

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1340

H. P. 1122

House of Representatives, March 29, 1977

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

EDWIN H. PERT, Clerk

Presented by Mr. Henderson of Bangor.

Cosponsors: Messrs. Spencer of Standish, Joyce of Portland, Moody of Richmond.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Reduce Traffic Accidents and Fatalities by Providing for the Establishment of Education and Treatment Programs for Persons Convicted of Operating under the Influence of Alcohol.

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

Sec. 1. 17-A MRSA § 1207 is enacted to read:

§ 1207. Alcohol treatment program

After a conviction under Title 29, section 1312 or any other Class C, D or E criminal offense in which the court makes a determination that the defendant was under the influence of alcohol at the time of the crime, the court may continue the case for sentencing for a maximum of 14 days. During this period, the court may request and shall receive a presentence report conducted by the Division of Probation and Parole, which shall state the history, extent and seriousness of the person's use of alcohol. Any presentence evaluation conducted under this section shall be performed by a person experienced and trained in the recognition, prevention and treatment of alcohol abuse.

If the court finds that the person habitually lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted, the court may place the person on probation and impose as a condition of probation that the person successfully complete a driver education program or an alcoholism treatment program approved and supervised by the Office of Alcoholism and Drug Abuse Prevention.

In order to qualify for probation, the offender shall cooperate in any presentence investigation. Alcoholism treatment programs utilized by the court under the provision of this section shall include any public or private in-patient or out-patient program, facility, hospital, self-help group or other organization or service certified by the Office of Alcoholism and Drug Abuse Prevention as appropriate and beneficial for the purposes of this section. The Office of Alcoholism and Drug Abuse Prevention shall prepare and publish annually a list of all alcoholism treatment programs and facilities approved for treatment under this section. Such list shall be available upon request to members of the public. The Office of Alcoholism and Drug Abuse Prevention shall furnish each court in the State and the Secretary of State with a current copy of the list.

Any person placed on probation pursuant to this section, who fails to successfully complete either the driver education program or the alcoholism treatment program as required by the court, or who otherwise violates a condition of his probation, may be arrested and required to appear for a preliminary hearing or court hearing on the alleged violation pursuant to Title 17-A, sections 1205 and 1206.

When, as a result of proceedings held under Title 17-A, sections 1205 and 1206, the court revokes the probation of any person convicted under Title 29, section 1312, the court shall forthwith notify the Secretary of State in writing of such failure, and the Secretary of State shall immediately and without further hearing suspend any license or permit to operate a motor vehicle which may have been restored.

When, as the result of proceedings held under Title 17-A, sections 1205 and 1206, the court does not revoke probation but still finds that a person convicted under Title 29, section 1312 has inexcusably failed to comply with a requirement imposed as a condition of probation, the court shall forthwith notify the Secretary of State in writing of such failure.

Upon termination of a period of probation of a person convicted under Title 29, section 1312 and discharge of the convicted person under Title 17-A, section 1202, the court shall forthwith notify the Secretary of State in writing of such termination and discharge.

Sec. 2. 22 MRSA § 7125 is enacted to read:

§ 7125. Evaluation of driver education and treatment programs

The Director of the Office of Alcoholism and Drug Abuse Prevention shall prepare biennially for the Legislature a thorough evaluation of the driver education and treatment programs established under Title 29, section 1312. The evaluation shall include an examination of the costs, effectiveness, benefits, burdens, social impact and other relevant aspects of the programs. Any legislative extension, modification or discontinuance shall take into consideration the results of the evaluation.

Sec. 3. 29 MRSA § 1312, sub-§ 10, ¶ A, 1st ¶, 2nd sentence, as repealed and replaced by PL 1975, c. 505, is amended to read:

Upon receipt of an attested copy of the court record of such conviction, the

license or permit and privilege to operate of any person convicted of a first violation of this section shall be immediately suspended and shall not be reinstated by the Secretary of State prior to 30 days from the date of suspension and until such time as the ~~rehabilitation~~ education program under the auspices of the ~~Secretary of State~~ **Office of Alcoholism and Drug Abuse Prevention** has been satisfactorily completed; except after 2 months he may petition the Secretary of State for hearing and, if after hearing the Secretary of State has determined that the public safety will not be endangered by issuing a new license or restoration of right to operate, the Secretary of State may, after 4 months, restore the license and privilege to operate a motor vehicle, with or without condition or restrictions and under such terms as he may deem advisable, having in mind the safety of the public and the welfare of the petitioner.

Sec. 4. 29 MRSA § 1312, sub-§ 10, ¶ A, 3rd ¶, as last amended by PL 1975, c. 772, § 53, is further amended to read:

Notwithstanding any other provision of this Title, the Secretary of State shall have the authority to issue a restricted license or permit to any person whose license or permit or privilege to operate a motor vehicle in this State has been suspended for a first refusal under subsection 2 or as a result of a conviction for a first offense of operating or attempting to operate under the influence of intoxicating liquor, provided such person has satisfactorily completed a ~~rehabilitation~~ an education program conducted under the auspices of the ~~Secretary of State~~ **Office of Alcoholism and Drug Abuse Prevention**. Such license shall not be issued prior to 30 days from the date of suspension. The ~~Secretary of State~~ **Office of Alcoholism and Drug Abuse Prevention** is authorized to charge a registration fee not to exceed ~~\$30~~ \$50 to participants in the ~~rehabilitation~~ education program which shall be applied by ~~him~~ the office for defraying the expenses of the program.

Sec. 5. 29 MRSA § 1312, sub-§ 10, ¶ A, 5th ¶, as last repealed and replaced by PL 1969, c. 439, is repealed and the following enacted in its place:

Any person convicted of a 2nd violation of this section shall have his license or permit and privilege to operate a motor vehicle in this State suspended for a period of one year, provided that he may petition the Secretary of State for a license or permit after 3 months if he has paid a registration fee not to exceed \$50 and has successfully completed a driver education program conducted by the **Office of Alcoholism and Drug Abuse Prevention**, and where required by the **Office of Alcoholism and Drug Abuse Prevention**, he has at his own expense successfully completed an alcoholism treatment program. The alcoholism treatment program shall be agreed to by the offender and approved and supervised by the **Office of Alcoholism and Drug Abuse Prevention**. If after a hearing, the Secretary of State determines that the public safety will not be endangered by issuing a new license and that the offender has successfully completed the driver education program and, where required, the alcoholism treatment program, the Secretary of State may issue a conditional or unconditional license or permit to operate a motor vehicle.

Sec. 6. 29 MRSA § 1312, sub-§ 10, ¶ A, 6th ¶ as last repealed and replaced by PL 1969, c. 439, is repealed and the following enacted in its place:

Any person convicted of a 3rd violation of this section shall have his license or permit and privilege to operate a motor vehicle in this State suspended for a period of 3 years, provided that he may petition the Secretary of State for a license or permit after 6 months if he has paid a registration fee not to exceed \$50 and has successfully completed a driver education program conducted by the Office of Alcoholism and Drug Abuse Prevention, and has also, at his own expense, successfully completed an alcoholism treatment program. The alcoholism treatment program shall be agreed to by the offender and approved and supervised by the Office of Alcoholism and Drug Abuse Prevention. If, after a hearing, the Secretary of State determines that the public safety will not be endangered by the issuance of a license or permit, and that the offender has successfully completed the driver education program and the alcoholism treatment program, and that such person can reasonably be expected to abstain from alcohol abuse, the Secretary of State may issue a conditional or unconditional license or permit to operate a motor vehicle.

Sec. 7. 29 MRSA § 1312, sub-§ 10, ¶ A, 7th ¶, as last repealed and replaced by PL 1969, c. 439, is repealed and the following enacted in its place:

Any person convicted of a 4th or subsequent violation of this section shall have his license or permit and privilege to operate suspended and no subsequent license or permit or privilege to operate shall be granted to such person, except that such person may petition the Secretary of State after 12 months from the date of said suspension for a special license or the privilege to operate, if he has paid a registration fee not to exceed \$50 and has successfully completed a driver education program conducted by the Office of Alcoholism and Drug Abuse Prevention, and has also, at his own expense, successfully completed an alcoholism treatment program. The alcoholism treatment program shall be agreed to by the offender and approved and supervised by the Office of Alcoholism and Drug Abuse Prevention. If, after hearing, the Secretary of State determines that the public safety will not be endangered by the issuance of a license or permit and that the offender has successfully completed the driver education program and the alcoholism treatment program and that such person can reasonably be expected to abstain from alcohol use, the Secretary of State may issue a conditional or unconditional license or permit to operate a motor vehicle.

Sec. 8. Appropriation. There is appropriated from the General Fund to the Department of Human Services, Office of Alcoholism and Drug Abuse Prevention, the sum of \$408,400 to carry out the purposes of this Act. The breakdown shall be as follows:

	1977-78	1978-79
HUMAN SERVICES, DEPARTMENT OF		
Office of Alcoholism and Drug Abuse Prevention		
All Other	\$172,200	\$236,200

STATEMENT OF FACT

In 1975 there were 50,000 motor vehicle accidents in Maine with 226 deaths resulting. The National Highway Traffic Safety Administration estimates that over half of these fatal accidents and 35% of all serious injury accidents are caused by persons who are legally intoxicated having a blood alcohol content of .10% or more.

Traffic safety experts are now in agreement that criminal penalties alone are not the answer to the ever-increasing problem of alcohol abuse on our highways. The ineffectiveness of criminal penalties to deter the alcoholic driver results primarily from the alcoholic's physical and psychological dependency on alcohol. This deterrent failure is demonstrated by the fact that one out of every 3 persons convicted in Maine of drunken driving is a repeat offender. Also, FBI statistics reveal that Maine ranks 3rd in the nation in the percentage of total arrests attributable to drunken driving. In 1976 there were 8,200 arrests and 5,647 convictions for operating under the influence. Although this bill retains and in some cases strengthens the criminal and administrative penalties imposed upon conviction for operating under the influence, it also adds an effective mechanism for channeling the convicted person into education and treatment programs designed to deal with the person's psychological or physical addiction to alcohol. It is estimated that most of the 60,000 persons in Maine who are physically addicted to alcohol possess current drivers' licenses.

This bill represents the first comprehensive attempt by Maine to utilize alcohol education and treatment programs to reduce the personal injury, property damage and other costs resulting from alcohol abuse on our highways. It does this by offering persons who are convicted of drunken driving and who complete a state or court approved treatment program the opportunity to have their licenses reinstated in a shorter period of time than those persons who do not accept or successfully complete education or treatment programs. It also provides a mechanism for diverting alcoholics convicted of Class C, D or E crimes into treatment programs as a condition of probation.

It is intended that this program will be financed from the General Revenue funds generated from a surtax on alcoholic beverages. This bill also contains a "sunset" provision to provide for legislative review prior to refunding.