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An Act To Allow a Verdict in a Criminal Trial To Be Considered a De Minimis Infraction

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17-A MRSA §12, sub-§1, as enacted by PL 1975, c. 499, §1, is amended to read:

1. ~~The court may dismiss a prosecution if, upon notice to or motion of the prosecutor and opportunity to be heard, having regard to~~For a Class D or Class E crime, the court or jury may consider the facts of the conduct alleged, the nature of the conduct alleged and the nature of the attendant circumstances, ~~it finds~~concerning a defendant's act and base a verdict upon whether the defendant's conduct:

- A. Was within a customary license or tolerance, which was not expressly refused by the person whose interest was infringed and which is not inconsistent with the purpose of the law defining the crime; or
- B. Did not actually cause or threaten the harm sought to be prevented by the law defining the crime or did so only to an extent too trivial to warrant the condemnation of conviction; or
- C. Presents such other extenuations that it cannot reasonably be regarded as envisaged by the Legislature in defining the crime.

The court may dismiss a prosecution pursuant to this subsection at any time upon notice to or motion of the prosecutor and opportunity to be heard.

SUMMARY

This bill changes the requirements of allowing a court to dismiss a criminal offense based upon de minimis conduct by eliminating the requirement that a prosecutor be noticed and afforded an opportunity to be heard, by limiting the consideration to a Class D or Class E crime and by allowing a jury to also consider the de minimis conduct.