

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1571

S. P. 607

In Senate, May 23, 1963

Reported by Majority from Committee on Judiciary and printed under Joint Rules No. 10.

CHESTER T. WINSLOW, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT Relating to Percentage by Weight of Alcohol of Blood of Operators of
Motor Vehicles.

Be it enacted by the People of the State of Maine, as follows:

R. S., c. 22, § 150, repealed and replaced. Section 150 of chapter 22 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

‘Sec. 150. Operating motor vehicle while under the influence of intoxicating liquor or drug. Whoever shall operate or attempt to operate a motor vehicle from any way, or in any other place when at all under the influence of intoxicating liquor or drugs shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for not less than 10 days, nor more than 6 months, or by both. Any person convicted of a 2nd or subsequent offense shall be punished by imprisonment for not less than 10 days nor more than 11 months, which jail sentence shall not be suspended, and in addition thereto, the court may impose a fine as above provided. The court may admit evidence of the percentage by weight of alcohol in the defendant’s blood at the time alleged, as shown by a chemical analysis of his breath, blood or urine. Evidence that there was, at that time, 7/100%, or less, by weight of alcohol in his blood, is prima facie evidence that the defendant was not under the influence of intoxicating liquor within the meaning of this section. Evidence that there was, at that time, from 7/100% to 12/100% by weight of alcohol in his blood is relevant evidence but it is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor within the meaning of this section. Evidence that there was, at the time, more than 12/100%, by weight of alcohol in his blood, is prima facie evidence that the defendant was

under the influence of intoxicating liquor within the meaning of this section. All such tests made to determine the weight of alcohol in the blood shall be paid for by the county wherein the violation of this section was alleged to have occurred. The failure of a person accused of this offense to have tests made to determine the weight of alcohol in his blood shall not be admissible in evidence against him. Whoever shall operate a motor vehicle upon any way, or in any other place when intoxicated, shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for not less than 30 days nor more than 11 months, or by both. Any person convicted of a 2nd subsequent offense shall be punished by imprisonment for not less than 60 days nor more than 2 years, which jail sentence shall not be suspended, and in addition the court may impose a fine as above provided. The license or right to operate motor vehicles of any person convicted for a first violation of this section shall be revoked immediately for a period of 2 years by the Secretary of State upon receipt of an attested copy of the court records, without further hearing. The license or right to operate motor vehicles of any person convicted of a 2nd offense for violating this section shall be revoked immediately for a period of 5 years by the Secretary of State upon receipt of an attested copy of the court records, without further hearing. The license or right to operate a motor vehicle of any person convicted of a 3rd or subsequent offense for violating this section shall be revoked immediately for an indefinite period of time by the Secretary of State upon receipt of an attested copy of the court records.

If any person convicted of any violation of this section shall appeal from the judgment and sentence of the court, his license and right to operate a motor vehicle in this State shall be suspended during the time his appeal is pending in the appellate court, unless the trial court shall otherwise order, or unless the Secretary of State, after a hearing, shall restore the license or permit pending decision on the appeal. The license of any person, against whom probable cause is found and who is held under bail pending the action of the grand jury for the violation of this section, shall be suspended until the final disposition of the charge.

Any person convicted of a first violation of this section whose court record establishes that at the time of this offense there was evidence of 188/100% or less by weight of alcohol in the blood as shown by a chemical analysis of his breath, blood or urine within 4 hours after the time of the offense, may petition the Secretary of State after the expiration of 6 months from the date of revocation for a license or permit.

Any other person convicted for a first violation of this section may petition the Secretary of State after the expiration of one year from the date of revocation of a license or permit. Upon hearing the Secretary of State, if he determines that public safety will not be endangered, may issue a license to the petitioner, with or without conditions thereto attached.

Any person whose license or right to operate a motor vehicle has been revoked for a 2nd conviction of a violation of this section may petition the Secretary of State after the expiration of 3 years from the date of such last revocation, and the Secretary of State after like hearing and determination, again may issue a license or permit to the petitioner, with or without conditions.

Upon any subsequent conviction for a similar offense, the license or permit shall terminate and no subsequent license or permit shall be granted to such person, except that a person who has had 3 convictions under this section may petition the Secretary of State for a special license, who, after being satisfied that the said petitioner has refrained from all use of intoxicating liquor for a period of 6 years next preceding the day of hearing on the said petition, may issue a special permit or license conditioned upon continued non-use of intoxicating liquor.

In allegations charging second or subsequent offenses, the certified copy of the prior convictions from the office of the Secretary of State shall be admitted in evidence as proof of the prior convictions.'