

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 2334

6
7 H.P. 1768

House of Representatives, March 21, 1984

8 Submitted by the Department of Public Safety pursuant to Joint Rule 24.
9 Reference to the Committee on Legal Affairs is suggested and ordered
printed.

EDWIN H. PERT, Clerk

10 Presented by Representative Joyce of Portland.

Cosponsors: Representative Crowley of Stockton Springs and Senator
Hichens of York.

11
12 STATE OF MAINE
13

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

17 AN ACT to Establish Age 21 as the Legal
18 Age to Purchase or Consume Alcoholic
19 Beverages and to Deter Drinking and
20 Driving by Minors.
21

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

24 Sec. 1. 28 §2, sub-§11, as amended by PL 1977,
25 c. 23, §1, is further amended to read:

26 11. Minor. "Minor" shall mean a person who has
27 not attained his ~~20th~~ 21st birthday.

28 Sec. 2. 28 MRSA §201, as amended by PL 1983, c.
29 79, §1, is further amended to read:

30 §201. Eligibility

31 No license may be issued to any natural person
32 unless such person is at least ~~20~~ 21 years of age and

1 is a citizen of the United States and of this State.
2 A part-time license, as authorized by law, may be is-
3 sued to any natural person who is at least ~~20~~ 21
4 years of age and is a citizen of the United States.
5 No license may be issued to a partnership or to an
6 association unless all persons having an interest
7 therein are at least ~~20~~ 21 years of age and are citi-
8 zens of the United States and of this State. A part-
9 time license, as authorized by law, may be issued to
10 a partnership or association if all persons having an
11 interest therein are at least ~~20~~ 21 years of age and
12 are citizens of the United States. No license may be
13 issued to any corporation unless it shall be incorpo-
14 rated under the laws of this State or authorized to
15 transact business in this State. No license may be
16 issued to a corporation any of the principal officers
17 of which would not personally be eligible for a li-
18 quor license because such officer had had a license
19 for sale of liquor revoked. No person, who is not at
20 the time of the offense the holder of a liquor li-
21 cense, convicted of violating any of the laws of this
22 State or the United States with respect to manufac-
23 ture, transportation, importation, possession or sale
24 of intoxicating liquor may be granted a license for
25 sale of liquor for a period of 5 years from the date
26 of such conviction, and no person who sells liquor of
27 a greater alcoholic content than authorized by his
28 license may be considered the holder of a license for
29 the purposes of this sentence. No clerk, servant or
30 agent of a licensee, who is convicted of sale of li-
31 quor on Sunday, may himself be granted a license for
32 sale of liquor for a period not exceeding 5 years
33 from the date of such conviction. No person whose li-
34 cense for sale of liquor expires pending an appeal
35 from conviction of a violation of law forbidding sale
36 of intoxicating liquor on Sunday, by himself or his
37 clerk, servant or agent, on his licensed premises,
38 may, after subsequent final conviction of himself,
39 clerk, servant or agent be eligible for a liquor li-
40 cense for a period not exceeding 5 years from the
41 date of such final conviction. No license may be is-
42 sued in which any law enforcement official benefits
43 financially either directly or indirectly.

44 Sec. 3. 28 MRSA §303, as amended by PL 1983, c.
45 81, is further amended to read:

1 §303. Credit sales; sales to certain persons re-
2 stricted

3 No licensee by himself, clerk, servant or agent
4 ~~shall~~ may sell or offer to sell any liquor except for
5 cash, excepting credits extended by a hotel or club
6 to bona fide registered guests or members; and ex-
7 cepting credits extended by a hotel or class A res-
8 taurant to the holder of a credit card which autho-
9 rizes such holder to charge goods or credits. No
10 right of action ~~shall~~ may exist to collect claims for
11 credits extended contrary to this section. Nothing
12 herein contained ~~shall~~ may prohibit a licensee from
13 giving credit to a purchaser for the actual price
14 charged for packages or original containers as a
15 credit on any sale, or from paying the amount actual-
16 ly charged for packages or original containers.

17 No licensee by himself, clerk, servant or agent
18 ~~shall~~ may sell, offer to sell or furnish any liquor
19 to any person on a passbook or store order, or re-
20 ceive from any person any goods, wares, merchandise
21 or other articles in exchange for liquor, except only
22 such packages or original containers as were origi-
23 nally purchased from such licensee by the person re-
24 turning the same. No licensee, by himself, clerk,
25 servant or agent entitled to sell malt liquor or ta-
26 ble wine not to be consumed on the premises, ~~shall~~
27 may sell, furnish, give or deliver such malt liquor
28 or table wine to any person visibly intoxicated, to
29 any mentally ill person, to a known habitual drunk-
30 ard, to any pauper, to persons of known intemperate
31 habits or to any minor under the age of 20 21 years.
32 No licensee by himself, clerk, servant or agent ~~shall~~
33 may sell, furnish, give, serve or permit to be served
34 any liquor to be consumed on the premises to any per-
35 son visibly intoxicated, to any mentally ill person,
36 to a known habitual drunkard, to any pauper, to per-
37 sons of known intemperate habits or to any minor un-
38 der the age of 20 21 years. Any licensee who accepts
39 an order or receives payment for liquor from a minor
40 shall be considered as in violation of this para-
41 graph.

42 Any person under the age of 20 21 years who pur-
43 chases any intoxicating liquor or any person under
44 the age of 20 21 years who consumes any intoxicating

1 liquor or has on his or her person any intoxicating
2 liquor in any on-sale premises, or who presents or
3 offers to any licensee, his agent or employee any
4 written or oral evidence of age which is false,
5 fraudulent or not actually his own, for the purpose
6 of ordering, purchasing, attempting to purchase or
7 otherwise procuring or attempting to procure, the
8 serving of any intoxicating liquor, or who has any
9 intoxicating liquor in his possession except in the
10 scope of his or her employment on any street or high-
11 way, or in any public place or in any automobile,
12 commits a civil violation for which a forfeiture may
13 be adjudged of no less than \$100 nor more than \$300
14 for the first offense; not less than \$200 nor more
15 than \$500 for the 2nd offense; and \$500 for the 3rd
16 and subsequent offenses. If a minor is charged with
17 illegal possession under this section, he may not be
18 charged with illegal transportation. No minor may be
19 charged with more than one offense under this section
20 in any given instance wherein the same set of facts
21 is involved.

22 Sec. 4. 28 MRSA §1001, as amended by PL 1977, c.
23 23, §§7 and 8, is further amended to read:

24 §1001. Transportation restricted

25 No person under the age of ~~20~~ 21 years ~~shall~~ may
26 knowingly transport or knowingly permit to be trans-
27 ported any intoxicating liquor in a motor vehicle un-
28 der his control except in the scope of his or her em-
29 ployment, or at the request of his or her parent or
30 guardian.

31 If a minor is charged with illegal transportation
32 under this section, he may not be charged with ille-
33 gal possession.

34 No person under the age of ~~20~~ 21 years ~~shall~~ may
35 be convicted of any offense under this section if in-
36 toxicating liquors are found outside the passenger or
37 driver's section of a motor vehicle under his control
38 unless said person has actual knowledge of the pres-
39 ence of said liquors. The trunk or locked glove com-
40 partment of any vehicle shall not be construed under
41 this section to be within the passenger or driver's
42 section thereof.

1 Any violation of this section shall be a traffic
2 infraction.

3 Sec. 5. 28 MRSA §1060, first ¶, as repealed and
4 replaced by PL 1981, c. 506, §2, is amended to read:

5 Any resident of the State or nonresident in the
6 State ~~20~~ 21 years of age or over may make application
7 to the Secretary of State for an official state
8 nondriver identification card under Title 5, section
9 89, upon a form provided by the Secretary of State.
10 The application form shall include, directly above
11 the signature line, the following notice to the ap-
12 plicant: "I understand that false statements made on
13 this form are punishable by law. Knowingly supplying
14 false information on this form is a Class D offense
15 under Title 17-A, punishable by confinement of up to
16 one year or by monetary fine of up to \$500, or by
17 both." The Secretary of State, upon receipt of an ap-
18 plication and such supporting documents and informa-
19 tion as he may require, shall issue an identification
20 card to the applicant bearing his photograph, togeth-
21 er with his name, address, date of birth and such
22 other information and identification as he may deem
23 necessary. The identification card issued under this
24 section shall not be valid until signed by the appli-
25 cant. The fee for an identification card shall be \$2.

26 Sec. 6. 29 MRSA §2241-G, as repealed and re-
27 placed by PL 1983, c. 478, is amended to read:

28 §2241-G. Provisional license

29 1. Licensee 21 years of age and older. The orig-
30 inal state license issued to a new applicant ~~20~~ 21
31 years of age and older shall be a provisional license
32 for a period of one year following the date of issue
33 and shall remain in force as a nonprovisional license
34 to the next normal expiration date. If a person is
35 convicted of or adjudicated to have committed a motor
36 vehicle moving violation while in possession of a
37 provisional license on the first offense, the license
38 shall be suspended for 30 days. If he is convicted
39 of or adjudicated to have committed a 2nd moving vio-
40 lation, his license shall be suspended for 60 days
41 and if he is convicted of or adjudicated to have com-
42 mitted a 3rd moving violation, the license shall be

1 suspended to the 2nd birthday next following the date
2 of issue or for 90 days, whichever shall be the
3 longer period of time. In these cases, a hearing may
4 be requested of the Secretary of State, and the Sec-
5 retary of State shall afford the provisional licensee
6 opportunity for hearing as soon as practicable after
7 receipt of the request. Upon the hearing, the Secre-
8 tary of State, for good cause shown, may continue,
9 modify or rescind the suspension. This subsection
10 shall not prevail when a person is convicted of or
11 adjudicated to have committed an offense which car-
12 ries a suspension or revocation period greater than
13 that prescribed in this subsection.

14 2. Licensee under 21 years of age. The original
15 license or any renewal license issued to an applicant
16 under ~~20~~ 21 years of age shall be a provisional li-
17 cense for a period of one year following the date of
18 issue or until the licensee attains the age of ~~20~~ 21
19 years of age, whichever occurs last. Upon expiration
20 of the provisional term, the license shall remain in
21 force as a nonprovisional license to the next normal
22 expiration date. Any license issued by any other ju-
23 risdiction to a person who has not yet attained the
24 age of ~~20~~ 21 years shall be construed to be a provi-
25 sional license for the purpose of operating a motor
26 vehicle within this State.

27 A. During the first year from the date of issue
28 of the provisional license, if a person is con-
29 victed of or adjudicated to have committed a mo-
30 tor vehicle moving violation, on the first of-
31 fense, the license shall be suspended for 30
32 days. If he is convicted of or adjudicated to
33 have committed a 2nd moving violation, his li-
34 cense shall be suspended for 60 days and if he is
35 convicted of or adjudicated to have committed a
36 3rd moving violation, the license shall be sus-
37 pended to the 2nd birthday next following the
38 date of issue or for 90 days, whichever shall be
39 the longer period of time. In these cases, a
40 hearing may be requested of the Secretary of
41 State, and the Secretary of State shall afford
42 the provisional licensee opportunity for hearing
43 as soon as practicable after receipt of the re-
44 quest. Upon the hearing, the Secretary of State,
45 for good cause shown, may continue, modify or re-

1 scind the suspension. This paragraph shall not
2 prevail when a person is convicted of or adjudi-
3 cated to have committed an offense which carries
4 a suspension or revocation period greater than
5 that prescribed in this paragraph.

6 B. The Secretary of State shall suspend for a
7 minimum period of one year, without preliminary
8 hearing, the provisional license of any person
9 under ~~20~~ 21 years of age:

10 (1) As to whom there is received a record
11 of conviction or adjudication for violation
12 of section 1312-B or 1312-C or Title 15,
13 section 3103, subsection 1, paragraph F; or

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

18 Any person not having attained the age of ~~20~~ 21
19 years who operates or attempts to operate a motor
20 vehicle within this State shall, in addition to
21 the requirements of section 1312, have the duty
22 to submit to a test to determine his
23 blood-alcohol level by analysis of his blood or
24 breath, if there is probable cause to believe he
25 has operated or attempted to operate a motor ve-
26 hicle while having 0.02% or more by weight of al-
27 cohool in his blood. The provisions of section
28 1312 shall apply, except that in all cases prob-
29 able cause shall be to believe that the person
30 was operating or attempting to operate a motor
31 vehicle while having 0.02% or more by weight of
32 alcohol in his blood and that the suspension for
33 failing to comply with the duty to submit to the
34 test shall be for a period of one year.

35 The provisions of section 1312, subsection 6,
36 shall apply, except that probable cause shall be
37 to believe that the person was operating or at-
38 tempting to operate a motor vehicle while having
39 0.02% or more by weight of alcohol in his blood.

40 The Secretary of State, upon receipt of both a
41 written statement under oath from a law enforce-

1 ment officer that the officer had probable cause
2 to believe that a person was operating or at-
3 tempting to operate a motor vehicle while having
4 0.02% or more by weight of alcohol in his blood
5 and the result of a blood-alcohol test taken un-
6 der this section which shows the presence of
7 0.02% or more by weight of alcohol in his blood,
8 and which is certified pursuant to section 1312,
9 subsection 8, shall immediately notify the per-
10 son, in writing, as provided in section 2241,
11 that his provisional license has been suspended.
12 The suspension shall be for a period of one year.
13 The written statement shall be sent to the Secre-
14 tary of State, within 72 hours of receipt by the
15 officer, of the results of the test, excluding
16 Saturdays, Sundays and holidays, provided that if
17 the statement is not sent within this time peri-
18 od, the Secretary of State shall nevertheless im-
19 pose the suspension upon receipt, unless the de-
20 lay has prejudiced the person's ability to pre-
21 pare for or participate in the hearing. If a
22 person, whose license is so suspended, desires to
23 have a hearing, he shall so notify the Secretary
24 of State in writing within 10 days from the ef-
25 fective date of the suspension. The suspension
26 shall remain in effect pending the hearing.

27 The scope of the hearing shall cover whether
28 there was probable cause to believe that the
29 person was operating or attempting to operate a
30 motor vehicle while having 0.02% or more by
31 weight of alcohol in his blood. If it is deter-
32 mined after the hearing that there was not proba-
33 ble cause to believe that the person was operat-
34 ing or attempting to operate a motor vehicle
35 while having 0.02% or more by weight of alcohol
36 in his blood, the suspension shall be removed im-
37 mediately and the Secretary of State shall delete
38 any record of the suspension.

39 Any person whose provisional license is suspended
40 under this section on the basis of a
41 blood-alcohol test shall have the right to file a
42 petition in the Superior Court in the county
43 where he resides, or in Kennebec County, to re-
44 view the order of suspension by the Secretary of
45 State by the same procedure as is provided in

1 section 2242. If the court rescinds the suspen-
2 sion, it shall also order the Secretary of State
3 to delete any record of the suspension.

4 C. Any suspension issued under paragraph B shall
5 run concurrently with any suspension ordered by
6 a court upon conviction or adjudication of any
7 violation of section 1312-B or 1312-C or Title
8 15, section 3103, subsection 1, paragraph F.

9 D. Following the expiration of 1/2 of the total
10 period of suspension imposed pursuant to para-
11 graph B, the Secretary of State may issue a pro-
12 visional license, subject to the conditions, re-
13 strictions or terms he deems advisable, to the
14 person if he receives written notice that the
15 person has satisfactorily completed the alcohol
16 education program of the Department of Human Ser-
17 vices and, when required, has satisfactorily com-
18 pleted an alcohol treatment or rehabilitation
19 program approved or licensed by the department.

20 E. Any suspension pursuant to paragraph B or
21 provisional license reissued after suspension
22 pursuant to paragraph D may extend beyond the
23 person's ~~20th~~ 21st birthday to allow for comple-
24 tion of the total suspension period or to contin-
25 ue the period of conditions, restrictions or
26 terms imposed on a license reissued pursuant to
27 paragraph D.

28 F. The Secretary of State may promulgate what-
29 ever rules are necessary to carry out the pur-
30 poses of this section.

31 STATEMENT OF FACT

32 The purpose of this bill is to raise the legal
33 age for the purchase, transportation or consumption
34 of alcoholic beverages to age 21.

35 There is evidence of a direct correlation between
36 the minimum drinking age and alcohol-related crashes
37 among the age groups affected. Studies have shown
38 that raising the legal drinking age produced an aver-
39 age annual reduction of 28% in nighttime fatal

1 crashes involving affected 18 to 21-year-old drivers.
2 One of the studies indicated that if all remaining
3 states raised the legal drinking age to 21, there
4 would be 730 fewer young persons killed annually on
5 United States highways.

6 Considering that during the last legislative ses-
7 sions, 3 additional states passed laws requiring a
8 minimum drinking age of 21 for all alcoholic bever-
9 ages, the total number of states with such a law is
10 19. The lack of uniformity among state laws is espe-
11 cially critical regarding the minimum legal drinking
12 age because an incentive to drink and drive is estab-
13 lished due to young persons commuting to border
14 states where the drinking age is lower. There is
15 simply no way to adequately address the needless
16 tragedies caused by young persons commuting to border
17 states, except by establishing a uniform drinking age
18 among the states.

19 In order to reduce the death rate of American
20 youth, the minimum legal drinking age for all alco-
21 holic beverages should be raised to 21.

22 With the raising of the legal age to purchase and
23 consume alcoholic beverages, it is also necessary to
24 revise the Revised Statutes, Title 29, section
25 2241-G, to place it in conformance with the new legal
26 age.

27 6168031284