

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 (New Draft of H.P. 1280, L.D. 1697)

3 FIRST REGULAR SESSION
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE
6

7 Legislative Document

No. 1761

9 H.P. 1326

House of Representatives, June 14, 1983

10 Reported by Representative Hobbins from the Committee on Judiciary
11 and printed under Joint Rule 2.

Original bill presented by Representative Hayden of Durham.

12 Cosponsored by Representative Joyce of Portland, Representative Foster of
Ellsworth and Senator Violette of Aroostook.

EDWIN H. PERT, Clerk

14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-THREE
18

19 AN ACT to Deter Drinking and Driving by
20 Teenagers.
21

22 Emergency preamble. Whereas, Acts of the Legis-
23 lature do not become effective until 90 days after
24 adjournment unless enacted as emergencies; and

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

27 Whereas, the lives of several teenagers have
28 already been lost this year in alcohol-related acci-
29 dents; and

30 Whereas, the combination of drinking and driving
31 by underaged individuals inexperienced in both activi-
32 ties constitutes a real and immediate danger to the
33 lives and safety of themselves and others on the
34 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10 §526, is repealed and the following enacted in its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. Licensee 20 years of age and older. The
14 original state license issued to a new applicant 20
15 years of age and older shall be a provisional license
16 for a period of one year following the date of issue
17 and shall remain in force as a nonprovisional license
18 to the next normal expiration date. If a person is
19 convicted of or adjudicated to have committed a motor
20 vehicle moving violation while in possession of a
21 provisional license on the first offense, the license
22 shall be suspended for 30 days. If he is convicted
23 of or adjudicated to have committed a 2nd moving
24 violation, his license shall be suspended for 60 days
25 and if he is convicted of or adjudicated to have com-
26 mitted a 3rd moving violation, the license shall be
27 suspended to the 2nd birthday next following the date
28 of issue or for 90 days, whichever shall be the
29 longer period of time. In these cases, a hearing may
30 be requested of the Secretary of State, and the
31 Secretary of State shall afford the provisional
32 licensee opportunity for hearing as soon as practi-
33 cable after receipt of the request. Upon the hear-
34 ing, the Secretary of State, for good cause shown,
35 may continue, modify or rescind the suspension. This
36 subsection shall not prevail when a person is con-
37 vinced of or adjudicated to have committed an offense
38 which carries a suspension or revocation period
39 greater than that prescribed in this subsection.

40 2. Licensee under 20 years of age. The original
41 license or any renewal license issued to an applicant
42 under 20 years of age shall be a provisional license

1 for a period of one year following the date of issue
2 or until the licensee attains the age of 20 years of
3 age, whichever occurs last. Upon expiration of the
4 provisionary term, the license shall remain in force
5 as a nonprovisional license to the next normal
6 expiration date. Any license issued by any other
7 jurisdiction to a person who has not yet attained the
8 age of 20 years shall be construed to be a provi-
9 sional license for the purpose of operating a motor
10 vehicle within this State.

11 A. During the first year from the date of issue
12 of the provisional license, if a person is con-
13 vinced of or adjudicated to have committed a
14 motor vehicle moving violation, on the first
15 offense, the license shall be suspended for 30
16 days. If he is convicted of or adjudicated to
17 have committed a 2nd moving violation, his li-
18 cence shall be suspended for 60 days and if he is
19 convicted of or adjudicated to have committed a
20 3rd moving violation, the license shall be sus-
21 sended to the 2nd birthday next following the
22 date of issue or for 90 days, whichever shall be
23 the longer period of time. In these cases, a
24 hearing may be requested of the Secretary of
25 State, and the Secretary of State shall afford
26 the provisional licensee opportunity for hearing
27 as soon as practicable after receipt of the
28 request. Upon the hearing, the Secretary of
29 State, for good cause shown, may continue, modify
30 or rescind the suspension. This paragraph shall
31 not prevail when a person is convicted of or ad-
32 judicated to have committed an offense which car-
33 ries a suspension or revocation period greater
34 than that prescribed in this paragraph.

35 B. The Secretary of State shall suspend for a
36 minimum period of one year, without preliminary
37 hearing, the provisional license of any person
38 under 20 years of age:

39 (1) As to whom there is received a record
40 of conviction or adjudication for violation
41 of section 1312-B or 1312-C or Title 15,
42 section 3103, subsection 1, paragraph F; or

1 (2) As to whom there is received the result
2 of a test to determine his blood-alcohol
3 level which shows the presence of 0.02% or
4 more by weight of alcohol in his blood.

5 Any person not having attained the age of 20
6 years who operates or attempts to operate a motor
7 vehicle within this State shall, in addition to
8 the requirements of section 1312, have the duty
9 to submit to a test to determine his
10 blood-alcohol level by analysis of his blood or
11 breath, if there is probable cause to believe he
12 has operated or attempted to operate a motor
13 vehicle while having 0.02% or more by weight of
14 alcohol in his blood. The provisions of section
15 1312 shall apply, except that in all cases prob-
16 able cause shall be to believe that the person
17 was operating or attempting to operate a motor
18 vehicle while having 0.02% or more by weight of
19 alcohol in his blood and that the suspension for
20 failing to comply with the duty to submit to the
21 test shall be for a period of one year.

22 The provisions of section 1312, subsection 6,
23 shall apply, except that probable cause shall be
24 to believe that the person was operating or
25 attempting to operate a motor vehicle while hav-
26 ing 0.02% or more by weight of alcohol in his
27 blood.

28 The Secretary of State, upon receipt of both a
29 written statement under oath from a law enforce-
30 ment officer that the officer had probable cause
31 to believe that a person was operating or
32 attempting to operate a motor vehicle while hav-
33 ing 0.02% or more by weight of alcohol in his
34 blood and the result of a blood-alcohol test
35 taken under this section which shows the presence
36 of 0.02% or more by weight of alcohol in his
37 blood, and which is certified pursuant to section
38 1312, subsection 8, shall immediately notify the
39 person, in writing, as provided in section 2241,
40 that his provisional license has been suspended.
41 The suspension shall be for a period of one year.
42 The written statement shall be sent to the Secre-
43 tary of State, within 72 hours of receipt by the
44 officer, of the results of the test, excluding

1 Saturdays, Sundays and holidays, provided that if
2 the statement is not sent within this time
3 period, the Secretary of State shall nevertheless
4 impose the suspension upon receipt, unless the
5 delay has prejudiced the person's ability to pre-
6 pare for or participate in the hearing. If a
7 person, whose license is so suspended, desires to
8 have a hearing, he shall so notify the Secretary
9 of State in writing within 10 days from the
10 effective date of the suspension. The suspension
11 shall remain in effect pending the hearing.

12 The scope of the hearing shall cover whether
13 there was probable cause to believe that the
14 person was operating or attempting to operate a
15 motor vehicle while having 0.02% or more by
16 weight of alcohol in his blood. If it is deter-
17 mined after the hearing that there was not prob-
18 able cause to believe that the person was oper-
19 ating or attempting to operate a motor vehicle
20 while having 0.02% or more by weight of alcohol
21 in his blood, the suspension shall be removed
22 immediately and the Secretary of State shall
23 delete any record of the suspension.

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

34 C. Any suspension issued under paragraph B shall
35 run concurrently with any suspension ordered by
36 a court upon conviction or adjudication of any
37 violation of section 1312-B or 1312-C or Title
38 15, section 3103, subsection 1, paragraph F.

39 D. Following the expiration of 1/2 of the total
40 period of suspension imposed pursuant to para-
41 graph B, the Secretary of State may issue a
42 provisional license, subject to the conditions,
43 restrictions or terms he deems advisable, to the

1 person if he receives written notice that the
2 person has satisfactorily completed the alcohol
3 education program of the Department of Human Ser-
4 vices and, when required, has satisfactorily com-
5 pleted an alcohol treatment or rehabilitation
6 program approved or licensed by the department.

7 E. Any suspension pursuant to paragraph B or
8 provisional license reissued after suspension
9 pursuant to paragraph D may extend beyond the
10 person's 20th birthday to allow for completion of
11 the total suspension period or to continue the
12 period of conditions, restrictions or terms
13 imposed on a license reissued pursuant to para-
14 graph D.

15 F. The Secretary of State may promulgate what-
16 ever rules are necessary to carry out the pur-
17 poses of this section.

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

21 STATEMENT OF FACT

22 This new draft replaces the entire bill, but
23 retains the intent of the original bill. It
24 restructures the bill to provide for both the current
25 provisional license conditions of suspension and the
26 special conditions of suspension for licensees under
27 20 years of age, as proposed in the original bill.
28 The original bill had erroneously repealed the cur-
29 rent nonalcohol related condition of suspension for
30 original licensees over 20 years of age.

31 This new draft also requires a blood-alcohol
32 level of 0.02% before the mandatory suspension for
33 licensees under 20 years of age. It also allows a
34 suspension or provisional license for licensees under
35 20 years of age to extend beyond 20 years of age in
36 alcohol-related suspensions, in order to complete the
37 full suspension or period of restricted license
38 imposed.

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