

# MAINE STATE LEGISLATURE

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New Draft of: H. P. 1054, L. D. 1448

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ONE HUNDRED AND FIFTH LEGISLATURE

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**Legislative Document**

**No. 1771**

H. P. 1355

House of Representatives, May 21, 1971

Reported by a Majority of the Committee on Judiciary and printed under  
Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

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STATE OF MAINE

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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 5-year period, provided that where more than one included offense shall be committed within a 1-day period such multiple offenses shall be treated for the purposes of this chapter as one offense:

1. Three or more convictions. Three or more convictions, singularly or in combination of any 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. Operating or attempting to operate while under the influence of intoxicating liquor or drugs, operating or attempting to operate while impaired by the use of intoxicating liquor or drugs or operating or attempting to operate while intoxicated by the use of intoxicating liquor or drugs;

C. Driving or operating a motor vehicle in a reckless manner;

D. Driving a motor vehicle while his license, permit or privilege to drive a motor vehicle has been suspended or revoked;

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;

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. Ten or more convictions. Ten or more convictions of separate and distinct offenses involving moving violations 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 for each offense 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 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. Computation of number of convictions

In computing the number of convictions all convictions must result from offenses occurring subsequent to the effective date of this chapter.

§ 2274. 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.

§ 2275. Prosecution

The Attorney General, upon receiving the transcripts or abstracts from the Secretary of State, shall forthwith file a complaint against the person named therein in the Superior Court of the county in which such person resides.

§ 2276. Procedure

1. Show cause. The court in which such complaint 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 would 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 process. 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.

2. 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. 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.

§ 2277. Prohibition

No license to operate motor vehicles in Maine shall be issued to an habitual offender for a period of one year from the date of the order of the court find-

ing such person to be an habitual offender, and until the privilege of such person to operate a motor vehicle in this State has been restored by an order of the court, and until such time as financial responsibility requirements as set forth in section 782 are met.

§ 2278. Restoration of license

At the expiration of one year 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 petition the court in which he was found to be an habitual offender 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 law court 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 civil action.

§ 2280. 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, may be punished by imprisonment for not more than 2 years.

§ 2281. Existing law

Nothing in this chapter shall be construed as amending, modifying or repealing any existing law of Maine 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 or department of the State having the statutory power to regulate such operation and licensing.