

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
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Maine State Legislature



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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.

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It eliminates the requirement that the Commissioner of Corrections notify the court of the initial place of confinement of a person committed to the Department of Corrections, since the commissioner notifies the sheriff now and the courts receive the same information from sheriffs.

It adds correctional supervisors to those who may carry a concealed firearm with the permission of their employer.

It repeals the provision that requires the Commissioner of Corrections to promulgate rules for community services agreements.

It corrects an error in terminology in the provision governing boards of visitors.

It changes the title of the chief administrative officer of the Mountain View Youth Development Center from director to superintendent to make it identical to the title for the chief administrative officer of the Long Creek Youth Development Center.

It substitutes the term “juvenile community corrections officers” for “juvenile caseworkers” in several provisions.

It adds references to “supervised release for sex offenders” to a provision regarding probation and parole officers and intensive supervision program officers.

It creates an exception to a law that requires the elimination of all commissary-type facilities operated by state departments for the sale of food and food supplies to any person. Public Law 2005, chapter 488 allows the Department of Corrections to lawfully continue its long-time practice of operating a commissary for the sale of food to clients and employees in corrections facilities and clarifies that the chief administrative officer of a correctional or detention facility may, subject to the approval of the commissioner, purchase meals for or otherwise provide meals without charge to any facility employee who eats such meals within the scope of the employee’s employment.

Public Law 2005, chapter 488 was enacted as an emergency measure effective March 13, 2006.

LD 1906

An Act To Safeguard Maine's Highways

PUBLIC 606

<u>Sponsor(s)</u> CURLEY DIAMOND	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-1041
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LD 1906 proposed to provide stricter penalties for operating after license suspension or OAS. Specifically, the bill proposed to do the following:

1. Establish a graduated penalty scale for license suspensions, not related to the offense of operating under the influence, that occur within a 3-year period, beginning with a license suspension of one year and a \$1,000 fine for 3 suspensions within a 3-year period and increasing to a license suspension of 10 years and a \$5,000 fine for 7 or more license suspensions within a 3-year period;

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2. Provide for mandatory incarceration, which may not be suspended, if the person is convicted of OAS while that person's license was suspended due to multiple suspensions. The bill proposed that the length of the incarceration is graduated, beginning with 180 days for OAS after suspension for 3 suspensions and increasing to a Class B crime, punishable by 5 years incarceration, for OAS after suspension for 7 or more license suspensions within a 3-year period;
3. Amend the current law that allows a vehicle to be impounded when the driver has operated a motor vehicle while under the influence to allow a motor vehicle also to be impounded for an OAS offense. The vehicle impounded for an OAS offense would be released only after the offender's driver's license has been reinstated and the impound fees have been paid;
4. Create the new crime of contributing to an accident after license suspension or revocation. The bill proposed that if a person whose license has been suspended or revoked is involved in an accident, regardless of fault, and that accident results in bodily injury or death of another person, the person operating after suspension commits a Class C crime in the case of bodily injury or a Class B crime in the case of death. The bill proposed that the Class C crime is punishable by a minimum sentence of 3 years imprisonment and an additional license suspension of 5 years. The bill proposed that the Class B crime is punishable by a minimum sentence of imprisonment of 5 years and an additional license suspension of 10 years. The new crime would not apply if the person were convicted of the crime of operating under the influence and causing the death or bodily injury of another person, which is increased from a Class C to a Class B crime; and
5. Require the Secretary of State to confiscate the license of a person who is convicted of OAS for the duration of the suspension, including any additional suspension imposed for OAS.

Committee Amendment “A” (H-1041) proposed to replace the bill and do the following:

1. Amend the OUI law to be consistent with proposed changes in this law that create the distinct crimes of causing serious bodily injury or death while a driver's license is suspended or revoked;
2. Create new crimes of causing serious bodily injury or death while driving with a suspended or revoked license. The amendment proposed that a person commits the crime if the person knowingly operates with a suspended or revoked license and in fact causes serious bodily injury or death. The amendment proposed that causing injury in such a case is a Class C crime with penalties that include a possible 0-5 years of imprisonment and a mandatory 5-year license suspension, and causing death in such a case is a Class B crime with penalties that include a possible 0-10 years of imprisonment and a mandatory 10-year license suspension;
3. Expand the habitual offender statute by adding the offense of operating a motor vehicle at a speed that exceeds the maximum speed limit by 30 miles per hour or more to the list of 3 or more convictions or adjudications for distinct offenses within a 5-year period for which a person is an habitual offender;
4. Further expand the habitual offender statute by adding the accumulation of 10 or more moving violations within a 5-year period to the list of convictions or adjudications for distinct offenses within a 5-year period for which a person is an habitual offender;
5. Remove from the exceptions for which a person is not an habitual offender the case when all convictions or adjudications are based on operating after suspension when the license was originally suspended for failure to give or maintain proof of financial responsibility;

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6. Remove from the convictions for offenses that may not be included under the habitual offender provision convictions for operating after suspension when the suspension is based upon failure to appear in court or pay a fine;
7. Amend the penalties for operating after habitual offender revocation and expand the crime to include persons who have one or more prior convictions for operating after habitual offender revocation or aggravated operating after habitual offender revocation and who then operate after the license is suspended or revoked. The amendment proposed mandatory penalties that cannot be suspended, which include the following:
 - A. A person is guilty of a Class D crime if the person operates after habitual offender revocation and has not been convicted of operating after habitual offender revocation or for operating under the influence within the previous 10 years. If the person has no prior convictions, the minimum mandatory fine for this Class D crime is \$500 and the minimum mandatory term of imprisonment is 30 days;
 - B. A person is guilty of a Class C crime if the person operates after habitual offender revocation and has one conviction for operating after habitual offender revocation or for operating under the influence within the previous 10 years. If the person has one prior conviction, the minimum fine for this Class C crime is \$1,000 and the minimum term of imprisonment is 6 months;
 - C. A person is guilty of a Class C crime if the person operates after habitual offender revocation and has 2 convictions for operating after habitual offender revocation or for operating under the influence within the previous 10 years. If the person has 2 prior convictions, the minimum fine for this Class C crime is \$1,000 and the minimum term of imprisonment is 9 months plus a day; and
 - D. A person is guilty of a Class C crime if the person operates after habitual offender revocation and has 3 or more convictions for operating after habitual offender revocation or for operating under the influence within the previous 10 years. If the person has 3 or more prior convictions, the minimum fine for this Class C crime is \$1,000 and the minimum term of imprisonment is 2 years;
8. Create the new crime of aggravated operating after habitual offender revocation and impose new penalties. The amendment proposed that a person is guilty of aggravated operating after habitual offender revocation if that person operates after habitual offender revocation and at the time of that violation also commits one or more of the following: operating under the influence, driving to endanger, eluding an officer, passing a roadblock and operating a motor vehicle at a speed that exceeds the maximum speed limit by 30 miles per hour or more. The amendment proposed mandatory penalties that cannot be suspended, which include the following:
 - A. A person is guilty of a Class D crime if the person commits the crime of aggravated operating after habitual offender revocation. If the person has no prior convictions, the minimum fine for this Class D crime is \$500 and the minimum term of imprisonment is 6 months;
 - B. A person is guilty of a Class C crime if the person commits the crime of aggravated operating after habitual offender revocation and has one prior conviction for committing aggravated operating after habitual offender revocation, operating under the influence or operating after habitual offender revocation within the previous 10 years. If a person has one prior conviction, the minimum fine for this Class C crime is \$1,000 and the minimum term of imprisonment is one year;

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- C. A person is guilty of a Class C crime if the person commits the crime of aggravated operating after habitual offender and has 2 prior convictions for committing aggravated operating after habitual offender revocation, operating under the influence or operating after habitual offender revocation within the previous 10 years. If a person has 2 prior convictions, the minimum fine for this Class C crime is \$2,000 and the minimum term of imprisonment is 2 years; and
 - D. A person is guilty of a Class C crime if the person commits the crime of aggravated operating after habitual offender and has 3 or more convictions for committing aggravated operating after habitual offender revocation, operating under the influence or operating after habitual offender revocation within the previous 10 years. If a person has 3 or more prior convictions, the minimum fine for this Class C crime is \$3,000 and the minimum term of imprisonment is 5 years;
- 9. Direct the Secretary of State to take reasonable actions to confiscate suspended licenses; and
 - 10. Request that the Maine Sheriff's Association by January 30, 2007 report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters regarding the impact these increased motor vehicle penalties have on the county jail population and to make any suggested changes, if necessary.

House Amendment "A" to Committee Amendment "A" (H-1049) proposed to specify that a person who, while knowingly operating with a suspended or revoked license, in fact causes the death of another person is subject to a minimum term of imprisonment of 5 years. This amendment was not adopted.

Enacted law summary

Public Law 2005, chapter 606 makes the following changes to the motor vehicle statutes.

- 1. It amends the OUI law to be consistent with proposed changes in this law that create the distinct crimes of causing serious bodily injury or death while a driver's license is suspended or revoked.
- 2. It creates new crimes of causing serious bodily injury or death while driving with a suspended or revoked license. A person commits the crime if the person knowingly operates with a suspended or revoked license and in fact causes serious bodily injury or death. Causing injury in such a case is a Class C crime with penalties that include a possible 0-5 years of imprisonment and a mandatory 5-year license suspension. Causing death in such a case is a Class B crime with penalties that include a possible 0-10 years of imprisonment and a mandatory 10-year license suspension.
- 3. It expands the habitual offender statute by adding the offense of operating a motor vehicle at a speed that exceeds the maximum speed limit by 30 miles per hour or more to the list of 3 or more convictions or adjudications for distinct offenses within a 5-year period for which a person is an habitual offender.
- 4. It further expands the habitual offender statute by adding the accumulation of 10 or more moving violations within a 5-year period to the list of convictions or adjudications for distinct offenses within a 5-year period for which a person is an habitual offender.
- 5. It removes from the exceptions for which a person is not an habitual offender the case when all convictions or adjudications are based on operating after suspension when the license was originally suspended for failure to give or maintain proof of financial responsibility.

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6. It removes from the convictions for offenses that may not be included under the habitual offender provision convictions for operating after suspension when the suspension is based upon failure to appear in court or pay a fine.
7. It amends the penalties for operating after habitual offender revocation and expands the crime to include persons who have one or more prior convictions for operating after habitual offender revocation or aggravated operating after habitual offender revocation and who then operate after the license is suspended or revoked. Mandatory penalties that cannot be suspended include the following.
 - A. A person is guilty of a Class D crime if the person operates after habitual offender revocation and has not been convicted of operating after habitual offender revocation or for operating under the influence within the previous 10 years. If the person has no prior convictions, the minimum fine for this Class D crime is \$500 and the minimum term of imprisonment is 30 days.
 - B. A person is guilty of a Class C crime if the person operates after habitual offender revocation and has one conviction for operating after habitual offender revocation or for operating under the influence within the previous 10 years. If the person has one prior conviction, the minimum fine for this Class C crime is \$1,000 and the minimum term of imprisonment is 6 months.
 - C. A person is guilty of a Class C crime if the person operates after habitual offender revocation and has 2 convictions for operating after habitual offender revocation or for operating under the influence within the previous 10 years. If the person has 2 prior convictions, the minimum fine for this Class C crime is \$1,000 and the minimum term of imprisonment is 9 months plus a day.
 - D. A person is guilty of a Class C crime if the person operates after habitual offender revocation and has 3 or more convictions for operating after habitual offender revocation or for operating under the influence within the previous 10 years. If the person has 3 or more prior convictions, the minimum fine for this Class C crime is \$1,000 and the minimum term of imprisonment is 2 years.
8. It creates the new crime of aggravated operating after habitual offender revocation and imposes new penalties. A person is guilty of aggravated operating after habitual offender revocation if that person operates after habitual offender revocation and at the time of that violation also commits one or more of the following: operating under the influence, driving to endanger, eluding an officer, passing a roadblock and operating a motor vehicle at a speed that exceeds the maximum speed limit by 30 miles per hour or more. Mandatory penalties that cannot be suspended include the following.
 - A. A person is guilty of a Class D crime if the person commits the crime of aggravated operating after habitual offender revocation. If the person has no prior convictions, the minimum fine for this Class D crime is \$500 and the minimum term of imprisonment is 6 months.
 - B. A person is guilty of a Class C crime if the person commits the crime of aggravated operating after habitual offender revocation and has one prior conviction for committing aggravated operating after habitual offender revocation, operating under the influence or operating after habitual offender revocation within the previous 10 years. If a person has one prior conviction, the minimum fine for this Class C crime is \$1,000 and the minimum term of imprisonment is one year.
 - C. A person is guilty of a Class C crime if the person commits the crime of aggravated operating after habitual offender and has 2 prior convictions for committing aggravated operating after habitual offender revocation, operating under the influence or operating after habitual offender revocation within the

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previous 10 years. If a person has 2 prior convictions, the minimum fine for this Class C crime is \$2,000 and the minimum term of imprisonment is 2 years.

D. A person is guilty of a Class C crime if the person commits the crime of aggravated operating after habitual offender and has 3 or more convictions for committing aggravated operating after habitual offender revocation, operating under the influence or operating after habitual offender revocation within the previous 10 years. If a person has 3 or more prior convictions, the minimum fine for this Class C crime is \$3,000 and the minimum term of imprisonment is 5 years.

9. It directs the Secretary of State to take reasonable actions to confiscate suspended licenses.

10. It requests that the Maine Sheriff's Association by January 30, 2007 report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters regarding the impact these increased motor vehicle penalties have on the county jail population and to make any suggested changes, if necessary.

LD 1938

An Act To Protect Victims of Domestic Violence

DIED BETWEEN BODIES

Sponsor(s)
STRIMLING
SIMPSON

Committee Report
OTP-AM

Amendments Adopted
S-525

LD 1938 proposed to require the Department of Public Safety, upon learning through a criminal background check that an individual subject to a protection from abuse order has illegally attempted to purchase a firearm, to promptly make every reasonable effort to share the information with the individual who is intended to be protected by the order and the local law enforcement agency where the individual resides, so that adequate precautions can be taken to minimize the risk of further domestic violence.

LD 1938 proposed that the State, a political subdivision of the State or a law enforcement officer may not be held liable for damage that may be caused by the failure or inability to inform an individual who is intended to be protected by the protection from abuse order.

Committee Amendment “A” (S-525) proposed to specify that, upon receiving information from a federal agency that through a criminal background check an individual subject to a protection from abuse order has illegally attempted to purchase a firearm, the Department of Public Safety shall share that information with the individual who is intended to be protected by the order and with another law enforcement agency with jurisdiction in the municipality in which that individual resides as quickly as practicable.

The amendment also proposed to specify that the Department of Public Safety may accomplish the notification process by notifying another law enforcement agency within the county in which the individual intended to be protected by the protection from abuse order resides. Committee Amendment “A” proposed that when the department makes notification through such a law enforcement agency, that agency then must make reasonable effort to notify as quickly as practicable the individual intended to be protected by the protection from abuse order. The amendment further proposed that if, when notifying another law enforcement agency, the department is informed by that agency that it cannot notify the individual intended to be protected by the protection from abuse order, the department must continue to make its own reasonable effort to notify that individual as quickly as