

MAINE STATE LEGISLATURE

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L.D. 1166

STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-484)
109TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 934, L.D. 1166, Bill,
"AN ACT to Strengthen the Penalties for Operating Under the
Influence."

Amend the Bill by striking out all of the title and
inserting in its place the following:

'AN ACT to Strengthen the Procedures for Prosecuting Operating
Under the Influence Cases and Strengthen the Penalties for First
Offenses."

Amend the Bill by striking out all of sections 1 and 2
and inserting in their place the following:

'Sec. 1. 29 MRSA §1312, sub-§8, as repealed and replaced
by PL 1971, c. 547, is amended by adding at the end the
following new paragraphs:

When a person, certified under subsection 6, conducts a
chemical analysis of blood or breath for the purpose of
determining blood-alcohol level, he may issue a certificate
stating the results of the analysis. That certificate, when duly
signed and sworn to by the certified person, shall be admissible
in evidence in any court of the State. It shall be prima facie
evidence that the percentage by weight of alcohol in the
blood of the defendant was, at the time the blood or breath was
taken, as stated in the certificate, unless within 10-days
written notice to the prosecution, the defendant requests that
a qualified witness testify as to the results of the chemical
analysis.

Transfer of sample specimens to and from a laboratory for purposes of analysis may be by certified or registered mail, and when so made shall be deemed to comply with all requirements regarding the continuity of custody of physical evidence.

The refusal of a person to allow the taking of a sample specimen as authorized by this section shall be admissible in evidence, but only to show that the test was not taken and that no results are available for that reason.

Sec. 2. 29 MRSA §1312, sub-§10, ¶A, as repealed and replaced by PL 1977, c. 626, §1, is repealed and the following enacted in its place:

A. Notwithstanding the provisions of Title 17-A, section 4-A, any person who, while under the influence of intoxicating liquor or drugs, operates or attempts to operate a motor vehicle within this State shall be punished, on his first conviction, by a fine of not less than \$250 or not more than \$1,000. In addition, the person may be punished by imprisonment for not more than 90 days.

Sec. 3. 29 MRSA §1312, sub-§10, ¶E, as repealed and replaced by PL 1977, c. 626, §1, is amended by adding at the end the following new sentence:

The court may be satisfied of the identity of the defendant with the person named if the name and date of birth are the same.

Sec. 4. 29 MRSA §1312, sub-§10-A, ¶A, sub-¶(1-A) is enacted to read:

(1-A) In the case of a first conviction when that operation involved an accident causing personal injury to another person, 6 months;'

Further amend the Bill by renumbering section 3 to be section 5.

Statement of Fact

This amendment removes the changes in punishments in the bill and replaces them with the following:

1. A provision to allow a certificate of analysis for blood or breath tests to be admissible in evidence;
2. A provision to allow samples to be mailed;
3. A provision to allow admission into evidence the refusal to take a blood or breath test, but only to show why no results are available;
4. A provision to set a minimum \$250 fine for a first offense;
5. A provision to make it easier to determine if there have been prior offenses;
6. A provision to require a 6-month suspension of a license if the conviction involved an accident resulting in personal injury; and
7. Retains the bill provision requiring completion of a treatment program, if necessary, prior to restoration of a license after a first offense.