

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**STATE OF MAINE  
118TH LEGISLATURE**

**FIRST REGULAR SESSION  
AND  
FIRST SPECIAL SESSION**

**BILL SUMMARIES  
JOINT STANDING COMMITTEE  
ON  
JUDICIARY**

**JULY 1997**

***MEMBERS:***

*Sen. Susan W. Longley, Chair*

*Sen. Lloyd P. LaFountain III*

*Sen. John W. Benoit*

*Rep. Richard H. Thompson, Chair*

*Rep. Elizabeth Watson*

*Rep. David Etnier*

*Rep. Joseph M. Jabar, Sr.*

*Rep. Richard H. Mailhot*

*Rep. Judith A. Powers*

*Rep. Debra D. Plowman*

*Rep. David R. Madore*

*Rep. Richard A. Nass*

*Rep. G. Paul Waterhouse*

***Staff:***

*Margaret J. Reinsch, Principal Analyst*

*Lisa C. Copenhaver, Legislative Analyst*

*Thomas Eyman, Legislative Analyst*

*Office of Policy and Legal Analysis*

*Room 101/107/135, 13 State House Station*

*Augusta, ME 04333*

*(207)287-1670*



**Maine State Legislature**  
**OFFICE OF POLICY AND LEGAL ANALYSIS**

13 State House Station, Augusta, Maine 04333-0013  
 Telephone: (207) 287-1670  
 Fax: (207) 287-1275

**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](http://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:

<i>CARRIED OVER</i> .....	<i>Bill carried over to Second Regular 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 &amp; Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i> .....	<i>One body accepts ONTP report; the other indefinitely postpones the bill</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/FINAL PASSAGE</i> .....	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</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>OTP ND</i> .....	<i>Committee report Ought To Pass In New Draft</i>
<i>OTP ND/NT</i> .....	<i>Committee report Ought To Pass In New Draft/New Title</i>
<i>P&amp;S XXX</i> .....	<i>Chapter # of enacted Private &amp; 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>Bill held by Governor</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 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

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL J PARADIS	OTP-AM MAJ ONTP MIN	H-468

LD 351 proposed to remove criminal penalties for the furnishing or possession of 10 or fewer hypodermic apparatuses and for the furnishing of any number of hypodermic apparatuses as a component of a Bureau of Health-certified needle exchange program.

**Committee Amendment "A" (H-468)** (Majority Report) proposed to amend the Criminal Code with regard to trafficking, furnishing and possession hypodermic apparatuses. It proposed to require the Bureau of Health to adopt rules governing hypodermic exchange programs.

**House Amendment "A" to Committee Amendment "A" (H-528)** proposed to make the sale of hypodermic apparatuses tax exempt. (Not adopted.)

#### *Enacted law summary*

Public Law 1997, chapter 340 requires the Bureau of Health to adopt rules governing hypodermic apparatus exchange programs. The rules are major substantive rules, requiring legislative approval before final adoption. The Bureau of Health is also required to report to the Legislature on the programs on an annual basis. The law also decriminalizes the possession of 10 or fewer hypodermic apparatus and the furnishing of hypodermic apparatuses in conjunction with a certified needle exchange program.

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
THOMPSON	OTP-AM	H-79

LD 363 proposed to replace the assumption in Title 18-A, section 3-906 that estate assets will be distributed in kind by a statement that the personal representative has a duty to distribute the estate in the manner that serves all the devisees' best interests. The bill also proposed to require that if residuary devisees want to assume responsibility for direction of investments, they must all agree on the identity of the investment manager.

**Committee Amendment "A" (H-79)** proposed to add a Maine Comment to explain the changes to the Probate Code.

#### *Enacted law summary*

Public Law 1997, chapter 73 eliminates the assumption in Title 18-A, section 3-906 that estate assets will be distributed in kind. The assumption is replaced by a statement that the personal representative has a duty to distribute the estate in the manner that serves all the devisees' best interests. If residuary devisees want to assume responsibility for direction of investments, they must all agree on the identity of an investment manager who can

give consistent investment instructions to the personal representative. This law applies retroactively to January 1, 1997.

**LD 386**                      **An Act to Amend the Civil Order of Arrest Procedures for Enforcement of Money Judgments**                      **ONTP**

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

LD 386 proposed to amend the law governing the procedures for enforcement of money judgments. It would have required the court to set an amount of bail for a debtor whom the sheriff has arrested under a civil order of arrest and delivered to the District Court for disclosure or a contempt hearing. The bill proposed to require that the debtor post bail and not be released on personal recognizance.

**LD 397**                      **An Act to Change the Burden of Proof for Timber Trespass and Timber Theft Violations**                      **PUBLIC 152**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LONGLEY	OTP-AM	S-103

LD 397 proposed to eliminate a culpable state of mind as an element of the civil violation of unlawful cutting of trees. The bill also proposed to eliminate boundary disputes as an exemption for cutting someone else's trees, and to require landowner permission to cut trees except in specific circumstances.

**Committee Amendment "A" (S-103)** proposed to authorize courts to order restitution for unlawful timber harvesting and to provide for a form of accomplice liability for timber theft.

***Enacted law summary***

Public Law 1997, chapter 152 makes the civil violation of unlawfully cutting someone else's trees easier to prosecute. It removes the culpable state of mind element, and deletes the exemption for boundary disputes. It authorizes courts to order restitution to the owner of the trees. It also authorizes prosecution of persons who are legally responsible for the unlawful cutting, even though they did not participate in the actual cutting.

**LD 398**                      **An Act to Recover Economic Loss Attributable to Tobacco Use**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS TOWNSEND	ONTP    MAJ OTP-AM    MIN	