

MAINE STATE LEGISLATURE

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SECOND SPECIAL SESSION

ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1835

H. P. 1306

House of Representatives, January 9, 1968

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Birt of East Millinocket.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-EIGHT

AN ACT Relating to Highway Safety.

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

Sec. 1. R. S., T. 29, § 1254, amended. The 2nd sentence of the first paragraph of section 1254 of Title 29 of the Revised Statutes is amended to read as follows:

The results of such measurement shall be accepted as prima facie evidence of the speed of such motor vehicle in any court in criminal proceedings where the speed of the motor vehicle is at issue ~~provided that signs bearing the words "Speed Measured by Radar" shall appear on any highway not more than one mile and not less than 1/4 mile from approaching traffic where radar or other electronic device is being used.~~

Sec. 2. R. S., T. 29, § 1312-A, additional. Title 29 of the Revised Statutes is amended by adding a new section 1312-A, to read as follows:

§ 1312-A. Revocation of license in event of refusal to submit to chemical tests

1. **Consent.** Any person who operates a motor vehicle upon the public highways of this State shall be deemed to have given consent, subject to section 1312, to a test of his breath for the purpose of determining the alcoholic content of his blood, if arrested for any offense arising out of acts alleged to have been committed while the person was operating or attempting to operate a motor vehicle while under the influence of intoxicating liquor. The breath test shall be administered by a person certified by the Commissioner of Health and Welfare at the request of a police officer having reasonable grounds to believe the person to have been

operating or attempting to operate a motor vehicle upon the public ways of this State while under the influence of intoxicating liquor.

2. **Hearing.** If a person under arrest refuses upon the request of a police officer to submit to the tests as provided in subsection 1, none shall be given, but the Secretary of State upon the receipt of a sworn report of the police officer that he had reasonable grounds to believe the arrested person had been operating or attempting to operate a motor vehicle upon the public highways of this State while under the influence of intoxicating liquor and that the person had refused to submit to the test upon the request of the police officer, shall immediately notify the person in writing and upon his request shall afford him an opportunity for a hearing in the same manner and under the same conditions as provided in section 2241 for the notification and hearings in the cases of discretionary suspension, except that the scope of such a hearing for the purpose of this section shall cover the issues of whether the police officer had reasonable grounds to believe the person had been operating or attempting to operate a motor vehicle upon the public highways of this State while under the influence of intoxicating liquor, whether the person was placed under arrest and whether he refused to submit to the test by a person duly certified as provided in subsection 1 upon request of the officer. If it has been determined under this section that such person did refuse to take the breath test, the Secretary of State shall order the revocation of the license, not to exceed 60 days.

3. **Review.** The person whose license or permit to drive or nonresident privilege has been revoked, or to whom a license or permit is denied, under this section, shall have the right to file a petition in the appropriate court to review the final order of revocation or denial by the Secretary of State in the same manner and under the same conditions as is provided in section 2242 in the cases of discretionary revocations and denials, except that pending final decision on appeal the license or permit to drive shall not be suspended or revoked.

4. **Notification to nonresident's state.** When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this State has been revoked, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license.

5. **Result of tests.** Upon the request of the person who was tested, the results of such test shall be made immediately available to him.