



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1054

H.P. 747

House of Representatives, March 19, 2013

**An Act To Prohibit Enforcement by a Federal or State Official or
Others of the National Defense Authorization Act For Fiscal Year
2012**

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative LIBBY of Waterboro.
Cosponsored by Representatives: CHIPMAN of Portland, GOODE of Bangor, HARVELL of Farmington, McCLELLAN of Raymond, RUSSELL of Portland, SANDERSON of Chelsea, SHAW of Standish, SIROCKI of Scarborough.

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

2 **Sec. 1. 37-B MRSA c. 27** is enacted to read:

3 **CHAPTER 27**

4 **PROHIBITION AGAINST ENFORCEMENT OF THE NATIONAL DEFENSE**
5 **AUTHORIZATION ACT**

6 **§1171. Findings**

7 The Legislature finds that:

8 **1. Tenth Amendment.** The United States Constitution, Amendment X declares that
9 the powers not delegated to the Federal Government by the United States Constitution,
10 nor prohibited by it to the states, are reserved to the states respectively, or to the people;

11 **2. Supremacy clause.** The United States Constitution, Article VI, Paragraph 2
12 declares that the laws of the United States are the supreme law of the land if they are
13 made in pursuance of the powers delegated to the Federal Government in the United
14 States Constitution;

15 **3. Habeas corpus.** The United States Constitution, Article 1, Section 9, Paragraph 2
16 declares that the writ of habeas corpus shall not be suspended except in cases of rebellion
17 or invasion when public safety may require suspension;

18 **4. Right to trial.** The United States Constitution, Amendment VI declares that in
19 criminal prosecutions the accused has the right to a speedy trial by an impartial jury in the
20 state or district where the crime was committed, to be informed of the nature and cause of
21 the accusation, to be confronted with the witnesses and to have assistance of counsel;

22 **5. Due process of law.** The United States Constitution, Amendments V and XIV
23 declare that the people may not be deprived of life, liberty or property without due
24 process of law;

25 **6. National Defense Authorization Act unconstitutional.** The National Defense
26 Authorization Act For Fiscal Year 2012, Public Law 112-81, authorizing the President of
27 the United States to arrest and detain noncitizens indefinitely without trial, to determine
28 whether or not a trial and what type of trial, including under the law of war, will be held
29 for an arrestee and to transfer an arrestee to a foreign jurisdiction, violates the true
30 meaning and intent of the United States Constitution as specified in subsections 3 to 5;
31 and

32 **7. Duty of Legislature.** It is the duty of the Legislature to enact all measures that
33 may be necessary to prevent the enforcement of any law or provision that violates the
34 constitutional rights of a person within the boundaries of the State.

1 5. Makes a state official or employee of a corporation doing business with the State
2 who enforces or attempts to enforce the unconstitutional provisions of the Act guilty of a
3 Class D crime.