

MAINE STATE LEGISLATURE

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STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR AND FIRST SPECIAL SESSIONS



Summaries of bills, adopted amendments and laws enacted or finally passed
during the Second Regular or First Special Sessions of the 123rd Maine
Legislature coming from the

**JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE
AND PUBLIC SAFETY**

May 2008

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STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR & FIRST SPECIAL SESSIONS



**LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS**

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the Second Regular or First Special Sessions of the 123rd Maine Legislature.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

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:

<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed; bill died</i>
<i>ONTP (or Accepted ONTP report)</i>	<i>Ought Not To Pass report accepted; bill died</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

The effective date for non-emergency legislation enacted in the Second Regular Session (R2) is June 30, 2008. The effective date for non-emergency legislation enacted in the First Special Session (S1) is July 18, 2008.¹ The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills. Any bill summarized in this document having an LD number less than 1932 was a bill carried over from the First Regular Session of the 123rd Legislature.

¹ The session in which each law was enacted or finally passed (R2 or S1) is included in Appendix C.

Joint Standing Committee on Criminal Justice and Public Safety

The bill clarifies and expands criminal laws relating to gross sexual assault, sexual abuse of minors and unlawful sexual contact in which the victim of the crime is a student at a private or public elementary, secondary or special education school, facility or institution and the offender either is, or will be, a teacher, employee or other school employee where the victim is enrolled or is a law enforcement officer in the jurisdiction where the student resides or is enrolled.

Committee Amendment "A" (H-93)

This amendment replaces the bill. The amendment clarifies that for purposes of sexual assault in which the victim of the crime is a student at a private or public elementary, secondary or special education school, facility or institution, the law recognizes that a teacher or other school employee's instructional, supervisory or disciplinary authority over the student does not disappear during school vacations and summer recess. The teacher or other school employee may not raise as a defense to prosecution that the conduct occurred during a school vacation or summer recess if the teacher or other school employee maintained that status immediately prior to the vacation or recess. The amendment also specifies that the same standards be applied to law enforcement officers who are employees of or are assigned to perform duties at a private or public elementary, secondary or special education school, facility or institution.

LD 220 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "B" (H-648)

This amendment replaces the bill and is the same as Committee Amendment "A" (H-93). Committee Amendment "B" was never removed from the Special Appropriations Table and died on adjournment.

LD 239 An Act To Provide a Felony Penalty for Assault on a Firefighter

**DIED BETWEEN
HOUSES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUCHESNE	OTP-AM A ONTP B OTP-AM C	

A person who intentionally, knowingly or recklessly causes bodily injury to a law enforcement officer while that officer is in performance of official duties (Title 17-A §752-A) or to a medical care provider while the provider is providing emergency medical care (Title 17-A §752-C), the person is guilty of a Class C crime of assault. This bill creates a Class C assault for intentionally, knowingly or recklessly causing bodily injury to a firefighter if the assault occurs while the firefighter is performing official duties.

Committee Amendment "A" (H-21)

This amendment is the majority report of the Criminal Justice and Public Safety Committee. The amendment specifies that the Class C assault on a firefighter applies only in situations where the firefighter is performing official duties at the scene of a fire or other emergency.

LD 239 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "B" (H-657)

This amendment strikes and replaces the bill and is the majority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment repeals the law that established the crime of committing assault on emergency medical care providers as a Class C crime. The repeal of this law means that assaults against emergency

Joint Standing Committee on Criminal Justice and Public Safety

medical care providers may be charged under the general assault statute under Title 17-A, section 207. Assault under Title 17-A, section 207 is a Class D crime, unless the victim is under 6 years of age. This amendment makes the penalty for committing an assault on an emergency medical care provider the same as the penalty for committing an assault on a firefighter. The amendment also replaces the title in order to reflect these changes. This amendment was not adopted.

Committee Amendment "C" (H-658)

This amendment is one of two minority reports of the Joint Standing Committee on Criminal Justice and Public Safety. The other minority report is ought not to pass. This amendment specifies that the provision that establishes assault on a firefighter as a Class C crime applies only when the firefighter is performing official duties at the scene of a fire or other emergency. This amendment was not adopted.

LD 280 An Act To Make a Conviction for a 6th Operating under the Influence Charge a Class B Crime

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND	OTP-AM	S-397

This bill creates a new Class B crime of operating a motor vehicle while under the influence 6 or more times. This new crime is not limited by the 10-year look back period and is subject to penalties including a fine of not less than \$3,000, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than \$3,500; a period of incarceration of not less than one year, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than one year and 3 months; and a court-ordered suspension of a driver's license for life.

Committee Amendment "A" (S-98)

This amendment specifies that the new Class B crime of operating a motor vehicle while under the influence 6 or more times is limited by a 15-year look back period, which is 5 years more than the current look back period for operating under the influence offenses but less than the lifetime look back proposed in the bill.

LD 280 was carried over by joint order, H.P. 1369 after being removed from the Special Appropriations Table and recommitted to the Committee on Criminal Justice and Public Safety.

Committee Amendment "B" (S-397)

This amendment is the same as Committee Amendment "A" (S-98). Committee Amendment "B" was never removed from the Special Appropriations Table and died on adjournment.

LD 372 An Act To Strengthen the Crime of Gross Sexual Assault as It Pertains to Persons Who Furnish Drugs to Victims

PUBLIC 474

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NUTTING J	OTP-AM	S-398

In order to improve the ability to prosecute certain gross sexual assaults, this bill amends the crime of gross sexual assault by adding the element of furnishing drugs or intoxicants to a victim in order to substantially impair the victim's power to appraise or control the victim's sexual acts. Currently, a prosecutor must meet a higher standard by proving that the actor employed or administered the drugs or intoxicants to the victim. The bill also specifies that an actor cannot raise as a defense to gross sexual assault that the victim voluntarily consumed or allowed the administration of the drugs or intoxicants if the victim was 14 or 15 years of age.