

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date December 29, 1975

To Linwood F. Ross, Deputy Secy. State Dept. Motor Vehicle Division

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

Subject Alan R. Bolduc (OUI)

You have attached to your memo of December 3, a copy of a court abstract showing that Mr. Bolduc was adjudicated on October 17, 1975, of having committed a juvenile offense (O.U.I.)

By 15 M.R.S.A. § 2552, P2, juvenile courts have exclusive, original jurisdiction of offenses under 29 M.R.S.A. § 1312. Section 2606 provides that juvenile court records of such offenses shall be transmitted by juvenile courts, "together with a summary of the pertinent facts of the motor vehicle violation to the Secretary of State, and shall be admissible in evidence in hearings conducted by the Secretary of State regarding motor vehicle violations...or motor vehicle licenses and registrations."

You ask 2 questions:

1. Is your office in order in requesting the juvenile court to submit "a summary of the pertinent facts" which the law seems to suggest, or is the record sufficient?

2. Is your office in order in notifying Bolduc to attend a hearing to show cause why his license should not be suspended as the result of the aforesaid adjudication?

1. Information received by me from the District Court in Portland, in response to a request made to the Chief Judge, is that there is no "summary of the pertinent facts" other than the information contained in an abstract of Court Record such as your enclosure, which contains the facts pertinent to the juvenile case of Mr. Bolduc. The answer to this question is that the abstract of the court record is sufficient.

2. The answer to this question is yes. 29 M.R.S.A. § 1312, sub-§10A, provides that upon receipt of an attested copy of the court record of a conviction of OVI, the license of the person convicted shall be immediately suspended without preliminary hearing. Mr. Bolduc's abstract, however, is not such a record, but is only a record of an adjudication of having committed a juvenile offense, and does not warrant a mandatory license suspension. Yet the abstract does contain a summary of the particular facts of a motor vehicle violation (OUI) which are admissible in evidence in a hearing conducted by your office under 29 M.R.S.A. § 2241, sub-§1, 1st sentence, and which authorize the Secretary of State to suspend Bolduc's license or right to operate a motor vehicle" after hearing for any cause which he deems sufficient."


LVW:jg

Leon V. Walker, Jr.