

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 694

H.P. 511

House of Representatives, February 14, 2003

An Act Regarding Criminal Liability in an OUI Case When the Passenger Is Also under the Influence of Alcohol or Drugs

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative GLYNN of South Portland.

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

2
4 **Sec. 1. 29-A MRSA §2411, sub-§6**, as amended by PL 2001, c.
332, §1, is further amended to read:

6 **6. Aggravated punishment category.** An operator commits a
Class C offense if the State pleads and proves that the operator,
8 while operating a motor vehicle in violation of this section:

10 A. In fact caused serious bodily injury as defined in Title
17-A, section 2, subsection 23 to another person or in fact
12 caused the death of another person; or

14 B. Has either a prior conviction for a Class C crime under
this section or a prior criminal homicide conviction
16 involving or resulting from the operation of a motor vehicle
while under the influence of intoxicating liquor or drugs or
18 with a blood-alcohol content of 0.08% or greater.

20 In any prosecution under this subsection, the State need not
prove that the defendant's condition of being under the influence
22 of intoxicants or having a blood-alcohol level of 0.08% or more
caused the serious bodily injury or death alleged. The State
24 must prove only that the defendant's operation caused the serious
bodily injury or death. The court shall apply the definition of
26 causation in Title 17-A, section 33.

28 In using a sentencing alternative involving a term of
30 imprisonment for a person convicted of violating this section
when the person who suffered serious bodily injury or death was a
32 passenger in the driver's motor vehicle, and the passenger was
also under the influence of intoxicating liquor or drugs and knew
34 or reasonably should have known that the driver was under the
influence of intoxicating liquor or drugs, a court shall assign
36 special weight to this fact in determining the basic term of
imprisonment as the first step in the sentencing process.

38 The sentence must include a period of incarceration of not less
than 6 months, a fine of not less than \$2,000 and a court-ordered
40 suspension of a driver's license for a period of 6 years. These
penalties may not be suspended.

42 **Sec. 2. 29-A MRSA §2411-A** is enacted to read:

44 **§2411-A. Criminal liability of passenger in aggravated OUI case**

46 **1. Violation; penalty.** A person commits a Class E crime if
48 that person:

