

MAINE STATE LEGISLATURE

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(EMERGENCY)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1697

H.P. 1280

House of Representatives, May 26, 1983

Reference to the Committee on Judiciary is suggested. Ordered printed and sent up for concurrence.

EDWIN H. PERT, Clerk

Presented by Representative Hayden of Durham.

Cosponsors: Representative Joyce of Portland, Representative Foster of Ellsworth and Senator Violette of Aroostook.

STATE OF MAINE

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

AN ACT to Deter Drinking and Driving by
Teenagers.

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

Whereas, the 90-day period may not terminate until the fall of 1983; and

Whereas, the lives of several teenagers have already been lost this year in alcohol-related accidents; and

Whereas, the combination of drinking and driving by underaged individuals inexperienced in both activities constitutes a real and immediate danger to the lives and safety of themselves and others on the Maine highways; and

1 Whereas, in the judgment of the Legislature,
2 these facts create an emergency within the meaning of
3 the Constitution of Maine and require the following
4 legislation as immediately necessary for the preser-
5 vation of the public peace, health and safety; now,
6 therefore,

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

9 29 MRSA §2241-G, as enacted by PL 1977, c. 694,
10 §526, is repealed and the following enacted in its
11 place:

12 §2241-G. Provisional license

13 1. Provisional license defined. The original
14 state license or any renewal license issued by the
15 Secretary of State to any applicant shall be a provi-
16 sional license until the licensee reaches 20 years of
17 age.

18 2. Mandatory suspension. The Secretary of State
19 shall suspend without preliminary hearing the provi-
20 sional license of any person who is convicted or ad-
21 judicated of a moving motor vehicle violation or who
22 operates or attempts to operate a motor vehicle after
23 having consumed any amount of intoxicating liquor as
24 follows.

25 A. If a person is convicted of or adjudicated to
26 have committed a moving motor vehicle violation,
27 except as provided in paragraph B, during the
28 first year of a provisional license and for a
29 first offense, the license shall be suspended for
30 30 days. If he is convicted of or adjudicated to
31 have committed a 2nd moving violation, the li-
32 cence shall be suspended for 60 days. If he is
33 convicted of or adjudicated to have committed a
34 3rd offense, the license shall be suspended to
35 the 2nd birthday next following the date of issue
36 or for 90 days, whichever shall be the longer
37 period of time. This paragraph shall not prevail
38 when a person is convicted of or adjudicated to
39 have committed an offense which carries a suspen-
40 sion or revocation period greater than that pre-

1 scribed in this paragraph. The hearing procedure
2 shall be as provided in section 2241, subsection
3 3.

4 B. The Secretary of State shall suspend for a
5 minimum period of one year the provisional li-
6 cence of any person:

7 (1) As to whom there is received a record
8 of conviction or adjudication for violation
9 of section 1312-B or 1312-C; or

10 (2) As to whom there is received the result
11 of a test to determine his blood-alcohol
12 level which shows the presence of any alco-
13 hol in his blood.

14 Any person not having attained the age of 20
15 years who operates or attempts to operate a motor
16 vehicle within this State shall, in addition to
17 the requirements of section 1312, have the duty
18 to submit to a test to determine his
19 blood-alcohol level by analysis of his blood or
20 breath, if there is probable cause to believe he
21 has operated or attempted to operate a motor
22 vehicle after having consumed any amount of
23 intoxicating liquor. The provisions of section
24 1312 shall apply, except that in all cases prob-
25 able cause shall be to believe that the person
26 was operating or attempting to operate a motor
27 vehicle after having consumed any amount of
28 intoxicating liquor, and that the suspension for
29 refusal to take the test shall be for a period of
30 one year.

31 The provisions of section 1312, subsection 6,
32 shall apply, except that probable cause shall be
33 to believe that the person was operating or
34 attempting to operate a motor vehicle after hav-
35 ing consumed any amount of intoxicating liquor.

36 The Secretary of State, upon receipt of both a
37 written statement under oath from a law enforce-
38 ment officer that the officer had probable cause
39 to believe that a person was operating or
40 attempting to operate a motor vehicle after hav-
41 ing consumed any amount of intoxicating liquor

1 and the result of a blood-alcohol test taken
2 under this section which shows the presence of
3 any alcohol in his blood, and which is certified
4 pursuant to section 1312, subsection 8, shall
5 immediately notify the person, in writing, as
6 provided in section 2241, that his provisional
7 license has been suspended. The suspension shall
8 be for a period of one year. The written state-
9 ment shall be sent to the Secretary of State,
10 within 72 hours of receipt by the officer, of the
11 results of the test, excluding Saturdays, Sundays
12 and holidays. If a person whose license is so
13 suspended desires to have a hearing, he shall so
14 notify the Secretary of State in writing within
15 10 days. The suspension shall remain in effect
16 pending the hearing.

17 The scope of the hearing shall cover whether
18 there was probable cause to believe that the
19 person was operating or attempting to operate a
20 motor vehicle after having consumed any amount of
21 intoxicating liquor. If it is determined after
22 the hearing that there was not probable cause to
23 believe that the person was operating or attempt-
24 ing to operate a motor vehicle after having con-
25 sumed any amount of intoxicating liquor, the sus-
26 pension shall be removed immediately and the
27 Secretary of State shall delete any record of the
28 suspension.

29 Any person whose provisional license is suspended
30 under this section on the basis of a
31 blood-alcohol test shall have the right to file a
32 petition in the Superior Court in the county
33 where he resides, or in Kennebec County, to
34 review the order of suspension by the Secretary
35 of State by the same procedure as is provided in
36 section 2242. If the court rescinds the suspen-
37 sion, it shall also order the Secretary of State
38 to delete any record of the suspension.

39 C. Any suspension issued under this section
40 shall run concurrently with any suspension
41 ordered by a court upon conviction or adjudica-
42 tion of any violation of section 1312-B or 1312-C
43 or Title 15, section 3103, subsection 1, para-
44 graph F.

1 The Secretary of State shall suspend the license
2 for a period of one year, unless, after hearing, he
3 determines that the driver had not consumed alcohol
4 or that the apprehending officer did not have prob-
5 able cause.

6 Another section provides that if the teenager
7 successfully completes the Driver Education and
8 Evaluation Program (DEEP), the Secretary of State may
9 issue a restricted license for the last 6 months of
10 the term of his suspension.

11 This bill is another element in the state's
12 efforts to reduce the number of alcohol-related acci-
13 dents. It should be noted that there are no criminal
14 or civil penalties under this bill, but rather strict
15 license suspension for the prohibited activity.

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