

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

*First Regular Session and
First Special Session*

Bill Summaries

*Joint Standing Committee
on
Judiciary*

August 2005

Members:

Sen. Barry J. Hobbins, Chair

Sen. Lynn Bromley

Sen. David R. Hastings III

*Rep. Deborah L. Pelletier-Simpson,
Chair*

Rep. Sean Faircloth

Rep. Stan Gerzofsky

Rep. Marilyn E. Canavan

Rep. Mark E. Bryant

Rep. Michael Edward Dunn

Rep. Roger L. Sherman

Rep. Roderick W. Carr

Rep. Joan Bryant-Deschenes

Rep. Joan M. Nass

Rep. Donna M. Loring

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Maine State Legislature

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122nd Legislature
First Regular Session and First Special Session

Summary of Legislation Considered by the Joint Standing Committees
August 2005

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 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. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included 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:

- 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
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 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 29, 2005; and for non-emergency legislation enacted in the First Special Session is September 17, 2005.

Joint Standing Committee on Judiciary

LD 932

An Act To Clearly Identify Maine Corporations

ONTP

<u>Sponsor(s)</u> LINDELL		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 932 proposed to require that a corporate business name clearly identify the status of the business as being incorporated as is required by many other jurisdictions.

LD 936

An Act To Amend the Maine Tort Claims Act

PUBLIC 448

<u>Sponsor(s)</u> MILLS J		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-694
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LD 936 proposed to amend the Maine Tort Claims Act to provide that discretionary function immunity does not apply to the negligent operation of a motor vehicle that is directly involved in a collision. The bill proposed to reverse the effect of the Maine Supreme Judicial Court's majority decision in Norton v. Hall, 2003 ME 118, and is consistent with the dissenting opinion.

Committee Amendment "A" (H-657), the majority report of the Joint Standing Committee on Judiciary, proposed to replace the bill. It proposed to revise the language amending the law that provides discretionary immunity for government entities and government employees to provide an exception from governmental immunity when the discretionary function involves the operation of a motor vehicle. It proposed to provide that there is no immunity for negligent operation of a motor vehicle that results in a collision. (Not adopted)

Committee Amendment "B" (H-694) proposed to provide that a governmental entity is not immune for negligent operation of a motor vehicle by an employee of the governmental entity when the employee's negligent operation of that motor vehicle results in a collision. It proposed no immunity for the governmental entity regardless of whether the Maine Tort Claims Act provides immunity for the employee.

House Amendment "A" to Committee Amendment "A" (H-666) proposed to amend Committee Amendment "A" by providing that there is no immunity for reckless operation of a motor vehicle that results in a collision as opposed to the negligent operation of a motor vehicle. (Not adopted)

Enacted law summary

Public Law 2005, chapter 448 amends the Maine Tort Claims Act to provide that a governmental entity is not immune for negligent operation of a motor vehicle by an employee of the governmental entity when the employee's negligent operation of that motor vehicle results in a collision. There is no immunity for the governmental entity regardless of whether the Maine Tort Claims Act provides immunity for the employee. The law governing the personal liability and immunity of employees of governmental entities is not affected.