

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

Second Regular Session

Bill Summaries

*Joint Standing Committee
on
Criminal Justice and Public Safety*

July 2006

Members:

*Sen. Bill Diamond, Chair
Sen. John M. Nutting
Sen. Dean F. Clukey*

*Rep. Patricia A. Blanchette, Chair
Rep. Stan Gerzofsky
Rep. Carol A. Grose*

*Rep. Rosaire "Ross" Paradis, Jr.
Rep. Stephen P. Hanley
Rep. Richard M. Sykes
Rep. John W. Churchill
Rep. Christian D. Greeley
Rep. Kimberly J. Davis
Rep. Gary E. Plummer*

Staff:

Marion Hylan Barr, Legislative Analyst

*Office of Policy and Legal Analysis
13 State House Station
Augusta, ME 04333
(207) 287-1670*

Maine State Legislature



Office of Policy and Legal Analysis Office of Fiscal and Program Review

122nd Maine Legislature Second Regular Session

Summary of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 arranged alphabetically by committee name 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/billsumm.htm).

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 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
P&S XXX.....	Chapter # of enacted Private & Special Law
PASSED.....	Joint Order passed in both bodies
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED (Pocket Veto).....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is August 23, 2006.

Joint Standing Committee on Criminal Justice and Public Safety

LD 1772 proposed to expand the list of prior crimes in the definition of “repeat sexual assault offender” to include offenses that were initially charged by the prosecuting attorney as gross sexual assault, gross sexual misconduct, rape, attempted murder accompanied by sexual assault or murder accompanied by sexual assault, but the conviction was for a different crime.

LD 1759

An Act To Strengthen Maine's Timber Theft Laws

PUBLIC 546

<u>Sponsor(s)</u> NUTTING J		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-517
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LD 1759 proposed to require that a copy of the measurement tally sheet or stumpage sheet for each truckload or harvested forest products transported to a handling or processing facility, in accordance with Title 10, section 2364-A, subsection 2-G, be provided to the landowner when the person conducting a harvest operation pays the landowner. The bill proposed that full payment for each truckload of harvested forest products transported to a handling or processing facility must be made to the landowner within 30 days of delivery.

LD 1759 proposed to establish a penalty of not less than \$300 for the first offense and a fine of \$500 for any subsequent offense within 5 years of the first offense. The bill also proposed to make it a Class E crime if a person violates the section 2 or more times within 5 years.

Committee Amendment “A” (S-517) proposed to replace the bill and to do the following:

1. Clarify definition provisions;
2. Specify that, absent a written contract to the contrary, the person conducting the harvest operation shall provide the landowner with full payment for each truckload of harvested forest products transported to a handling or processing facility within 45 days of delivery;
3. Redraft the penalty section to establish a fine of not more than \$1,000 for the first violation, a fine of not more than \$2,000 for a 2nd violation within a 5-year period and a Class E crime if a person commits a violation 3 or more times within a 5-year period;
4. Create a restitution provision, which directs the court in accordance with the requirements of the Maine Revised Statutes, Title 17-A, chapter 54, when appropriate, to order restitution on the basis of an adequate factual foundation. The amendment proposed that the amount of restitution may be determined by using the measured volume of the harvested forest products as listed on the measurement tally sheet or stumpage sheet in accordance with Title 10, section 2364-A, subsection 2 and by the terms of the sales contract according to the measurement procedures set forth in Title 10, section 2363-A that are applicable to a sale of wood; and
5. Direct the Commissioner of Conservation to report by March 1, 2008 to the joint standing committee of the Legislature having jurisdiction over criminal justice matters, observations regarding the effectiveness of the new penalties in deterring timber theft.

Enacted law summary

Public Law 2005, chapter 546 specifies that, absent a written contract to the contrary, a person conducting a forest harvest operation shall provide the landowner with full payment for each truckload of harvested forest products

Joint Standing Committee on Criminal Justice and Public Safety

transported to a handling or processing facility within 45 days of delivery. Public Law 2005, chapter 546 establishes a fine of not more than \$1,000 for the first violation, a fine of not more than \$2,000 for a 2nd violation within a 5-year period and a Class E crime if a person commits a violation 3 or more times within a 5-year period. Public Law 2005, chapter 546 also creates a restitution provision, which directs the court in accordance with the requirements of the Maine Revised Statutes, Title 17-A, chapter 54, when appropriate, to order restitution on the basis of an adequate factual foundation. The amount of restitution may be determined by using the measured volume of the harvested forest products as listed on the measurement tally sheet or stumpage sheet in accordance with Title 10, section 2364-A, subsection 2 and by the terms of the sales contract according to the measurement procedures set forth in Title 10, section 2363-A that are applicable to a sale of wood. Finally, Public Law 2005, chapter 546 directs the Commissioner of Conservation to report by March 1, 2008 to the joint standing committee of the Legislature having jurisdiction over criminal justice matters observations regarding the effectiveness of the new penalties in deterring timber theft.

LD 1771

An Act To Amend the Maine Criminal Code and Various Provisions Related to Juveniles

PUBLIC 507

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND	OTP-AM MAJ ONTP MIN	S-472

LD 1771 was a Department of Corrections bill that proposed to do the following:

1. Eliminate confusion in the law by substituting in Title 15 and Titles 12 and 29-A concerning juveniles convicted of adult offenses the term “confinement” for the term “detention” when referring to a certain disposition. “Detention” refers to pre-adjudication or pre-conviction placement. “Confinement” refers to short term placement flowing a conviction or adjudication. “Commitment” refers to indeterminate correctional placement after adjudication for a juvenile offense. The bill also proposed to clarify the definition of “juvenile client” to capture all of these classifications of status;
2. Require that any credits for related time served in detention prior to sentencing be deducted from any order of confinement; however, good time provisions do not apply to detention for juveniles;
3. Specify that persons who are arrested on a juvenile warrant but are more than 21 years of age at the time of the arrest are to be detained in adult facilities until they appear before the court. Current law requires persons arrested on a juvenile warrant to be detained in juvenile facilities, but current law also specifies that juvenile facilities may not house persons over 18 years of age. The bill proposed to clarify that a person over 21 must be detained with adults, and if a juvenile who is between 18 and 21 years of age is bound over, detention with adults will continue to occur, if ordered by the court;
4. Clarify in Title 15 that the bail process is not available for a person under 18 years of age charged with an adult Title 12 or 29-A offense; however, juveniles are still subject to the rules of detention in the Juvenile Code;
5. Apply the pre-petition confidentiality provisions to juvenile crimes relating to the operation of a motor vehicle while under the influence of alcohol or drugs. This change proposed to clarify that the confidentiality provision regarding a juvenile against whom a petition has not been filed applies also to those juveniles