

MAINE STATE LEGISLATURE

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STATE OF MAINE
126TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

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

July 2013

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STATE OF MAINE

126TH LEGISLATURE
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LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 126th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD 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 LD is noted to the right of the LD title. The following describes the various final actions.

CARRIED OVER carried over to a subsequent session of the Legislature
CON RES XXX..... chapter # of constitutional resolution passed by both houses
CONF CMTE UNABLE TO AGREE.....Committee of Conference unable to agree; legislation died
DIED BETWEEN HOUSES.....House & Senate disagreed; legislation died
DIED IN CONCURRENCE.....defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX.....chapter # of enacted public Law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 126th Legislature is October 9, 2013. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Criminal Justice and Public Safety

LD 1234 An Act To Establish the Computer Crimes Unit Fund and Authorize the Department of Public Safety To Accept Donations for the Fund

DIED BETWEEN HOUSES

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY DION	ONTP OTP-AM	

This bill establishes the Computer Crimes Unit Fund to fund the establishment, maintenance and operation of the computer crimes laboratory. It allows the Department of Public Safety to accept donations to the fund for those purposes.

Committee Amendment "A" (S-114)

This amendment, which is the minority report of the committee, adds an appropriations and allocations section to the bill.

LD 1237 Resolve, Directing the Department of Corrections To Amend Its Rules Pertaining to Certification of Batterer Intervention Programs

RESOLVE 3 EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CAIN FREDETTE	OTP	

This resolve directs the Department of Corrections to adopt emergency rules, to be followed by nonemergency rulemaking, to ensure gender equality in terms of the certification of certified batterer intervention programs. In a December 2012 decision, the Maine Supreme Judicial Court cast doubt on the validity of current rules that were written in terms of batterer intervention programs for male offenders only.

Enacted Law Summary

Resolve 2013, chapter 3 directs the Department of Corrections to adopt emergency rules, to be followed by nonemergency rulemaking, to ensure gender equality in terms of the certification of certified batterer intervention programs.

Resolve 2013, chapter 3 was finally passed as an emergency measure effective April 4, 2013.

LD 1240 An Act To Promote the Safe Use and Sale of Firearms

VETO SUSTAINED

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DION GERZOFSKY	OTP-AM OTP-AM	H-450

This bill regulates the safe use and sale of firearms as follows.

1. It prescribes elements for the firearm safety course provided by the Department of Inland Fisheries and Wildlife.
2. It includes in the list of persons prohibited from possessing a firearm or a concealed handgun a person who has been admitted to a psychiatric hospital on an emergency basis and providing a procedure for such a person to appeal

Joint Standing Committee on Criminal Justice and Public Safety

the prohibition.

3. It increases the fine from \$50 to \$1,000 for giving a false or fictitious name to a firearm dealer.
4. It increases the minimum age to obtain a concealed handgun permit from 18 to 21 years of age.
5. It includes in the definition of "firearm dealer" a private seller, including a private seller at a gun show.
6. It requires a firearm dealer to require a buyer to present certification of completion of a firearm safety course or a copy of a current hunting license or current concealed handgun permit prior to sale.
7. It requires firearm dealers to conduct background checks of buyers, except for sales between family members.
8. It makes a violation of certain requirements for a firearm dealer a civil violation for the first offense and a Class E crime for second and subsequent offenses.

Committee Amendment "A" (H-450)

This amendment replaces the bill and is the majority report. The amendment does the following.

1. It creates the civil violation of the sale or transfer of a firearm to a prohibited person and strict liability Class E crime for a 2nd or subsequent offense of selling or transferring a firearm to a prohibited person. The amendment also creates an affirmative defense to prosecution under this new civil violation and crime that the seller or transferor of the firearm requested a federally licensed firearm dealer to conduct a computerized background check under the Federal Bureau of Investigation, National Instant Criminal Background Check System on the purchaser or transferee prior to the sale or transfer of the firearm and the background check indicated that the purchaser or transferee was not a prohibited person.
2. It creates the Class D crime of the sale or transfer of a firearm to a prohibited person. A person is guilty of this crime if that person intentionally or knowingly sells or transfers a firearm to another person that the seller or transferor knows or believes is prohibited from possessing a firearm.
3. It increases the fine from \$50 to \$1,000 for the civil violation of giving a false or fictitious name to a firearms dealer and makes the fine mandatory.
4. It creates a study group to be convened by the Chief of the State Police to review and make recommendations regarding the so-called blue paper process as it relates to persons admitted to a psychiatric hospital on an emergency basis who are temporarily prohibited from possessing firearms. Representatives from the following are invited to participate in this review: the Office of the Attorney General, the Department of Health and Human Services, the Maine Prosecutors Association, the Disability Rights Center and any other interested parties that the Chief of the State Police determines appropriate.
5. It requires the Chief of the State Police to report the recommendations of the study group to the Joint Standing Committee on Criminal Justice and Public Safety by January 30, 2014. Following receipt of the report, the Joint Standing Committee on Criminal Justice and Public Safety may report out a bill to the Second Regular Session of the 126th Legislature.

Committee Amendment "B" (H-451)

This amendment replaces the bill and is the minority report. The amendment does the following.

1. It creates the Class D crime of the sale or transfer of a firearm to a prohibited person. A person is guilty of this crime if that person intentionally or knowingly sells or transfers a firearm to another person that the seller or transferor knows or believes is prohibited from possessing a firearm.

Joint Standing Committee on Criminal Justice and Public Safety

2. It increases the penalty from \$50 to \$1,000 for the civil violation of giving a false or fictitious name to a firearms dealer.
3. It creates a study group to be convened by the Chief of the State Police to review and make recommendations regarding the current "blue paper" process as it relates to persons who are temporarily prohibited from possessing firearms. Representatives from the following are invited to participate in this review: the Office of the Attorney General, the Department of Health and Human Services, the Maine Prosecutors' Association, the Maine Disability Rights Center and any other interested parties that the Chief of the State Police determines appropriate.
4. It requires the study group to report its recommendations to the Joint Standing Committee on Criminal Justice and Public Safety by January 30, 2014. Upon receipt of the report, the Joint Standing Committee on Criminal Justice and Public Safety may report out a bill to the Second Regular Session of the 126th Legislature.

LD 1260 An Act To Allow Ignition Interlock Devices on Vehicles Operated by PUBLIC 389
First-time Offenders of Operating Under the Influence

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NUTTING PLUMMER	OTP-AM	H-369

Current law requires the license of a person convicted of operating under the influence, or OUI, to be suspended for 90 days if it is the person's first OUI conviction within 10 years. At the end of the suspension, the person must pay a license reinstatement fee of \$50.

This bill amends the OUI laws for a first-time offender to:

1. Increase the license suspension period to 180 days;
2. Allow the license of a person to be reinstated immediately if the person has an ignition interlock device installed in the motor vehicle that person operates. The device must remain installed for 180 days or the number of days remaining in the suspension period, whichever is shorter; and
3. Increase the reinstatement fee to \$100 if the person chooses to have an ignition interlock device installed in the motor vehicle the person operates.

Committee Amendment "A" (H-369)

This amendment does the following.

1. It reduces from 180 days to 150 days the driver's license suspension period for a person's first conviction of operating under the influence, or OUI.
2. It provides that the license of a first-time OUI offender may be reinstated 30 days after installing an ignition interlock device, instead of immediately upon installation as provided in the bill.
3. It also changes from 180 days to 150 days or the length of the suspension period the time a person who has one OUI offense must have an ignition interlock device installed before the Secretary of State may reinstate that person's driver's license.
4. It establishes a \$50 administrative fee for a person whose license is reinstated through the use of an ignition interlock device. The administrative fee is in addition to the license reinstatement fee.