### MAINE STATE LEGISLATURE

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### STATE OF MAINE 119TH LEGISLATURE

### SECOND REGULAR SESSION

# BILL SUMMARIES JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE

### **JULY 2000**

MEMBERS: Sen. Robert E. Murray, Jr., Chair Sen. William B. O'Gara Sen. Paul T. Davis

> Rep. Edward J. Povich, Chair Rep. Roger D. Frechette Rep. Christopher T. Muse Rep. Nancy L. Chizmar Rep. Michael W. Quint Rep. Michael J. McAlevey Rep. Judith B. Peavey Rep. Julie Ann O'Brien Rep. James H. Tobin, Jr. Rep. Roger L. Sherman

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### ONE HUNDRED NINETEENTH LEGISLATURE SECOND REGULAR SESSION

## Summary Of Legislation Before The Joint Standing Committees July 2000

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

The document is organized for convenient reference to information on bills considered by the committees. It is organized 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, <u>History and Final Disposition of Legislative Documents</u>, 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:

CON RES XXXCh	napter # of Constitutional Resolution passed by both Houses
DIED BETWEEN BODIES	House & Senate disagree; bill died
	ccepts ONTP report; the other indefinitely postpones the bill
	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
NOT PROPERLY BEFORE THE BODY	Ruled out of order by the presiding officers; bill died
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 LawChapter # of enacted Public Law
PUBLIC XXX	Chapter # of enacted Public Law
RESOLVE XXX	Chapter # of finally passed Resolve
UNSIGNED	Bill held by GovernorLegislature failed to override Governor's Veto
VETO SUSTAINED	Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is August 11, 2000.

### Enacted law summary

Public Law 1999, chapter 595 authorizes schools to disseminate education records of preadjudicated juveniles to criminal justice agencies or agencies that by court order or agreement of the juvenile are responsible for the health or welfare of the juvenile. The education records may be disseminated only if the records are relevant to and disseminated for the purpose of creating or maintaining an individualized plan for the juvenile's rehabilitation. Education records received are confidential and may not be further disseminated, except to the court or as otherwise provided by law. The persons to whom the education records are disseminated shall certify in writing to the school that the records will not be disclosed to any other party, except the court or as otherwise provided by law, without the written consent of the juvenile or the juvenile's parent or guardian.

LD 2069

An Act to Establish a Critical Incident Review Panel Regarding Physical Force Used by Officers Causing Serious Bodily Injury or Death to Another Person **ONTP** 

Sponsor(s)Committee ReportAmendments AdoptedLAVERDIEREONTP

LD 2069 proposed to require that any investigation conducted by the Attorney General or a law enforcement agency of any incident in which a law enforcement officer used physical force in performing that officer's duties that resulted in serious bodily injury or death to another person be completed within 30 days.

The bill also proposed to establish a critical incident review panel to review the use of physical force by law enforcement or corrections officers that results in serious bodily injury or death to another person.

LD 2174

An Act to Protect the Citizens of Maine from the Dangers of Counterfeit Consumer Goods

PUBLIC 767 EMERGENCY

Sponsor(s)	Committee Report	Amendments Adopted
KILKELLY	OTP-AM	S-612
FISHER		S-781 MICHAUD

LD 2174 proposed that a person who may be prosecuted under Title 17-A, §705 and under Title 17-A, §705-A, a new crime "trademark counterfeiting," must be prosecuted under §705-A. LD 2174 proposed that a person is guilty of trademark counterfeiting if that person willfully manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses with intent to sell or distribute an item or services bearing or identified by a counterfeit mark. LD 2174 proposed that a person having possession, custody or control of more than 25 items bearing a counterfeit mark is presumed to possess those items with intent to sell or distribute.

LD 2174 proposed that an item bearing a counterfeit mark or used in connection with a violation of this section must be seized by a law enforcement officer.

**Committee Amendment "A" (S-612)** proposed to replace the bill. The amendment proposed to amend provisions dealing with deceptive business practices under the fraud provisions of the Maine Criminal Code. The amendment proposed to specify that "mislabeled" for the purposes of the deceptive business practices law includes counterfeiting or unauthorized reproducing of a trademark.

This amendment proposed to add to the deceptive business practices law a seizure provision that specifies that any item that bears marks in violation of that law or any property that was used in or can be connected to the violation is contraband and may be seized by a law enforcement officer.

The amendment proposed to establish the Commission to Study Counterfeiting and the Unauthorized Sale of Consumer Goods and Labels. The amendment proposed that the commission's duties include examining the effect of counterfeit goods in this State, including the effect of counterfeit Universal Price Code labels on state revenue, losses to merchants and manufacturers of legitimate goods and the impact on consumers; examining the sale of consumer products at unused property sales and flea markets, including whether these sales are authorized and the potentially harmful consequences of the sale of these products; and examining whether current state law acts as an appropriate deterrent or imposes sufficient sanctions for such conduct. The amendment proposed that the commission report its findings and any recommended legislation to the First Regular Session of the 120th Legislature by December 1, 2000.

This amendment also proposed to add an appropriation and a fiscal note.

**Senate Amendment "A" to Committee Amendment "A" (S-781)** proposed to remove the language establishing the Commission to Study Counterfeiting and the Unauthorized Sale of Consumer Goods and Labels and the appropriation for that commission.

#### Enacted law summary

Public Law 1999, chapter 767 amends provisions dealing with deceptive business practices under the fraud provisions of the Maine Criminal Code. Public Law 1999, chapter 767 specifies that "mislabeled" for the purposes of the deceptive business practices law includes counterfeiting or unauthorized reproducing of a trademark.

Public Law 1999, chapter 767 adds to the deceptive business practices law a seizure provision that specifies that any item that bears marks in violation of that law or any property that was used in or can be connected to the violation is contraband and may be seized by a law enforcement officer.

Public Law 1999, chapter 767 was enacted as an emergency measure effective May 8, 2000.