

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1068

6
7 H.P. 830

House of Representatives, March 4, 1983

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

10 EDWIN H. PERT, Clerk

Presented by Representative Davis of Monmouth.

Cosponsors: Representative Higgins of Scarborough, Representative
11 Macomber of So. Portland and Senator Diamond of Cumberland.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Provide for Swifter
18 Disposition of Drunk Driving Cases.
19

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

22 29 MRSA §1312-C, sub-§5, as amended by PL 1981,
23 c. 679, §34, is further amended to read:

24 5. In lieu of criminal violation. The attorney
25 for the State shall not elect to charge a violation
26 of subsection 2 in lieu of criminal prosecution under
27 section 1312-B with respect to any defendant who:

28 A. Was tested as having a blood-alcohol level of
29 0.20% or more;

30 B. Was driving in excess of the speed limit by
31 30 miles an hour or more during the operation
32 which resulted in the prosecution for operating

1 under the influence or with a blood-alcohol level
2 of 0.10% or more;

3 C. Eluded or attempted to elude an officer, as
4 defined in section 2501-A, subsection 3, during
5 the operation which resulted in the prosecution
6 for operating under the influence or with a
7 blood-alcohol level of 0.10% or more; or

8 D. Had been convicted of a violation of former
9 section 1312, subsection 10, paragraph A, con-
10 victed of a violation of section 1312-B, or adju-
11 dicated guilty of a traffic infraction under this
12 section within the 6 years immediately preceding
13 the date of the commission of the new offense.

14 Whenever the attorney for the State charges a person
15 with a criminal violation under this subsection, that
16 attorney shall immediately notify the Secretary of
17 State by the quickest means available. Upon being so
18 informed, the Secretary of State shall immediately
19 notify the person, in writing, as provided in section
20 2241, that his license or permit to operate and his
21 right to apply for or obtain a license or permit have
22 been suspended. The suspension will remain in effect
23 for 180 days or until the person has been found not
24 guilty in the criminal proceeding, whichever is
25 later. If the person is acquitted of the charge prior
26 to the expiration of the 180-day period, the suspen-
27 sion will be immediately revoked.

28 If the person desires to have a hearing, he shall
29 notify the Secretary of State within 10 days, in
30 writing, of that desire. If so notified, the Secre-
31 tary of State shall hold a hearing within 10 days.
32 Any suspension shall remain in effect pending the
33 outcome of the hearing.

34 The scope of the hearing shall cover whether there
35 was probable cause to believe that the individual was
36 either attempting to operate or was operating a motor
37 vehicle in such a way as to warrant criminal prose-
38 cution under this subsection. If it is determined,
39 after hearing, that there was not probable cause to
40 believe that the person was either attempting to
41 operate or was operating a motor vehicle in such a
42 way as to warrant criminal prosecution under this

1 subsection, the suspension shall be removed immedi-
2 ately.

3 STATEMENT OF FACT

4 The purpose of this bill is to require that once
5 a driver has been criminally charged for operating
6 under the influence, his license be suspended. Too
7 often, individuals charged with operating under the
8 influence are not brought to trial quickly and end up
9 back behind the wheel endangering more drivers.

10 Under this bill, if a person is charged with a
11 criminal violation of the drunk driving law, the
12 prosecuting attorney must immediately notify the
13 Secretary of State by the quickest means available.
14 Upon being so notified, the Secretary of State will
15 immediately suspend that driver's license. A driver
16 whose license has been suspended under this provision
17 may request a hearing with the Secretary of State,
18 and one must be granted within 10 days. The license
19 will remain under suspension until the disposition of
20 the hearing is complete. Unless the Secretary of
21 State finds that there was not probable cause to
22 criminally charge the driver with operating under the
23 influence under Title 29, section 1312-C, subsection
24 5, the license will remain suspended. The suspension
25 will last for 180 days or until the person has been
26 found not guilty in the criminal proceeding, which-
27 ever is later. In this way, defendants criminally
28 charged with operating under the influence will not
29 use delaying tactics in getting their case to trial.

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