

128th Legislature – First Regular Session

New and Amended Public Laws Relevant to Law Enforcement Officers

Laws Effective November 1, 2017, unless otherwise noted

2017 NEW LAW UPDATE



**Maine Criminal Justice Academy
Maine Chiefs of Police Association
Maine Office of the Attorney General**

September 15, 2017

Prepared by
Brian MacMaster
Office of the Attorney General

*This publication and the 2017 Case Law Update constitute the training outline of the
Maine Criminal Justice Academy for recertification training in law updates for the year 2017.*

Preparer's Note

The First Regular Session of the 128th Maine Legislature convened on December 7, 2016, and adjourned on August 2, 2017. All new or changed laws take effect on November 1, 2017, unless passed as emergency measures (and so noted in the summary).

There were 1,647 LDs or proposed bills considered by the Legislature during the session. This resulted in the passage of 312 public laws, 28 resolves, nine (9) private and special laws, and one (1) constitutional resolution.

This New Law Update contains summaries of selected public laws believed to be of general interest and relevance to Maine law enforcement officers. If a public law listed in this Update is of interest to the reader, both a statutory citation and a link to the chaptered law are provided so that the reader can review the entire text of the law for a more comprehensive understanding. This is highly recommended before any enforcement action is taken. There is also a reference to the LD that started it all. A summary may include the actual language of a law that has been changed. The new language is underlined and deleted language is crossed out.

As you know, there are many types of law enforcement officers in Maine. New laws that may be of interest to only a specialized type of law enforcement have been omitted to keep the length of this document manageable.

The summaries are those of the preparer and do not represent legal opinions of the Office of the Attorney General or interpretations by the Maine Criminal Justice Academy or the Maine Chiefs of Police Association

The preparer wishes to recognize the assistance of Assistant Attorney General Laura Yustak of the Attorney General's Criminal Division, who reviewed this document and offered meaningful comments and suggestions.

Link to Chaptered Laws:

<http://legislature.maine.gov/ros/LawsOfMaine/#Law/128/R1/ACTPUB/9>

Link to LD's:

http://www.mainelegislature.org/legis/bills/bills_128th/billtexts/

Questions, suggestions, or other comments?

Brian MacMaster
Director of Investigations
Office of the Attorney General
6 State House Station ▪ Augusta, ME 04333-0006
Telephone: (207) 626-8520
brian.macmaster@maine.gov

Chapter 1 – LD 88

An Act to Delay the Implementation of Certain Portions of the Marijuana Legalization Act (Effective January 27, 2017)

This enacted law delays the effective date of most of the provisions of the Marijuana Legalization Act (MLA) as enacted by citizen initiative to February 1, 2018.

The Maine Marijuana Legalization Measure, also known as Question 1, was on the November 8, 2016, ballot as a citizen-initiated petition. It was approved. Opponents sought a recount of election results, but abandoned the effort on December 17, 2016. A "yes" vote supported legalizing recreational marijuana for adults over the age of 21. A "no" vote opposed legalizing recreational marijuana.

Question 1 took effect on January 30, 2017. LD 88 was presented to the Legislature, and enacted as Public Law, Chapter 1. Question 1 required that agencies begin licensing retail marijuana facilities within nine months of the measure's certification. Chapter 1 delayed the licensing of retail marijuana facilities until February 2018 to allow state agencies additional time to craft rules. Chapter 1 also clarified that marijuana would be legal for recreational use only by individuals 21 years of age and older. Chapter 1 also provided for the legalization of marijuana cultivation, possession, transportation, and sharing in a private residence to go into effect on January 30, 2017, as Question 1 prescribed. However, sale of edible retail marijuana products is prohibited until February 1, 2018.

What is marijuana under the MLA?

Cannabis leaves

Cannabis stems

Cannabis flowers

Cannabis seeds

All species of the plant genus cannabis

All of the above, while growing or not

Marijuana Concentrate “means the resin extracted from any part of the plant genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including hashish. In determining the weight of marijuana concentrate, the weight of any other ingredient combined with marijuana to prepare a marijuana product may not be included.”

Marijuana under 17-A M.R.S. 1101(1):

"Marijuana" includes the leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not; but shall not include the resin extracted from any part of such plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin including hashish and further, shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks, fiber, oil or cake or the sterilized seed of such plant which is incapable of germination.

Note: This definition excludes marijuana concentrate or “hashish” as defined by 17-A M.R.S. 1101(5) “Hashish” includes the resin extracted from any part of the cannabis plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin.

Prepared marijuana pursuant to the Medical Use of Marijuana Act (existing law) is defined as “the dried leaves and flowers and the by-products of the dried leaves and flowers of the marijuana plant that require no further processing and any mixture or preparation of those dried leaves and flowers and by-products, including but not limited to tinctures, ointments and other preparations, but does not include the seeds, stalks, leaves that are disposed of and not dried for use and roots of the plant and does not include the ingredients, other than marijuana, in tinctures, ointments or other preparations that include marijuana as an ingredient or food or drink prepared with marijuana as an ingredient for human consumption.”

Who can possess marijuana?

21 years of age or older

Up to 2½ oz. of marijuana and marijuana concentrate

May not include more than 5 grams of marijuana concentrate

May do the following:

Use/possess

Transport

Use/possess marijuana accessories

Over 18? It is a civil violation.

Exceptions for medical marijuana

Under 18 – Must be a “qualifying patient”

More than 2½ ounces?

Possession of more than 2½ ounces is a crime:

2½ ounces to 8 ounces – Class E

8 ounces to 16 ounces – Class D

16 ounces to 20 lbs. – Class C

Over 20 lbs. – Class B

Marijuana may be used in the following places:

Private residence (includes the yard)

Private property not generally accessible by the public

Must have explicit permission from property owner for marijuana consumption

Marijuana cannot be used in the following locations:

Operator/passenger of a vehicle on a public way

Designated workplace smoking areas

Federal property

Residence or private property used as a day care or babysitting service (during hours that property is being used that way)

Does the Act allow you to sell?

If the other person is over 21, you can:

Transfer or furnish

No remuneration

Maximum of 2 ½ ounces or 6 immature plants

If the other person is under 21:

Over 18: Unlawful Furnishing – Class D

Under 18: Aggravated Furnishing – Class C

Medical Marijuana Card after Legalization

Medical marijuana card will still be needed for:

Individuals under 21 years of age

Medical marijuana may also allow for the possession of more than 2 ½ ounces or more than 6 plants

Repeals 7 MRSA §2442, sub-§5

Amends 7 MRSA §2442, sub-§22

Enacts 7 MRSA §2442, sub-§22-A

Amends 7 MRSA §2442, sub-§34

Repeals 7 MRSA §2443

Amends 7 MRSA §2444, sub-§2

Amends 7 MRSA §2452, sub-§1

Repeals 7 MRSA §2452, sub-§5

Enacts 7 MRSA §2452, sub-§§6 and 7

Amends 15 MRSA §3103, sub-§1, ¶B

Enacts 22 MRSA §2383, sub-§1-A

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC1.asp

Chapter 21 – LD 172

An Act to Improve Officer Safety at Roadside Incidents

The enacted law allows police vehicles to use red emergency lights. The red emergency lights may comprise up to 50% of the emergency lights used on the police vehicle.

Amends 29-A MRSA §2054, sub-§2, ¶D

Amends 29-A MRSA §2054, sub-§2, ¶F

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC21.asp

Chapter 26 – LD 28

An Act to Allow Alternate Flashing Lights on a School Bus

The enacted law allows a school bus to be equipped with a device that provides for alternate flashing of the headlights (wig wags) on the school bus.

Amends 29-A MRSA §2054, sub-§2, ¶A

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC26.asp

Chapter 51 – LD 118

An Act to Require All Moped Riders under 18 Years of Age and Newly Licensed Moped Operators to Wear a Helmet

The enacted law provides that an operator of a motorcycle or moped and a passenger under 18 years of age must wear protective headgear, and requires that an operator of a

moped operating under a learner's permit or within one year of successfully completing a driving test must wear protective headgear. The law also provides that the operator of a moped may not allow a passenger under 18 years of age to ride without protective headgear.

*Amends 29-A MRSA §2083, sub-§1, ¶A
Amends 29-A MRSA §2083, sub-§1, ¶B*

*Amends 29-A MRSA §2083, sub-§1, ¶C
Amends 29-A MRSA §2083, sub-§2*

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC51.asp

Chapter 66 – LD 511

An Act to Amend the Laws Governing Domestic Violence and Preconviction Bail

The enacted law amends the statute regarding improper contact with a family or household member prior to the setting of preconviction bail by providing that a person is guilty of a violation of that law if notified by a law enforcement officer not to make direct or indirect contact with the alleged victim of the offense for which the person is being detained, and the person contacts the alleged victim. Previously, the notification had to come from jail staff.

Amends 15 MRSA §1094-B, sub-§1, ¶C

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC66.asp

Chapter 69 – LD 343

An Act to Prohibit the Discharge of a Firearm within 300 Feet of a State-owned Boat Launching Ramp

The enacted law provides that an agency having jurisdiction over a state-owned boat launching ramp may post notice that the discharge of a firearm is prohibited within 300 feet of the ramp. It is Class E crime to discharge a firearm within 300 feet of a posted ramp.

Enacts 12 MRSA §11209-A

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC69.asp

Chapter 81 – LD 350

An Act to Repeal Certain Requirements Concerning the Sale/Purchase of Firearms

The enacted law amends the law that requires a firearms dealer who transfers a firearm to make a copy of the federal form the dealer must keep and show that copy upon request to a law enforcement officer or prosecuting attorney. It removes the requirement that a dealer make a copy, but requires a dealer to show the form to a state law enforcement officer or prosecuting attorney upon presentation of a formal written request for inspection stating that the form relates to an active criminal investigation.

Amends 15 MRSA §455

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC81.asp

Chapter 82 – LD 426

An Act to Allow Hunters Whose Religion Prohibits Wearing Hunter Orange Clothing to Instead Wear Red

The enacted law provides that a person with a religious opposition to wearing hunter orange may substitute articles of bright red clothing for the required articles of hunter orange clothing.

Enacts 12 MRSA §11203, sub-§1-A

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC82.asp

Chapter 86 – LD 179

An Act to Make Creating a Police Standoff a Class E Crime

The enacted law repeals the civil violation of creating a police standoff and enacts a Class E crime of creating a police standoff. The law provides that a person is guilty of creating a police standoff when the person is barricaded because of the person's own actions, including when the person barricades himself or herself in a vehicle, is or claims to be armed with a dangerous weapon, is instructed by law enforcement to leave the barricaded location and fails to leave within a half hour. The new law does not include the provision from the repealed law that relates to restitution since restitution for economic loss incurred for police costs of emergency response is available under the general restitution provisions of Title 17-A, chapter 54.

Enacts 17-A MRSA §517

Repeals 25 MRSA c. 405

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC86.asp

Chapter 90 – LD 588

An Act to Allow Law Enforcement to Engage in Fund-raising under Certain Circumstances

The enacted law provides that a law enforcement agency or association that engages in a fund-raising event under the limited exception provided in the Law Enforcement Solicitation Act is not required to retain a public benefit corporation to participate in the event. Door-to-door solicitations are prohibited. The limited exception allows law enforcement to solicit property from the general public, a law enforcement officer, a law enforcement agency or a law enforcement association for the tangible benefit of a law enforcement officer or an immediate family member suffering from a catastrophic illness by hosting fund-raising events or by written solicitation.

Amends 25 MRSA §3702-C

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC90.asp

Chapter 118 – LD 196

An Act to Protect Personal Information of Participants in a Well-being Program

The enacted law creates a public records exception under the Freedom of Access Act to protect the confidentiality of personal information of participants in community well-being check programs. The information may be made available to first responders, but only as necessary to implement the program. “Community well-being check program” means a voluntary program that involves regular contact with a participant and, when contact cannot be established, sends first responders to the participant's residence to check on the participant's well-being.

*Amends 1 MRSA §402, sub-§3, ¶T
Amends 1 MRSA §402, sub-§3, ¶U*

Enacts 1 MRSA §402, sub-§3, ¶V

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC118.asp

Chapter 132 – LD 785

An Act to Improve Safety and Traffic Efficiency near School Grounds

The enacted law allows a school crossing guide to direct traffic. Failure to obey a crossing guard is a traffic infraction. Crossing guards are under the control of a local law enforcement agency only and not a school administrative unit. A crossing guard must complete training approved by the Bureau of Labor Standards to control traffic on a public way. A crossing guard may direct traffic only in an intersection with a marked crosswalk on a public way. A crossing guard may not contradict or override a lighted traffic control device or pedestrian control device. A crossing guard who does not meet the specifications is not prohibited from assisting a pedestrian to cross a public way so long as the crossing guard does not attempt to do so by directing traffic.

Enacts 29-A MRSA §2091-A

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC132.asp

Chapter 135 – LD 1261

An Act to Protect Children from Sex Trafficking

The enacted law creates a new Class D crime of soliciting a child to engage in prostitution if the actor knowingly solicits directly or indirectly by any means a person the actor knows or believes is under 18 years of age to engage in prostitution.

Enacts 17-A MRSA §259-B

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC135.asp

Chapter 144 – LD 332

An Act Regarding Service of Criminal Process on Providers of Electronic Communication Service and Remote Computing Service (Effective June 8, 2017)

The enacted law makes it explicit that a Maine search warrant or a Maine grand jury subpoena may compel production of records by a provider of electronic communication

service or remote computing service, even if the provider is outside the State, and establishes the appropriate procedure for service of such legal process.

Enacts 5 MRSA §113, sub-§6
Amends 15 MRSA §55
Amends 15 MRSA §56

Amends 16 MRSA §642, sub-§1
Amends 16 MRSA §648

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC144.asp

Chapter 149 – LD 1458

An Act to Amend the Law of Hindering Apprehension or Prosecution (Effective June 8, 2017)

The enacted law includes in the crime of hindering apprehension or prosecution those who hinder the apprehension or prosecution of persons who violate probation, supervised release for sex offenders, or parole.

Enacts 17-A MRSA §753, sub-§§1-C and 1-D

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC149.asp

Chapter 155 – LD 1104

An Act to Exempt School Resource Officers from Department of Education Background Check and Fingerprinting Requirements

An active duty law enforcement officer with jurisdiction over a school's premises who assists with school security, safety, emergency preparedness or emergency response or has been assigned other responsibilities concerning the school by the school or a local law enforcement agency is exempt from the provisions requiring fingerprinting of and background checks for persons employed in schools.

Enacts 20-A MRSA §6103, sub-§11

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC155.asp

Chapter 157 – LD 1387

An Act Regarding the Threatened Use of Force in the Crime of Robbery (Effective June 8, 2017)

This enacted law amends the crime of robbery to provide that a person commits robbery if the actor threatens to use force against any person present or otherwise intentionally or knowingly places any person present in fear of the imminent use of force with the intent to prevent or overcome resistance to the taking of the property, or to the retention of the property immediately after the taking; or to compel the person in control of the property to give it up or to engage in other conduct that aids in the taking or carrying away of the property.

Amends 17-A MRSA §651, sub-§1, ¶B

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC157.asp

Chapter 175 – LD 9

An Act to Prohibit the Creation of a Firearms Owner Registry

The enacted law provides that a government agency of the State or a political subdivision of the State may not keep or cause to be kept a comprehensive registry of privately owned firearms and the owners of those firearms within its jurisdiction.

Enacts 25 MRSA §2014

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC175.asp

Chapter 176 – LD 693

An Act to Clarify the Laws Governing Hunting from a Vehicle

The enacted law prohibits a person, while hunting, from shooting a firearm or crossbow while in or on a motor vehicle other than an ATV or snowmobile and possessing a loaded firearm or a crossbow in a motor vehicle other than an ATV or snowmobile or while in or on a trailer or another vehicle being hauled by a motor vehicle, except that a person may rest a loaded firearm or crossbow that is under the person's control on a motor vehicle other than an ATV or snowmobile as long as the motor vehicle is not moving and its engine is off. The bill prohibits a person from shooting while in an enclosed area or passenger compartment of an ATV or snowmobile, but allows a person to shoot a firearm or crossbow from or rest a loaded firearm or crossbow on the ATV or snowmobile when the ATV or snowmobile is not in motion and its engine is off. The law also provides that a person who is target shooting and not within an enclosed area or passenger compartment of a motor vehicle, trailer or other vehicle being hauled by a motor vehicle may shoot a firearm or crossbow when the motor vehicle, trailer or other type of vehicle is not in motion and the engine is not running.

Repeals 12 MRSA §11212

Enacts 12 MRSA §11212-A

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC176.asp

Chapter 220 – LD 324

An Act to Allow Corrections Officers to Administer Naloxone (Effective June 16, 2016)

The enacted law adds certified corrections officers to the list of persons authorized to administer naloxone hydrochloride, e.g., Narcan.

Amends 22 MRSA §2353, sub-§3

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC220.asp

Chapter 271– LD 1636

An Act to Allow Municipalities to Establish Ordinances Banning or Restricting Marijuana Caregivers within 500 Feet of a School (Effective June 23, 2017)

The enacted law amends the Maine Medical Use of Marijuana Act and allows a municipality to adopt a moratorium on the location within 500 feet of a preexisting public

or private school of new or expanded facilities where registered primary caregivers cultivate marijuana plants. Any ordinance adopted may only be adopted until July 1, 2018. Any ordinance adopted may not affect permits or providers that have been approved prior to the adoption of the ordinance. The Joint Standing Committee on Health and Human Services may report out legislation on this topic to the Second Regular Session of the 128th Legislature.

Enacts 22 MRSA §2423-A, sub-§13

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC271.asp

Chapter 274 – LD 1546

An Act to Clarify the Language Defining Schedule W Drugs and to Add Drugs to the List of Schedule W Drugs

The enacted law clarifies that any compound, mixture or preparation containing narcotic drugs in any quantity is a schedule W drug unless listed or described in another schedule. The law adds phenylpiperazine, mitragynine, U-47700, despropionyl fentanyl, furanylfentanyl and fluorofentanyl to the list of schedule W drugs.

Amends 17-A MRSA §1101, sub-§24

Amends 17-A MRSA §1102, sub-§1, ¶I

http://www.mainelegislature.org/legis/bills/bills_128th/chapters/PUBLIC274.asp

Chapter 292 – LD 1512

An Act to Protect the Health and Safety of First Responders

The enacted law makes it a crime for a person, knowing the person is infected with an aggressive blood-borne pathogen, to intentionally, knowingly or recklessly cause any of the person's body fluids to be exposed to a first responder while the first responder is performing official duties. The law also requires a person who has exposed that person's body fluids to a first responder in the course of the first responder's official duties to submit to a blood-borne pathogen test to test for aggressive blood-borne pathogens. If there is reasonable cause to suspect that the person's body fluids might contain such a pathogen, a justice, judge or justice of the peace may issue a search warrant to compel the person to submit to testing. Subsequent testing arising out of the same incident of exposure may also be conducted.

Enacts 22 MRSA §832-A

https://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC292.asp

Chapter 294 – LD 848

An Act to Support Law Enforcement Officers and First Responders Diagnosed with Post-Traumatic Stress Disorder

The enacted law amends the definition of mental injury caused by mental stress in the worker's compensation laws. It creates a rebuttable presumption that post-traumatic stress disorder is presumed to have arisen out of and in the course of the worker's

employment if a psychiatrist or psychologist diagnoses the employee as having post-traumatic stress disorder resulting from work stress that was extraordinary and unusual, and that the work stress and not some other source of stress was the predominant cause of the post-traumatic stress disorder. Corrections officers are not eligible for the presumption. The law directs the Workers' Compensation Board to submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters by January 1, 2022, analyzing the number of claims brought because of the provisions of the bill, the portion of those claims that resulted in a settlement or award of benefits, and the effect of the provisions of the bill on costs to the State and its subdivisions. The Bureau of Human Resources and the Department of Public Safety are directed to assist the board in developing the report, and the board is required to seek the input of an association, the membership of which consists exclusively of counties, municipalities and other political or administrative subdivisions, in the development of the report. This amendment also repeals the new rebuttable presumption October 1, 2022.

Repeals 39-A MRSA §201, sub-§3

Enacts 39-A MRSA §201, sub-§3-A

http://www.mainelegislature.org/legis/bills/bills_128th/chapters/PUBLIC294.asp

Chapter 300 – LD 654

An Act to Amend the Laws Governing Certain Sexual Offenses

The enacted law a new Class C gross sexual assault. A person is guilty of gross sexual assault if the actor engages in a sexual act with another person who has not expressly or impliedly acquiesced to the sexual act. In other words, gross sexual assault does not require compulsion or a threat, though gross sexual assaults accompanied by those elements constitute more serious forms of the crime. It repeals the defense of voluntary intoxication of the victim.

Enacts 17-A MRSA §253, sub-§2, ¶M

Repeals 17-A MRSA §253, sub-§3

http://legislature.maine.gov/legis/bills/bills_128th/chapters/PUBLIC300.asp

Chapter 308 – LD 1170

An Act to Reduce Youth Access to Tobacco Products

A person may not sell, furnish, give away or offer to sell, furnish or give away a tobacco product to any person ~~under 18~~ who has not attained 21 years of age, unless the person has attained 18 years of age as of July 2, 2018. The definition of "tobacco product" is expanded to include additional forms of tobacco and materials and devices used in the consumption of tobacco, including electronic smoking devices. The enacted law also changes the penalties for the unlawful sale and purchase of tobacco products.

Enacts 22 MRSA §1551, sub-§1-D
Repeals 22 MRSA §1551, sub-§2

Replaces 22 MRSA §1551, sub-§2

http://www.mainelegislature.org/legis/bills/bills_128th/chapters/PUBLIC308.asp