

MAINE STATE LEGISLATURE

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STATE OF MAINE
123RD LEGISLATURE
FIRST REGULAR SESSION



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

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

July 2007

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STATE OF MAINE

123RD LEGISLATURE

FIRST REGULAR SESSION

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 First Regular Session of the 123rd Maine Legislature, which was in session from December 6, 2006 to June 21, 2007.

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:

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 (or Accepted ONTP report).....	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.....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for non-emergency legislation enacted in the First Regular Session is **September 20, 2007**. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

Joint Standing Committee on Criminal Justice and Public Safety

LD 1674

An Act To Amend the Habitual Offender and Felony Operating Under the Influence Laws

CARRIED OVER

Sponsor(s)

DIAMOND

Committee Report

Amendments Adopted

S-83

The bill makes several changes in the laws applying to persons driving with suspended or revoked licenses or persons charged with the most serious driving offenses, such as felony operating under the influence (OUI) and manslaughter.

1. It provides that a driver charged with operating after suspension (OAS) will not be authorized to plead guilty to the court clerk without a formal court appearance, and must appear before a judge for sentencing. The judge will then impose a sentence based upon the driver's record and the circumstances of the offense.
2. It amends the Maine Revised Statutes, Title 29-A, section 2411, subsection 1-A, paragraph D in response to a recent court decision. In *State v. Dwayne B. Stevens*, 2007 ME 5, the Maine Supreme Judicial Court determined that Title 29-A, section 2411, subsection 1-A, paragraph D has a 10-year limitation on the use of prior convictions for manslaughter and Class B or C operating under the influence. To address that determination, this bill specifies that Title 17-A, section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of the offenses in Title 29-A, section 2411, subsection 1-A, paragraph D, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years. The section also incorporates a reference to the new Class B OUI offense enacted in 2006.
3. It increases the sentencing class in OAS for drivers whose licenses have been suspended as a result of convictions in which a death resulted: Class A manslaughter, Class B OUI and Class B OAS. Under current law the OAS offense is only a Class E crime.
4. It clarifies that a court looks back 10 years in determining whether to impose the mandatory fines applying to ordinary OAS cases.
5. It gives courts authority to revoke the driver's license as part of the sentence for an adult or juvenile manslaughter defendant. Under current law only the Secretary of State may revoke a driver's license upon a manslaughter conviction. The court will be authorized to revoke a license for at least a 5-year period, but must also notify the Secretary of State, who may revoke the license for a longer period under Title 29-A, section 2454, subsection 2.
6. It clarifies a provision that was added by Public Law 2005, chapter 606. The current language in Title 29-A, section 2557-A, subsection 1, paragraph B would subject a driver to prosecution for a Class C habitual offender offense even if the driver's previous record did not include such a conviction and the person's license is currently suspended instead of revoked as a habitual offender. The intent of the Public Law 2005, chapter 606 change was to specify that once a person is a felon, meaning the most serious habitual offender under the driving laws, the person continues to be a significant offender under those laws even when the person's license is suspended rather than revoked. The language in the bill makes this clear.
7. It rewrites the sentencing provisions of the habitual offender statute to make them consistent with the format in the aggravated operating after habitual offender revocation law added by Public Law 2005, chapter 606, while adding references to former Title 29-A, section 2557 that were inadvertently omitted from chapter 606.
8. It amends Title 29-A, sections 2557-A and 2558 to make the treatment of multiple offenses consistent with other prior conviction language. The bill adds language to each section to specify that when more than one offense or violation arises from the same incident, the offense or violations are treated as one offense.

Joint Standing Committee on Criminal Justice and Public Safety

9. It adds a reference to Title 29-A, section 2411 in 2 portions of the aggravated habitual offender laws enacted in Public Law 2005, chapter 606. A reference to prior OUI conviction was included in one sentencing provision of chapter 606 but inadvertently omitted from other provisions.

Committee Amendment "A" (S-83)

This amendment adds an emergency preamble and emergency clause to the bill to ensure that omissions in changes to the operating after suspension and habitual offender laws enacted pursuant to Public Law 2005, chapter 606 are immediately corrected. The amendment also clarifies that the Secretary of State's authority to impose license revocation is not changed. If the court fails to revoke a license for criminal homicide or attempted criminal homicide, the Secretary of State shall impose a 5-year revocation, unless a longer revocation is imposed under the Maine Revised Statutes, Title 29-A, section 2454, subsection 2.

LD 1674 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.

LD 1706 *Resolve, Establishing a Commission To Review State House and Capitol Complex Security Issues*

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GROSE	ONTP	

This resolve is a concept draft pursuant to Joint Rule 208.

This resolve proposes to establish a commission to review State House and Capitol complex security issues. In conducting the review, the commission shall explore:

1. Different means of screening visitors to the Capitol complex for weapons, including but not limited to knives, firearms and objects that may be used as weapons;
2. Creative methods of enhancing the security presence in the capitol complex, including but not limited to the recruitment of experienced retired law enforcement officers;
3. Methods of facilitating continuing education opportunities for capitol complex security personnel that are specifically targeted to enhancing the performance of the duties of security personnel; and
4. The availability of creative funding for enhanced security, including but not limited to federal funds and outside funding.

LD 1728 *An Act To Strengthen the Authority of Concealed Weapons Permits*

PUBLIC 194

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFISKY	OTP-AM	H-188

Section 1 of the bill requires that a person who is issued a black powder permit by the Commissioner of the Department of Public Safety reapply for that permit after 4 years. These permits are issued to persons who are otherwise prohibited from possessing firearms. This change is consistent with current practice for other firearms permits, which expire and require background checks for renewal.