

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 881

S.P. 273

In Senate, February 6, 1997

**An Act to Impose Liability Upon Persons Who Entrust Motor Vehicles
to Unsafe Drivers.**

Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MILLS of Somerset.

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

2 **Sec. 1. 28-A MRSA §601, sub-§1, ¶D** is enacted to read:

4 D. The applicant must satisfy the bureau that the
6 applicant, the applicant's employees and agents and the
8 licensed premises will be covered by a liquor liability
 insurance policy with coverage of at least \$300,000 per
 occurrence.

10 **Sec. 2. 28-A MRSA §1051, sub-§4** is enacted to read:

12 4. Liquor liability insurance policy. As a condition of
14 licensure, a licensee shall at all times during the term of the
 license carry a liquor liability insurance policy that covers the
16 service of liquor, as defined in section 2503, subsection 6, by
 the licensee and its employees and agents. The liquor liability
18 policy minimum limits of liability coverage must be at least
 \$300,000 per occurrence.

20 **Sec. 3. 28-A MRSA §1201, sub-§8** is enacted to read:

22 8. Liquor liability insurance policy. As a condition of
24 licensure, a licensee shall at all times during the term of the
 license carry a liquor liability insurance policy that covers the
26 service of liquor, as defined in section 2503, subsection 6, by
 the licensee and its employees and agents. The liquor liability
28 policy minimum limits of liability coverage must be at least
 \$300,000 per occurrence.

30 **Sec. 4. 28-A MRSA §2503, sub-§8** is enacted to read:

32 8. Economic loss. "Economic loss" means health care
34 expense, loss of income or earning capacity caused by disability,
 the cost or value of replacement services, pecuniary loss arising
36 from death and the costs of burial. "Economic loss" does not
 include subjective or nonmonetary losses or damages for pain,
38 suffering, emotional distress, loss of society and companionship,
 loss of consortium, injury to reputation or humiliation.

40 **Sec. 5. 28-A MRSA §2509, sub-§1,** as enacted by PL 1987, c. 45,
42 Pt. A, §4, is amended to read:

44 **1. Limitation on damages for losses other than expenses for**
 medical care and treatment. In actions for damages permitted by
46 this Act, the claim for and award of damages for all losses,
 ~~except expenses for medical care and treatment, including devices~~
48 ~~or aids~~ other than economic loss, against both a server and the
 server's employees and agents, may not exceed \$250,000 for any
50 and all claims arising out of a single accident or occurrence.

2 **Sec. 6. 28-A MRSAs §2512, sub-§2**, as enacted by PL 1987, c. 45,
Pt. A, §4, is amended to read:

4
6 **2. Several but not joint liability.** The intoxicated
individual and any server, as described in section 2505, are each
jointly and severally liable for 1/2 of the plaintiff's damages.
8 The intoxicated individual and any server are each severally
liable and not jointly liable for that percentage of the
10 plaintiff's remaining damages which that corresponds to each
defendant's percentage of fault as determined by the court or a
12 jury.

14 **Sec. 7. 28-A MRSAs §2513**, as enacted by PL 1987, c. 45, Pt. A,
§4, is amended to read:

16 **§2513. Notice required**

18
20 Every plaintiff seeking damages under this Act must give
written notice to all defendants servers within 180 days of the
date of the server's conduct creating liability under this Act.
22 The notice must specify the time, place and circumstances of the
server's conduct creating liability under this Act and the time,
24 place and circumstances of any resulting damages. ~~No error or~~
~~emission in the notice voids the effect of the notice, if~~
26 ~~otherwise valid, unless the error or emission is substantially~~
material. A notice is effective if the contents are in
28 substantial compliance with the requirements of this section.
Failure to give written notice within the time specified is
30 grounds for dismissal of a claim, unless the plaintiff provides
written notice within the limits of section 2514 and ~~shows good~~
32 ~~cause why notice could not have reasonably been filed within the~~
180-day limit the court finds the server is not prejudiced by the
34 delay.

36 **Sec. 8. 29-A MRSAs §1654** is enacted to read:

38 **§1654. Allowing unlicensed operator**

40 **1. Liability.** An owner or person having control of a motor
vehicle who, having knowledge or reason to know that a person
42 does not have a valid operator's license or permit or that a
person's right or privilege to operate a motor vehicle has been
44 suspended, permits that person to operate that motor vehicle is
jointly and severally liable with that person for damages caused
46 by the negligence of that person.

48 **2. Not exclusive.** This section does not limit and does not
diminish any cause of action or right of recovery that is or may
50 become available under the common law.

2 The motor vehicle statutes are amended to provide civil and
3 criminal liability for a person who knowingly permits an
4 unlicensed driver to drive that person's motor vehicle. The bill
5 establishes a Class E crime that applies to an owner of a motor
6 vehicle who allows another person to operate that motor vehicle,
7 if the owner knows or has reason to know that the person
8 operating the motor vehicle is under the influence of
9 intoxicants, has a blood-alcohol level of 0.08%, or has no
10 license or has the license or right or privilege to operate
suspended.