

# MAINE STATE LEGISLATURE

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STATE OF MAINE

yes ✓

Inter-Departmental Memorandum Date April 19, 1967

To Joseph T. Edgar, Secretary of State Dept. State

From Leon V. Walker, Jr., Assistant Dept. Attorney General

Subject Suspension of Licenses under 29 M.R.S.A. § 1312

The question has arisen, in a case where a person has been convicted for the second time of the offense of operating a motor vehicle under the influence of intoxicating liquor, but the prior conviction was neither alleged nor proven at the second trial, whether, having in your official file the record of both convictions, you should not license the person for at least 3 years from the date of the last revocation.

This question we answer in the affirmative. Whereas a court, in order to penalize as for a second offense, must have before it both allegation and proof of the prior conviction of the offender, we interpret the words "upon a 2nd conviction" and "upon any subsequent conviction" in the third paragraph of § 1312, as a directive to your office to count numerically the number of convictions found in your file, and withhold licensure for the time specified for the number of convictions found in your file.

*Leon V. Walker, Jr.*

Leon V. Walker, Jr.  
Assistant Attorney General

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