

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1690

S. P. 645

In Senate, October 4, 1979

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Presented by Senator Collins of Knox.

Cosponsor: Senator Conley of Cumberland.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Correct the Procedures for Suspending Motor Vehicle Operators' Licenses.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the authority of the Secretary of State to suspend driving licenses for failure to appear in court or pay a fine has been recently overturned by a court; and

Whereas, a restriction on the power to suspend licenses for these violations will seriously impair enforcement of the State's motor vehicle laws and the authority of the courts to enforce their orders; and

Whereas, an immediate correction of the statutes is necessary to preserve the State's enforcement powers; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 29 MRSA § 2301, last sentence, as amended by PL 1977, c. 694, § 528, is further amended to read:

If a person fails to appear in court on the day specified, either in person or by counsel, the court ~~shall notify the Secretary of State, who, pursuant to chapter 17, shall may~~ immediately suspend ~~or revoke~~ his license if licensed in this State or suspend ~~or revoke~~ his right to operate motor vehicles in this State if a nonresident and not licensed in this State.

Sec. 2. 29 MRSA § 2301, as last amended by PL 1977, c. 694, § 528, is further amended by adding at the end a new sentence to read:

On receipt of a copy of a court order suspending a person's license or right to operate in this State, the Secretary of State shall immediately notify that person of the suspension by regular mail or personal service. A court ordered suspension shall have the same force and effect as a suspension by the Secretary of State. A suspension shall remain in effect until the person appears, either in person or by counsel. On appearance and on the condition of payment of a \$10 reinstatement fee to the Secretary of State, the court shall rescind the suspension and order the Secretary of State to expunge any record of the suspension from that person's driving record.

Sec. 3. 29 MRSA § 2301-A, as last amended by PL 1977, c. 694, § 529, is further amended to read:

§ 2301-A. Suspension on nonappearance or nonpayment of fine

If a person fails to appear in court on the day specified in response to a summons or order of court for any violation of any provision of this Title, or in response to a Uniform Traffic Ticket and Complaint or for any further appearance by the court, including one for the payment of a fine, either in person or by counsel, the court ~~shall notify the Secretary of State, who, pursuant to chapter 17 may~~ suspend his license if licensed in this State or suspend his right to operate motor vehicles in this State if a nonresident and not licensed in this State.

If a person who has been ordered to pay a fine for violation of any provisions of this Title has failed to pay the fine within 30 days of such order, the court ~~shall notify the Secretary of State, who, pursuant to chapter 17 may~~ suspend his license if licensed in this State or suspend his right to operate motor vehicles in this State if a nonresident and not licensed in this State.

On receipt of a copy of a court order suspending a person's license or right to operate in this State, the Secretary of State shall immediately notify that person of the suspension by regular mail or personal service. A court ordered suspension shall have the same force and effect as a suspension by the Secretary of State. A suspension shall remain in effect until the person appears, either in person or by counsel, or pays the fine. On appearances or payment of the fine, whichever was the basis for the suspension, and on the condition of payment of a \$10

reinstatement fee to the Secretary of State, the court shall rescind the suspension and order the Secretary of State to expunge any record of the suspension from that person's driving record.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

This bill remedies procedural problems in the statutes which would require the Secretary of State to conduct an additional 25,000 administrative hearings annually. Recent U.S. Supreme Court opinions have held that the operator's license is a proprietary interest that cannot be suspended without a hearing. Such a result would be virtually impossible for the District Court, the district attorneys and the Secretary of State to administer.

This bill maintains the present administrative process for service of notification of suspensions for failure to appear in court or failure to pay a fine, but shifts the authority for initially issuing and later rescinding the suspensions to the District Courts. This process would not cause the District Courts any additional work, but would simply result in a change of wording in the forms the District Courts presently send to the Secretary of State.

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