CRIMINAL JUSTICE**

JULY 1997

MEMBERS:

Sen. Robert E. Murray, Jr., Chair
Sen. William B. O'Gara
Sen. Betty Lou Mitchell

Rep. Edward J. Povich, Chair
Rep. George H. Bunker, Jr.
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Rep. James H. Tobin, Jr.

Staff:

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ONE HUNDRED EIGHTEENTH LEGISLATURE
FIRST REGULAR AND FIRST SPECIAL SESSIONS

Summary Of Legislation Before The Joint Standing Committees
August 1997

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. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

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:

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|---|---|
| CARRIED OVER..... | Bill carried over to Second Regular Session |
| CON RES XXX..... | Chapter # of Constitutional Resolution passed by both Houses |
| CONF CMTE UNABLE TO AGREE..... | Committee of Conference unable to agree; bill died |
| DIED BETWEEN BODIES..... | House & Senate disagree; bill died |
| DIED IN CONCURRENCE..... | One body accepts ONTP report; the other indefinitely postpones the bill |
| DIED ON ADJOURNMENT..... | Action incomplete when session ended; bill died |
| EMERGENCY..... | Enacted law takes effect sooner than 90 days |
| FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... | Emergency bill failed to get 2/3 vote |
| FAILED ENACTMENT/FINAL PASSAGE..... | Bill failed to get majority vote |
| FAILED MANDATE ENACTMENT..... | Bill imposing local mandate failed to get 2/3 vote |
| INDEF PP..... | Bill Indefinitely Postponed |
| ONTP..... | Ought Not To Pass report accepted |
| OTP ND..... | Committee report Ought To Pass In New Draft |
| OTP ND/NT..... | Committee report Ought To Pass In New Draft/New Title |
| P&S XXX..... | Chapter # of enacted Private & Special Law |
| PUBLIC XXX..... | Chapter # of enacted Public Law |
| RESOLVE XXX..... | Chapter # of finally passed Resolve |
| UNSIGNED..... | Bill held by Governor |
| VETO SUSTAINED..... | Legislature failed to override Governor's Veto |

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is June 26, 1997 and September 19, 1997 for the First Special Session.

David E. Boulter, Director
Offices Located in the State House, Rooms 101/107/135

3. Create the presumption that the ingredients in a container are those listed on a label on the container or those listed for that substance in databases maintained or relied upon by poison control centers certified by a national association of poison control centers;
4. Permit the judge to require an offender to perform public service or to undergo evaluation, education or treatment with a licensed social worker or a licensed substance abuse counselor; and
5. Add a fiscal note to the bill.

House Amendment “A” (H-546) to Committee Amendment "A" (H-382) proposed to allow the court to suspend the forfeiture imposed for unlawfully using or possessing inhalants if the court ordered the person to perform public service work or undergo evaluation, education or treatment.

House Amendment “B” (H-571) to Committee Amendment "A" (H-382) proposed to restrict the unlawful use or possession of inhalants to juveniles.

Enacted law summary

Public Law 1997, chapter 325 does the following:

1. Makes the prohibition against toxic vapor inhalation a civil violation and sets mandatory forfeitures of \$100 to \$300 for a first offense, \$200 to \$500 for a 2nd offense and \$500 for a 3rd and each subsequent offense;
2. Specifies that a person may not intentionally or knowingly inhale, ingest, apply or smell a toxic substance for the purpose of causing intoxication, euphoria, inebriation, excitement, stupefaction or the dulling of the brain or nervous system and that a person may not intentionally or knowingly possess a toxic substance with the intent to inhale, ingest, apply or smell;
3. Creates the presumption that a person violated the section if there were proof that the person intentionally or knowingly inhaled, ingested, applied or used a substance in a manner contrary to the directions for use, cautions or warnings on the label of the substance container;
4. Creates the presumption that the ingredients in a container are those listed on a label on the container or those listed for that substance in databases maintained or relied upon by poison control centers certified by a national association of poison control centers; and
5. Permits the court to suspend a forfeiture and require an offender to perform public service or to undergo evaluation, education or treatment with a licensed social worker or a licensed substance abuse counselor.

LD 310

An Act to Permit Investigative Officers within the Employ of the Department of Corrections to Exercise the Powers of Law Enforcement Officers

PUBLIC 102

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|--------------------------------|---------------------------|
| MCALEVEY | OTP-AM MAJ ONTP MIN | H-103 |

LD 310 proposed to allow employees of the Department of Corrections who are certified as law enforcement officers to exercise the powers of law enforcement officers as part of their employment duties, if authorized to do so by the Commissioner of Corrections.

Committee Amendment "A" (H-103) was the majority report of the Joint Standing Committee on Criminal Justice and proposed to limit the authority of investigative officers by stating that they could not exercise law enforcement powers against other employees of the department. The amendment also proposed that internal investigations of department employees would be conducted according to any applicable collective bargaining agreement. The amendment also would have added a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 102 allows Department of Corrections' employees who are certified as law enforcement officers to exercise the powers of law enforcement officers as part of their employment duties. This authority must first be authorized by the Commissioner of Corrections and may not be used against other employees of the department. Public Law 1997, chapter 102 specifies that internal investigations of department employees be conducted according to any applicable collective bargaining agreement.

| | | |
|---------------|---|-------------------|
| LD 328 | An Act to Increase the Penalty for Burglary When the Actor has Prior Convictions for Certain Enumerated Crimes | PUBLIC 477 |
|---------------|---|-------------------|

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|-----------------------------|-----------------------------------|------------------------------------|
| <u>Sponsor(s)</u> POVICH | <u>Committee Report</u> OTP-AM | <u>Amendments Adopted</u> H-384 |
|-----------------------------|-----------------------------------|------------------------------------|

LD 328 proposed to enhance the sentencing classification for a burglary from a Class C crime to a Class B crime if the defendant had at least 2 prior convictions for any combination of theft, aggravated forgery, forgery, negotiating a worthless instrument, burglary, robbery or any attempts to commit those crimes. This bill also proposed to provide that a prior conviction for burglary could be considered regardless of what crime the offender intended to commit at the time of the burglary.

Committee Amendment "A" (H-384) proposed to limit the types of prior convictions that make burglary a Class B crime. The amendment proposed to specify the technical aspects of defining prior convictions and to add a fiscal note.

Enacted law summary

Public Law 1997, chapter 328 enhances the sentencing classification for a burglary from a Class C crime to a Class B crime if the defendant intentionally or recklessly inflicted or attempted to inflict bodily injury on anyone during the commission of the burglary, the defendant was armed with a dangerous weapon other than a firearm, the violation occurred in a dwelling place or at the time of the burglary the defendant had 2 or more prior Class A, B or C convictions for any combination of burglary, robbery, theft, aggravated forgery, forgery, negotiating a worthless instrument or any attempts to commit those crimes.