

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1706

S.P. 587

In Senate, May 26, 1983

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

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Trafton of Androscoggin.

Cosponsor: Representative Drinkwater of Belfast.

STATE OF MAINE

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

AN ACT Relating to the Period of License
Suspension for Drivers Convicted or
Adjudicated of Operating Under the
Influence.

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

Sec. 1. 29 MRSA §1312, sub-§2, as amended by PL 1981, c. 679, §§15 and 16, is further amended to read:

2. Hearing. If a person as to whom there is probable cause fails to comply with the duty to submit to a test to determine his blood-alcohol level by analysis of his blood or breath upon the request of a law enforcement officer, no test may be given. The Secretary of State, upon the receipt of a written statement under oath from a law enforcement officer, stating that the officer had probable cause to believe that a person was operating or attempting to

1 operate a motor vehicle while under the influence of
2 intoxicating liquor, and that the person failed to
3 comply with the duty to submit to a test to determine
4 the blood-alcohol level by analysis of his blood or
5 breath, shall immediately notify the person, in writ-
6 ing, as provided in section 2241, that his license or
7 permit, his right to operate and his right to apply
8 for or obtain a license have been suspended. The sus-
9 pension shall be for a period of ~~180 days~~ one year.
10 The written statement shall be sent to the Secretary
11 of State within 72 hours of the failure to comply
12 with the duty to submit to the blood-alcohol test,
13 excluding Saturdays, Sundays and holidays. If the
14 statement is not sent within this time period, the
15 Secretary of State shall nevertheless impose the sus-
16 pension for failing to comply with the duty to
17 submit to a test, unless the delay has prejudiced the
18 person's ability to prepare or participate in the
19 hearing described in this subsection.

20 If such person desires to have a hearing, he shall
21 notify the Secretary of State within 10 days, in
22 writing, of such desire. Any suspension shall remain
23 in effect pending the outcome of such hearing, if
24 requested.

25 The scope of such a hearing shall cover whether there
26 was probable cause to believe that the individual was
27 either attempting to operate or was operating under
28 the influence of intoxicating liquor and whether he
29 failed to comply with the duty to submit to one of
30 the blood-alcohol tests upon the request of a law
31 enforcement officer. Any suspension in effect shall
32 be removed if, after hearing, it is determined that
33 the person who failed to submit to the test would not
34 have failed to submit but for the failure of the law
35 enforcement officer to give either or both of the
36 warnings required by subsection 1.

37 If it is determined, after hearing, that there was
38 not probable cause to believe that such person was
39 either attempting to operate or was operating under
40 the influence of intoxicating liquor or that the
41 person did not fail to comply with the duty to submit
42 to a blood-alcohol test, any suspension in effect
43 shall be removed immediately.

1 If it is determined, after a hearing, that any sus-
2 pension in effect should be removed, the Secretary of
3 State shall delete any record of the suspension and
4 any record of his revocation of consent from that
5 person's driving record.

6 For the purposes of this section, a prior refusal or
7 revocation of consent to submit to a chemical test
8 shall be a prior refusal or revocation of consent if
9 it occurred within a 6-year period of the date of the
10 most recent refusal or revocation of consent.

11 Sec. 2. 29 MRSA §1312-B, sub-§2, ¶C, as amended
12 by PL 1981, c. 679, §30, is further amended to read:

13 C. Upon conviction, the court shall suspend the
14 defendant's license or permit to operate, right
15 to operate a motor vehicle and right to apply for
16 or obtain a license for a period of 90 180 days.
17 The period of suspension shall not be suspended
18 by the court. The court shall give notice of the
19 suspension and take physical custody of an
20 operator's license as provided in section 2241-H.
21 The Secretary of State may impose an additional
22 period of suspension as provided in section
23 1312-D, subsection 1-A, and may extend any period
24 of suspension until satisfaction of any condi-
25 tions imposed pursuant to section 1312-D, subsec-
26 tion 3.

27 Sec. 3. 29 MRSA §1312-C, sub-§4, as repealed and
28 replaced by PL 1981, c. 679, §33, is amended to read:

29 4. Suspension. The license or permit to operate,
30 right to operate a motor vehicle or right to apply
31 for or obtain a license of any person adjudicated
32 guilty of violating subsection 2 shall be suspended
33 by the court for a period of 45 90 days. The period
34 of suspension shall not be suspended by the court.
35 The court shall give notice of the suspension and
36 shall take physical custody of an operator's license
37 or permit as provided in section 2241-H. The Secre-
38 tary of State may impose an additional period of sus-
39 pension, as provided in section 1312-D, subsection
40 1-A, and may extend any period of suspension until
41 satisfaction of any conditions imposed by him pur-
42 suant to section 1312-D, subsection 3.

1 Sec. 4. 29 MRSA §1312-D, sub-§2, as amended by
2 PL 1981, c. 679, §38, is further amended to read:

3 2. Education and treatment programs. Following
4 Except as provided in this subsection, following the
5 expiration of 2/3 of the total period suspension
6 imposed pursuant to subsection 1 and 1-A, section
7 1312-B; ~~section 1312-C~~ or Title 15, section 3314, the
8 Secretary of State may issue a license or permit to
9 the person if he receives written notice that the
10 person has satisfactorily completed the alcohol edu-
11 cation program of the Department of Human Services
12 and, when required, has satisfactorily completed an
13 alcohol treatment or rehabilitation program approved
14 or licensed by the department. In the case of either
15 of the following, the provisions of this subsection
16 shall apply following the expiration of 1/2 of the
17 total period of suspension imposed:

18 A. A conviction under section 1312-B which was
19 not founded upon:

20 (1) A prior conviction under former section
21 1312, subsection 10;

22 (2) A prior conviction under section
23 1312-B;

24 (3) A refusal; or

25 (4) An adjudication under section 1312-C;
26 or within the preceding 6 years; or

27 B. An adjudication under section 1312-C.

28 STATEMENT OF FACT

29 The purpose of this bill is to increase the
30 period of suspension for first offenders who have
31 violated the traffic infraction of operating under
32 the influence or with an excessive blood-alcohol
33 level from a minimum of 45 days to a minimum of 90
34 days.

35 This change is proposed to ensure that the State
36 conforms with the requirements of the new federal

1 drunk driving law, Public Law 97-364, and the recom-
2 mendations of the Presidential Commission on Drunk
3 Driving.

4 Enactment of this bill places the State in a
5 position to qualify for in excess of \$700,000 in
6 incentive grant funding from the Federal Government
7 over the next 3 years for the purposes of education
8 and enforcement with respect to the state's drunk
9 driving laws.

10 Although, the suspension period increases to 90
11 days, a driver could be eligible for a restricted li-
12 cense after 45 days.

13 To assure proportionality in sentencing, the li-
14 cense suspension period for the more serious conduct
15 of criminal operating under the influence and refusal
16 to take a test are increased by the same ratio.

17 This bill is another element in the State's
18 efforts to reduce the number of alcohol-related acci-
19 dents.

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