

MAINE STATE LEGISLATURE

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Parking State House Violations, Enforcement
State House Parking
5 M.R.S.A. 1772

17A

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AUGUSTA, MAINE 04333

October 28, 1977

Joseph H. Farrand, Chief
B.P.I. - Security
State Office Building
Augusta, Maine 04333

Dear Chief Farrand:

You have asked for advice on the question of whether or not the Secretary of State may suspend a person's license for failure to appear in response to a court summons for a parking violation on state property. It is my opinion that no such suspension may be imposed.

The authority to promulgate rules and regulations with respect to parking in state property is found in 5 M.R.S.A. §1772. Jurisdiction over violations of these rules and regulations lies in the District Court for Southern Kennebec.

The power to suspend a person's license to operate a motor vehicle is found in various sections of Title 29 of the Maine Revised Statutes. The Secretary of State may suspend or revoke a person's license, after a hearing, for any cause which he deems sufficient. See 29 M.R.S.A. §2241. Moreover, the Secretary of State may suspend a license, without a hearing, for certain reasons specified in section 2241(1). The provisions of 29 M.R.S.A. §2241 would not apply to the situation you have described.

29 M.R.S.A. §2301 provides that the license of a person who has been arrested for a violation of Title 29 and who has failed to appear in court on the day specified may be suspended. Once again, however, this provision does not apply to parking violations on state property since no violation of Title 29 is involved.

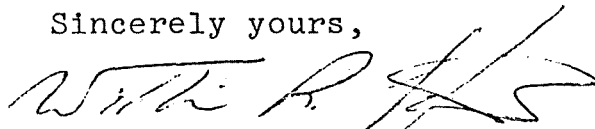
The only statute which could conceivably apply to the situation you have described is 29 M.R.S.A. §2301-A. Section 2301-A provides:

"If a person fails to appear in court on the day specified in response to a summons or order of court for any violation of any provision of this Title, or in response to a Uniform Traffic Ticket and Complaint or for any further appearance by the court, including one for the payment of a fine, either in person or by counsel, the court shall notify the Secretary of State, or suspend his right to operate motor vehicles in this state, if a non-resident and not licensed in this state. If a person who has been ordered to pay a fine for a violation of any provision of this Title has failed to pay the fine within 30 days of such order, the court shall notify the Secretary of State, who may suspend his license, if licensed in this State, or suspend his right to operate motor vehicles in this state, if a non-resident and not licensed in this state."

The language of this statute makes it clear that the summons or court order must be for a violation of a provision of Title 29. Therefore, a summons for a violation of a parking regulation promulgated by the B.P.I. pursuant to 5 M.R.S.A. §1772 would not fall within the ambit of section 2301-A. However, it could be argued that the provisions of section 2301-A may be invoked if the Uniform Traffic Ticket and Complaint procedure is used to enforce parking violations, which is apparently done by some municipalities. However, it is my opinion that the phrase, ". . . or in response to a Uniform Traffic Ticket and Complaint . . ." was intended to be read in conjunction with the immediately preceding phrase, namely; ". . . for any violation of any provision of this Title . . ." Such an interpretation is, in my view, necessary, since otherwise, the actual scope of section 2301-A would depend on whether the B.P.I. chose to utilize the Uniform Traffic Ticket and Complaint procedure to enforce its rules and regulations.

It is therefore my conclusion that a person's license may not be suspended for his failure to appear in response to a summons for a parking violation on state property.

Sincerely yours,



WILLIAM R. STOKES
Assistant Attorney General

WS:ld

cc: Don Alexander ✓
Richard Cohen
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