

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1667

H. P. 1362

House of Representatives, April 13, 1977

On Motion of Mr. Hobbins of Saco, referred to the Committee on Judiciary.
Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Locke of Sebec.

Cosponsors: Mr. Tarbell of Bangor and Mr. Diamond of Windham.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

**AN ACT Concerning Penalties for Operating a Motor Vehicle Under the
Influence of Intoxicating Liquor or Drugs.**

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

Sec. 1. 29 MRSA § 1312, sub-§ 10, as last amended by PL 1975, c. 770, § 153, is repealed and the following enacted in its place:

10. Penalties

A. Notwithstanding the provisions of Title 17-A, section 4, whoever operates or attempts to operate a motor vehicle while under the influence of intoxicating liquor or drugs, shall be punished by a fine of not more than \$1,000, and by imprisonment for 48 consecutive hours in jail to be served within 30 days of the date of the conviction. Upon receipt of an attested copy of the court record of this conviction, the license or permit and privilege to operate a motor vehicle shall be immediately suspended by the Secretary of State.

(1) Any person whose license or permit and right to operate has been suspended as provided in paragraph A, may petition the Secretary of State for the issuance of a temporary restricted license or permit and right to operate a motor vehicle. The Secretary of State, after hearing and after determining that public safety will not be endangered by issuing such temporary restricted license or permit and right to operate, may issue such temporary restricted license or permit and right to operate a motor vehicle.

(2) After the Department of Human Services has notified the Secretary of State of the successful completion of the rehabilitation program under

the auspices of the Department of Human Services, and after the court has notified the Secretary of State that he has served the 48 consecutive hours in jail and has paid any fine, the offender may, not prior to 30 days from the date of conviction, petition the Secretary of State for hearing. If, after the hearing, the Secretary of State has determined that the public safety will not be endangered by reissuing the license or permit and right to operate, the Secretary of State may restore the license or permit and right to operate a motor vehicle, with or without conditions 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.

B. Notwithstanding the provisions of Title 17-A, section 4, whoever is convicted of a second violation under this section, shall be punished by a fine of not less than \$250 and not more than \$2,000, and by imprisonment for two 48 consecutive-hour periods in jail to be served within 60 days of the date of the second conviction. Upon receipt of an attested copy of the court record of such conviction, the license or permit and privilege to operate a motor vehicle shall be immediately suspended by the Secretary of State.

(1) Any person whose license or permit and right to operate has been suspended as provided in the paragraph B, may petition the Secretary of State for the issuance of a temporary restricted license or permit and right to operate a motor vehicle. The Secretary of State, after hearing and after determining that public safety will not be endangered by issuing such temporary restricted license or permit and right to operate, may issue such temporary restricted license or permit and right to operate a motor vehicle.

(2) After the Department of Human Services has notified the Secretary of State of the successful completion of the rehabilitation program under the auspices of the Department of Human Services, and after the court has notified the Secretary of State that he has served the two 48 consecutive-hour periods in jail, the offender may, not prior to 60 days from the date of conviction, petition the Secretary of State for hearing. If, after the hearing, the Secretary of State has determined that the public safety will not be endangered by reissuing the license or permit and right to operate, the Secretary of State may restore the license or permit and right to operate a motor vehicle with or without conditions 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.

C. The 48 consecutive-hour jail sentences for a first or second violation of this section are mandatory and shall not be suspended and probation shall not be granted.

D. Any person convicted of a 3rd or subsequent violation of this section, shall have his license or permit and privilege to operate suspended and no subsequent license, permit or privilege to operate shall be granted to that person, except that that person may petition the Secretary of State after 5 years from the date of the suspension for a special license or the privilege to operate, and the Secretary of State, after being satisfied that the peti-

tioner has refrained from the use of intoxicating liquor or drugs for a period of 5 years next preceding the date of hearing on the petition, may issue a license, permit or grant the privilege to operate, conditioned upon the continued nonuse of intoxicating liquor or drugs, and such other conditions as he may deem proper.

E. For the purposes of this section, a prior conviction of operating or attempting to operate while under the influence of intoxicating liquor or drugs, shall be considered a prior conviction provided that the prior conviction is within a 6-year period of the date of the last offense.

F. Any officer authorized to arrest for violations of this section may arrest, without a warrant, any person involved in a motor vehicle accident, if the officer has probable cause to believe that such person has violated this section.

G. In alleging a prior conviction under this section, Title 15, section 757, shall not apply. After a conviction for violation of this section, the court shall conduct an inquiry to determine whether or not the defendant has been convicted of any offenses which are considered to be prior offenses for the purposes of this section. Certified copies of the record of prior conviction or convictions from the Secretary of State or any court of record shall be admissible, and upon receipt of any such copy and upon being satisfied that the defendant is the person named in that certified copy, the court shall treat the present conviction as a subsequent conviction and sentence the defendant accordingly.

Sec. 2. 29 MRSA § 1312, sub-§ 11 is enacted to read:

11. Accidents. Every person operating a motor vehicle which has been involved in an accident shall, at the request of a police officer, submit to a blood or breath test to be administered by the police officer. If the test indicates that the operator has consumed alcohol, the police officer may require such operator to submit to a chemical test in the manner set forth in this section.

STATEMENT OF FACT

This bill substantially modifies penalty provisions for convictions of operating a motor vehicle under the influence of intoxicating liquors or drugs in order to provide a greater deterrent to drunken driving.