

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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**Legislative Document**

**No. 1448**

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H. P. 1054

House of Representatives, March 10, 1971

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Hewes of Cape Elizabeth.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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**AN ACT Relating to Habitual Offenders of Motor Vehicle Laws.**

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

R. S., T. 29, c. 18, additional. Title 29 of the Revised Statutes is amended by adding a new chapter 18 to read as follows:

**CHAPTER 18**

**HABITUAL OFFENDERS**

§ 2271. Declaration of policy

It is declared to be the public policy of Maine:

1. Safety. To provide maximum safety for all persons who travel or otherwise use the public highways of the State; and

2. Privileges denied. To deny privilege of operating motor vehicles on such highways to persons who by their conduct and record have demonstrated their indifference for the safety and welfare of others and their disrespect for the laws of the State of Maine and for the orders of Maine courts and administrative agencies; and

3. Discourage repetition. To discourage repetition of criminal actions by individuals against the peace and dignity of the State and its political subdivisions and to impose increased and added deprivation of the privilege to operate motor vehicles upon habitual offenders who have been convicted repeatedly of violations of traffic laws.

§ 2272. Definition

An habitual offender shall be any person, resident or nonresident, whose record, as maintained in the office of the Secretary of State shows that such person has accumulated the convictions for separate and distinct offenses described in subsections 1, 2 and 3, committed within a 10-year period, provided that where more than one included offense shall be committed within a 6-hour period such multiple offenses shall, on the first such occasion, be treated for the purposes of this chapter as one offense provided the person charged has no record of prior offenses chargeable under this chapter, and provided the date of the offense most recently committed occurs on or after the effective date of this chapter and within 10 years of the date of all other offenses the conviction for which is included in subsections 1, 2 or 3, as follows:

1. Three or more convictions. Three or more convictions, singularly or in combination of the following separate and distinct offenses arising out of separate acts:

- A. Voluntary or involuntary manslaughter resulting from the operation of a motor vehicle;
- B. Driving or operating a motor vehicle while under the influence of intoxicants or drugs in violation of section 1312;
- C. Driving or operating a motor vehicle in a reckless manner in violation of section 1311 or section 1315;
- D. Driving a motor vehicle while his license, permit or privilege to drive a motor vehicle has been suspended or revoked in violation of section 2184;
- E. Willfully operating a motor vehicle without a license to do so;
- F. Knowingly making any false affidavit or swearing or affirming falsely to any manner or thing required by the motor vehicle laws or as to information required in the administration of such laws;
- G. Any offense punishable as a felony under the motor vehicle laws of Maine or any felony in the commission of which a motor vehicle is used;
- H. Failure of the driver of a motor vehicle involved in an accident resulting in the death or injury of any person to stop close to the scene of such accident and report his identity in violation of section 893;
- I. Failure of the driver of a motor vehicle involved in an accident resulting only in damage to an attended or unattended vehicle or other property in excess of \$100 to stop close to the scene of such accident and report his identity or otherwise report such accident in violation of law.

2. Twelve or more convictions. Twelve or more convictions of separate and distinct offenses, singularly or in combination, in the operation of a motor vehicle which are required to be reported to the Secretary of State and the commission whereof authorizes the Secretary of State or authorizes a court to suspend or revoke the privilege to operate motor vehicles on the highways of this State for a period of 30 days or more and such convictions shall include those offenses enumerated in subsection 1 when taken with and added to those offenses described.

3. Inclusions. The offenses included in subsections 1 and 2 shall be deemed to include offenses under any valid town, city or county ordinance paralleling and substantially conforming to the state statutory provisions cited in subsections 1 and 2 and all changes in or amendments thereof, and any federal law, any law of another state or any valid town, city or county ordinance of another state substantially conforming to the aforesaid state statutory provisions.

§ 2273. Transcript

The Secretary of State shall certify 3 transcripts or abstracts of the conviction record as maintained in the office of the Secretary of State of any person whose record brings him within the definition of an habitual offender, as defined in section 2272, to the Attorney General. Such transcript or abstract may be admitted as evidence. Such transcript or abstract shall be prima facie evidence that the person named therein was duly convicted by the court, wherein such conviction or holding was made, of each offense shown by such transcript or abstract, and if such person shall deny any of the facts as stated, he shall have the burden of proving that such is untrue.

§ 2274. Prosecution

The Attorney General, upon receiving the transcripts or abstracts from the Secretary of State, shall forthwith file information against the person named therein in the Superior Court having jurisdiction of criminal offenses in the political subdivision in which such person resides. In the event such person is a nonresident of this State, the Attorney General shall file information against the accused person in the Superior Court of the County of Kennebec.

§ 2275. Procedure

1. Show cause. The court in which such information is filed shall enter an order, which incorporates the transcript or abstract and is directed to the person named therein, to show cause why he should not be barred from operating a motor vehicle on the highways of this State. A copy of the show cause order and such transcript or abstract shall be served on the person named therein in the manner prescribed by law for the service of notices. Service thereof on any nonresident of the State may be made by the Secretary of State in the same manner as in any action or proceeding arising out of a collision on the highways of this State in the manner provided in section 1911, which is made applicable to these proceedings, and the State shall pay a fee of \$5 to the Secretary of State for making such service and such fee shall be taxed against the defendant as a part of the cost of such proceeding.

2. Certification; hearing. If such person denies he was convicted of any offense necessary for a holding that he is an habitual offender, and if the court cannot, on the evidence available to it, make such determination, the court may certify the decision of such issue to the court in which such conviction was made. The court to which such certification is made shall forthwith conduct a hearing to determine such issue and send a certified copy of its final order determining such issue to the court in which such information was filed.

3. Order. If the court finds that such person is not the same person named in the transcript or abstract, or that he is not an habitual offender under this chapter, the proceeding shall be dismissed, but if the court finds that such person is the same person named in the transcript or abstract and that such person is an habitual offender, the court shall so find and by appropriate order direct such person not to operate a motor vehicle on the highways of the State of Maine and to surrender to the court all licenses or permits to operate a motor vehicle on the highways of this State for disposal. The clerk of the court shall file with the Secretary of State a copy of such order which shall become a part of the permanent records of the Secretary of State.

#### § 2276. Prohibition

No license to operate motor vehicles in Maine shall be issued to an habitual offender:

1. Time. For a period of 4 years from the date of the order of the court finding such person to be an habitual offender;
2. Financial responsibility. Until such time as financial responsibility requirements are met, and
3. Restoration. Until the privilege of such person to operate a motor vehicle in this State has been restored by an order of a court of record entered in a proceeding as hereinafter provided.

#### § 2277. Penalty

It shall be unlawful for any person to operate any motor vehicle in this State while the order of the court prohibiting such operation remains in effect. Any person found to be an habitual offender under this chapter who is thereafter convicted of operating a motor vehicle in this State while the order of the court prohibiting such operation is in effect, shall be punished by imprisonment for not less than one nor more than 5 years and no portion of such sentence shall be suspended, except that in cases wherein such operation is necessitated in situations of apparent extreme emergency which require such operation to save life or limb, said sentence or any part thereof may be suspended.

For the purpose of enforcing this section, in any case in which the accused is charged with driving a motor vehicle while his license, permit or privilege to drive is suspended or revoked or is charged with driving without a license, the court before hearing such charge shall determine whether such person has been held an habitual offender and by reason of such holding is barred from operating a motor vehicle on the highways of this State. If the court determines the accused has been so held, it shall certify the case to the Superior Court of the county for trial.

#### § 2278. Restoration of license

At the expiration of 4 years from the date of any final order of a court entered under this chapter finding a person to be an habitual offender and directing him not to operate a motor vehicle in this State, such person may peti-

tion the court in which he was found to be an habitual offender, or any Superior Court in Maine having jurisdiction in the political subdivision in which such person then resides, for restoration of his privilege to operate a motor vehicle in this State. Upon such petition, and for good cause shown, such court may, in its discretion, restore to such person the privilege to operate a motor vehicle in this State upon such terms and conditions as the court may prescribe, subject to other provisions of law relating to the issuance of operators' licenses.

§ 2279. Appeal

An appeal to the Supreme Judicial Court of Maine may be had from any final action or order of a Superior Court entered under this chapter in the same manner and form as such an appeal would be noted, perfected and tried in any criminal case.

§ 2280. Existing law

Nothing in this chapter shall be construed as amending, modifying or repealing any existing law of Maine or any existing ordinance of any political subdivision relating to the operation or licensing of motor vehicles, the licensing of persons to operate motor vehicles or providing penalties for the violation thereof, or shall be construed so as to preclude the exercise of the regulatory powers of any division, agency, department or political subdivision of the State having the statutory power to regulate such operation and licensing.

STATEMENT OF FACT

The purpose of this bill is reflected in section 2271 (Declaration of policy).