

State Of Maine 122nd Legislature

Second Regular Session

Bill Summaries

Joint Standing Committee on Judiciary

July 2006

<u>Members:</u> Sen. Barry J. Hobbins, Chair Sen. Lynn Bromley Sen. David R. Hastings III

Rep. Deborah L. 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

<u>Staff</u>: Margaret J. Reinsch, Senior 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, <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/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	
DIED IN CONCURRENCEOne	body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT	
EMERGENCY	Enacted law takes effect sooner than 90 days
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: hill died
INDEF PP	Bill Indefinitely Postponed
ONTP	
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	Bill held by Governor

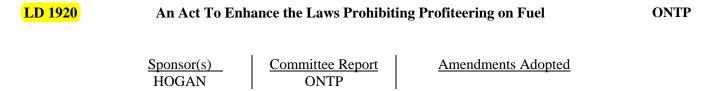
Please note that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is August 23, 2006.

Joint Standing Committee on Judiciary

C, differs from the first two in that a convicted person need not establish by clear and convincing evidence that only the perpetrator of the crime or crimes for which the person was convicted can be the source of the evidence. Because the convicted person is not required to make such a showing, the standard required under new paragraph C is made up of the five prerequisites for obtaining a new trial based on newly discovered evidence set forth in Maine case law and consistently applied by the Law Court. The convicted person must show all five prerequisites by clear and convincing evidence. In the first and second standards listed as paragraphs A and B, because the convicted person is required to make such a showing, the five prerequisites for obtaining a new trial based on newly discovered evidence are truncated. Under the first standard, new paragraph A, the person must also establish by clear and convincing evidence that the DNA test results, when considered with all the other admitted evidence, old and new, show that the person is actually innocent of the crime or crimes for which the person was convicted. Under the second standard, new paragraph B, the person need not show actual innocence, but instead must establish by clear and convincing evidence that the DNA test results, when considered with all the other admitted for the second standard, new paragraph B, the person need not show actual innocence, but instead must establish by clear and convincing evidence that the DNA test results, when considered with all the other admitted evidence, old and new, would make it probable that a different verdict would result upon a new trial. This second standard is like that currently found in Title 15, section 2138, subsection 8, paragraph B.

Chapter 659 adds a definition for "all the other evidence in the case, old and new," as used in new paragraphs A and B and new paragraph C, subparagraph (1). Further, although not expressly stated in paragraphs A and B and paragraph C, subparagraph (1), it is intended that the court, as in any hearing for a new trial based on newly discovered evidence, must determine both weight and credibility to be attached to the newly discovered evidence. It is intended that the Maine Rules of Evidence apply at any hearing conducted under the subsection.

Chapter 659 takes effect September 1, 2006.



LD 1920 is a concept draft pursuant to Joint Rule 208. The bill proposed to enhance the penalties for profiteering on fuel, including, but not limited to, increasing the fine from \$1,000 to \$2,500 and revoking a person's license.

See LD 1892.

LD 1930	An Act Regarding Working Waterfront Covenants	PUBLIC 574
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Sponsor(s)	Committee Report	Amendments Adopted
DAMON	OTP-AM	S-556

LD 1930 proposed to implement authority given to the Land for Maine's Future Board to be a party to working waterfront covenants. The bill proposed to provide the necessary definitions and provisions for creation, conveyance, acceptance and duration of working waterfront covenants, along with provisions for the scope and validity of such covenants, as well as applicability provisions.

Committee Amendment "A" (S-556) proposed to clarify many provisions in the bill for the creation, enforcement, modification and termination of working waterfront covenants.