

MAINE STATE LEGISLATURE

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August 12, 1936

Hon. Lewis O. Barrows
Secretary of State
Augusta, Maine

Dear Sir:

You have submitted to this office for an answer, the question of whether or not those who violated the Motor Vehicle Law providing punishment for the operation of a motor vehicle while under the influence of intoxicating liquor, and further providing that the license of an operator convicted shall be suspended for one or two years depends upon whether or not final conviction is entered up after the effective date of the law passed by the Legislature of Maine of 1935.

Prior to the passage of the Act increasing the time in which a convicted person could not operate, it was provided by law that for one year after conviction such convicted person should have no right to operate a motor vehicle. The Legislature of 1935, by a law, effective the first of July, 1935, provided that such person convicted should not again be licensed to operate until two years from the date of his conviction. I understand from your letter that there are instances where the offense itself was committed before the effective date of the Act of the 1935 Legislature, but by reason of appeal actual conviction did not result until after that effective date.

Your question is whether or not persons convicted of the offense prior to the first of July are to be governed by the prior law or by the law passed by the 1935 Legislature.

The Law Court of Maine has never passed upon the question, but most authorities in other states confronted with similar questions have held that if the offense be committed prior to the effective date of the Act which increases the penalty, the increased penalty may not be imposed. Personally, I do not follow the reasoning or the logic of such a view, but since other states, through the Supreme Court, have determined that the increase of penalty should not apply, it is my advice that you should be guided by the decisions of other states and restore to operators, falling

Hon. Lewis O. Barrows
Secretary of State
August 12, 1936, Page 2

within the category, a license after one year has expired,
assuming that in your judgment it is meet to do so when
such applicants violated the law prior to the effective date
of the Act of the 1935 Legislature.

Very truly yours,

Attorney General

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