

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

August 1, 1975

The Honorable John L. Martin
Speaker of the House
Maine House of Representatives
State House
Augusta, Maine 04330

Re: 29 M.R.S.A. § 2241

Dear Speaker Martin:

The Attorney General has referred your inquiry of July 29, 1975, with respect to the constitutionality of 29 M.R.S.A. § 2241 to me.

Section 2241, in pertinent part, provides:

" . . . The original license issued to new applicant shall be a provisional license for a period of one year following the date of issue and shall remain in force as a non-provisional license to the 2nd birthdate following the date of issue. If a person is convicted of a motor vehicle moving violation while in the possession of a provisional license on the first offense, the license shall be suspended for 30 days. If he is convicted of a 2nd offense, his license shall be suspended for 60 days and in the event of a 3rd conviction the license shall be suspended to the date of its expiration or for 90 days, whichever shall be the longer period of time" [see in conjunction with the above § 2241 (1)(A)].

You ask whether this provision as contrasted with the points system provision which applies to non-provisional

license holders creates a suspect classification in violation of the United States Constitution or the Constitution of Maine. The answer is no.

The Maine Supreme Judicial Court in Ballard v. Edgar, Me., 268 A.2d 884 (1970) clearly stated that "whether or to what extent suspension of drivers' licenses is imposed as a safeguard for the public is entirely a matter of legislative policy."

The provisions of 29 M.R.S.A. § 2241 as read in conjunction with section 2241(1)(A) is not without rational basis. It does not establish per se a suspect classification.

The Legislature has clearly adopted a policy of temporary license suspension without preliminary hearing for provisional licensees. Such a policy, obviously based upon consideration of public safety, is not unreasonable. Further, I would point out that although a provisional licensee convicted of a moving violation is not afforded a preliminary hearing, he may obtain a hearing upon suspension by request under § 2241(3). Opportunity for a hearing upon request after notice of suspension affords an individual sufficient due process protection.

If I may be of further assistance in this matter, please feel free to contact me.

Very truly yours,

ROBERT J. STOLT
Assistant Attorney General

RJS:jg
cc:Secretary of State