

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1262

H. P. 994

House of Representatives, March 15, 1979

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Masterman of Milo.

Cosponsor: Mr. Kelleher of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT Requiring Motor Vehicle Owners and Operators to Carry Liability Insurance.

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

Sec. 1. 29 MRSA § 102, 2nd ¶, as last amended by PL 1977, c. 371, §§ 1 and 2, is further amended by adding after the 2nd sentence a new sentence to read:

No permit shall be issued under this paragraph unless the owner provides a certificate of insurance required under section 109-A.

Sec. 2. 29 MRSA § 109-A is enacted to read:

§ 109-A. Motor vehicle liability insurance required

1. Condition of operation; limits of coverage. No person may operate a motor vehicle or permit a motor vehicle of which he is the owner to be operated on any way in this State unless the owner and any operator of that motor vehicle permitted by the owner to operate it are covered by an insurance policy or bond, approved by the Superintendent of Insurance, indemnifying them against any legal liability on account of personal injury, death or property damage arising out of the ownership, maintenance, operation or use of that motor vehicle. The

superintendent shall not approve any insurance policy or bond under this section unless it provides at least the following limits of primary coverage for both the owner and any such operator:

- A. \$20,000, exclusive of interest and costs on account of injury to, or death of, any one person in any one accident;
- B. Subject to the limit for any one person so injured or killed, \$40,000, exclusive of interest and costs, on account of injury to, or death of, more than one person in any one accident; and
- C. \$10,000, exclusive of interest and costs, for damage to property in any one accident.

2. Certificate to be carried and exhibited upon demand.

A. The operator of any motor vehicle shall carry on his person or in the motor vehicle and shall exhibit to any law enforcement officer acting under section 2121, a certificate approved by the superintendent showing that the owner and any operator of that motor vehicle permitted by the owner to operate it are insured or bonded in the manner and to the extent required by subsection 1.

B. Any person who violates this subsection shall be guilty of a Class E crime.

3. Condition of registration. No motor vehicle may be registered under this Title unless the owner provides a certificate of insurance required under subsection 2.

4. Condition of inspection. No motor vehicle may be inspected under this Title unless the owner provides a certificate of insurance required under subsection 2.

5. Penalties.

A. Notwithstanding the provisions of Title 17-A, section 4-A, any person who is convicted of a violation of subsection 1 shall be punished on his first conviction, by a fine of not more than \$1,000 or by imprisonment for not more than 90 days, or by both.

B. Notwithstanding the provisions of Title 17-A, section 4-A, any person who is convicted of a 2nd violation of subsection 1 shall be punished by imprisonment for not less than 24 hours or for not more than 6 months. Any term of imprisonment up to and including 48 hours and the first 48 hours of any term of imprisonment of more than 48 hours shall be served consecutively. In addition, such a person shall be punished by a fine of not less than \$250 and not more than \$2,000.

Any term of imprisonment up to and including 48 hours and the first 48 hours of any term of imprisonment of more than 48 hours shall not be suspended unless the court sets forth in detail in writing the reasons why, having regard to the nature and circumstances of the violation and the history and character of the

defendant, it is of the opinion that exceptional features of the case justify the imposition of a sentence other than imprisonment.

The court shall order such a term of imprisonment up to and including 48 hours to be served at a time that will cause the least disruption to the convicted person's employment and other personal affairs, but that is within 30 days of the date of conviction. Such a term of imprisonment up to and including 48 hours may be served in either a county jail or local lockup, as the court shall direct. The provisions of this paragraph regarding the term of imprisonment up to and including 48 hours for a 2nd conviction shall apply only if the State alleges the prior conviction in accordance with Title 15, section 757; provided that the certified copy of the prior conviction from the Secretary of State shall be admitted in evidence as proof of the prior conviction.

C. Notwithstanding the provisions of Title 17-A, section 4-A, any person convicted of a 3rd or subsequent violation of subsection 1 shall be punished by imprisonment for not less than 48 hours or for not more than 10 months. Any term of imprisonment up to and including 72 hours and the first 72 hours of any term of imprisonment of more than 72 hours shall be served consecutively. In addition, that person shall be punished by a fine of not less than \$250 and not more than \$2,500.

Any term of imprisonment up to and including 72 hours and the first 72 hours of any term of imprisonment of more than 72 hours shall not be suspended unless the court sets forth in detail in writing the reasons why, having regard to the nature and circumstances of the violation and the history and character of the defendant, it is of the opinion that exceptional features of the case justify the imposition of a sentence other than imprisonment.

The court shall order such a term of imprisonment up to and including 72 hours to be served at a time that will cause the least disruption to the convicted person's employment and other personal affairs, but that is within 30 days of the date of conviction. Such a term of imprisonment up to and including 72 hours may be served in either a county jail or local lockup, as the court shall direct. The provisions of this paragraph regarding the minimum term of imprisonment for a 3rd or subsequent conviction shall apply only if the State alleges 2 or more prior convictions in accordance with Title 15, section 757; provided that the certified copy of the prior convictions from the Secretary of State shall be admitted in evidence as proof of the prior convictions.

D. For the purposes of this section, a prior conviction for violation of subsection 1 shall be considered a prior conviction if it occurred within a 6-year period of the date of the most recent conviction.

E. Except for the purposes specified in paragraphs B and C, it shall not be necessary to comply with the procedures set out in Title 15, section 757, to establish prior convictions under this section. After a conviction, 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. On receipt of a copy and 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.

6. Suspension of license.

A. On receipt of an attested copy of the court record of a conviction, the Secretary of State shall immediately suspend the person's license or permit and privilege to operate a motor vehicle. The suspension shall be for the following minimum periods from the date of suspension:

- (1) In case of a first conviction, 30 days;
- (2) In case of a 2nd conviction, 6 months; and
- (3) In case of a 3rd or subsequent conviction, 2 years.

B. After the minimum suspension period, the Secretary of State may issue a license or permit to the person with whatever conditions, restrictions or terms he deems advisable, having in mind the safety of the public and the welfare of the petitioner.

C. If any person convicted for a violation of subsection 1 appeals the judgment or sentence of a court, the license or permit and privilege to operate a motor vehicle shall be suspended during the time an appeal is pending, unless the court shall otherwise order, or unless the Secretary of State shall restore the license, permit or privilege to operate pending decision on the appeal.

7. Officer's duties. After making an arrest for a violation of subsection 1, the arresting officer shall investigate to determine whether the arrested person has any prior conviction under this section. As part of his investigation, the arresting officer shall make the necessary inquiries of the Secretary of State. If the arresting officer determines that the arrested person has a prior conviction or convictions, he shall cause to be issued a complaint for a 2nd, 3rd or subsequent violation, as the case may be, in accordance with subsection 5, paragraphs B and C.

8. Exceptions. Nothing in this section shall apply to any motor vehicle or person subject to the requirements of sections 831 and 832.

Sec. 3. 29 MRSA § 2121, first paragraph, first sentence, is amended to read:

Any law enforcement officer in uniform whose duty it is to enforce the motor vehicle laws may stop and examine any motor vehicle for the purpose of ascertaining whether its equipment complies with the requirements of section 2122, and the officer may demand and inspect the operator's license, certificate of registration and, permits and certificate of insurance required under section 109-A.

Sec. 4. 29 MRSA § 2122, 7th paragraph, as amended by PL 1973, c. 788, § 129-A, is further amended by adding a new sentence at the end to read:

No permits shall be issued under this paragraph unless the owner provides a certificate of insurance required under section 109-A.

Sec. 5. 29 MRSA § 2123, sub-§ 2, as repealed and replaced by PL 1977, c. 696, § 217, is amended by adding after the first sentence, a new sentence to read:

No warning shall be issued under this subsection unless the owner or operator provides a certificate of insurance required under section 109-A.

STATEMENT OF FACT

The purpose of this bill is to require all owners and operators of ordinary, private motor vehicles on Maine highways to carry liability insurance in the same amounts as are now required of dealers, transporters and rental agencies. The bill's basic insurance requirement applies to any person operating, or permitting another to operate, a motor vehicle in this State, regardless of where the person resides or whether the motor vehicle is required to be registered in Maine. A violation of this requirement is punishable in a fashion substantially equivalent to the stiff penalties for driving while intoxicated. The bill also conditions the registration or inspection of a motor vehicle upon the presentation of a certificate showing compliance with the insurance requirement, and requires motor vehicle operators to carry such a certificate at all times and to show it to a policeman when requested to do so. Finally, the bill precludes the issuance of temporary permits or warnings unless the driver presents a valid certificate of insurance.