MAINE STATE LEGISLATURE

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	(New Draft of H.P.1575, L.D. 2085) SECOND REGULAR SESSION
	ONE HUNDRED AND ELEVENTH LEGISLATURE
Legislati	ive Document No. 244
H.P. 1843	House of Representatives, April 6, 19
	orted by the Majority from the Committee on Business Legislation ed under Joint Rule 2.
	EDWIN H. PERT, Cle
	STATE OF MAINE
	IN THE YEAR OF OUR LORD
	NINETEEN HUNDRED AND EIGHTY-FOUR
	AN ACT to Require Maintenance of
F	AN ACT to Require Maintenance of inancial Responsibility by All Motorists.
	inancial Responsibility by All Motorists. enacted by the People of the State of Maine
Be it e	enacted by the People of the State of Maine as: c. 1. 29 MRSA c. 9, sub-c. I, as amended, in
Be it e follows Sec repeale	enacted by the People of the State of Maine as: c. 1. 29 MRSA c. 9, sub-c. I, as amended, in
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Be it e follow: Sec repeale	enacted by the People of the State of Maine as: c. 1. 29 MRSA c. 9, sub-c. I, as amended, and add. c. 2. 29 MRSA c. 9, sub-c. I-A is enacted to
Be it efollows Secrepeale Secrepeale	enacted by the People of the State of Maine as: c. 1. 29 MRSA c. 9, sub-c. I, as amended, it ed. c. 2. 29 MRSA c. 9, sub-c. I-A is enacted to SUBCHAPTER I-A

1. Certificate. "Certificate" means the certificate of an insurance company authorized to transact the business specified in Title 24-A, that it has issued to or for the benefit of any person a motor vehicle liability policy covering a motor vehicle, trailer or semitrailer. The insurance company or surety company may, at its election, specify on the certificate the expiration date of the motor vehicle liability policy and, if the company elects to so provide, the policy shall, on and after the date, be terminated for purposes of this subchapter, unless the policy or bond is previously canceled or superseded in accordance with section 794, subsection 7. Where no expiration date is specified on the certificate, the policy or bond shall, for the purposes of this subchapter, continue in effect until it is canceled or superseded in accordance with section 794, subsection 7.

- 2. Evidence of financial responsibility. "Evidence of financial responsibility" means the information required by the Secretary of State pursuant to section 793 and any rules adopted by the Secretary of State pursuant to this subchapter. "Evidence of financial responsibility" shall be distinguished from the term "proof of financial responsibility," as that term is used to describe the requirement of filings with the Secretary of State under this subchapter.
- 3. Judgment. "Judgment" means any judgment which becomes final by expiration without appeal of the time within which appeal might have been perfected, or by final affirmance on appeal, rendered by a court of competent jurisdiction of any state of the United States.
 - 4. Motor vehicle liability policy. "Motor vehicle liability policy" means a policy of liability insurance which provides indemnity for or protection to the insured and any person responsible to him for the operation of the insured's motor vehicle, trailer or semitrailer who has obtained possession or control thereof with his express or implied consent, against loss by reason of the liability to pay damages to others for damage to property, except property of others in charge of the insured or his employees, or

- bodily injuries, including death at any time result-1 2 ing therefrom, accidentally sustained during the term 3 of the policy by any person other than the insured, 4 or employees of the insured actually operating the motor vehicle or of any other responsible persons who 5 6 are entitled to payments of benefits under any Workers' Compensation Act, arising out of the ownership, 7 operation, maintenance, control or use within the 8 9 limits of the United States or Canada of the motor vehicles, trailer or semitrailer, to the amount or 10 limit of at least \$20,000 on account of injury to or 11 death of any one person, and subject to such limits 12 as respects injury to or death of one person, of at 13 least \$40,000 on account of any one accident result-14 ing in injury to or death of more than one person, 15 and of at least \$10,000 for damage to property of 16 others, or a binder pending the issue of that policy. 17
 - 5. Owner. "Owner" means a person who holds the legal title to a motor vehicle, trailer or semitrailer, or in the event a motor vehicle, trailer or semitrailer is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a motor vehicle, trailer or semitrailer is entitled to possession, then that conditional vendee or lessee or mortgagor shall be the owner for the purposes of this subchapter.

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- 30 6. Person. "Person" means every person, firm, 31 copartnership, association or corporation, but not 32 the State or any political subdivision thereof.
- 7. State. "State" means any state of the United States, the District of Columbia or any province of Canada.
 - §792. Purposes; administration; construction
 - 1. Purposes. The Legislature finds that the economic damage inflicted by uninsured motorists goes uncompensated in many cases due to the failure of motorists to maintain liability insurance or other means to ensure just compensation for victims of accidents, and that present law condones the financial

irresponsibility of these motorists until they have already inflicted injuries or damage for which they may be unable to provide compensation. The purposes of this subchapter are to:

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- A. Reduce the likelihood that financially irresponsible motorists will operate on the state's highways by instituting a requirement that motorists provide evidence of financial responsibility, satisfactory to the Secretary of State, upon the request of a law enforcement officer; and
- B. Revise the provisions regarding proof of financial responsibility to reflect the addition of the separate requirement of satisfactory evidence of financial responsibility.
- 2. Administration. The Secretary of State shall administer and enforce this subchapter and may adopt and enforce such rules as may be necessary for that administration.
- 3. Construction. Unless otherwise clearly required by the context, this subchapter shall not be construed to govern the terms of a motor vehicle liability insurance contract or policy, other than a contract or policy certified as proof of financial responsibility, where a filing of proof is required by the Secretary of State.
- 26 §793. Requirement of providing evidence of financial responsibility
 - 1. Requirement. Upon request of a law enforcement officer, the owner or operator of a motor vehicle, trailer or semitrailer shall provide evidence of financial responsibility. The officer may issue to the person a verification card, as described in subsection 2, which shall be completed and returned to the Secretary of State within the period of time designated on the card, and shall contain the information required on the card. If the operator is licensed to operate by another state and the vehicle is registered in another state, evidence of financial responsibility may not be required and no verification card may be issued, except in the event of an accident required to be reported in accordance with section 797, subsection 1.

- 2. Verification card; form. The Secretary of State shall establish by rule a verification card to 2 3 be issued by law enforcement officials under this 4 section. The Secretary of State shall make available 5 to all law enforcement agencies in this State a supб ply of these cards. The chief executive officer of every such law enforcement agency or his designate 7 8 shall be responsible for the further issuance of 9 these cards to individual law enforcement officers 10 and for their proper disposition.
- 11 3. Suspension of license or registration. The 12 Secretary of State may suspend, in accordance 13 chapter 17, the license, right to operate and right to obtain a license of any person operating a motor .14 15 vehicle, trailer or semitrailer, and the registration 16 certificate and registration plates and the right to register of any person owning a motor vehicle, trail-17 18 er or semitrailer under the following circumstances:
- A. The Secretary of State fails to receive a verification card issued under this section;

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- B. The verification card issued under this section indicates that the vehicle is being operated without insurance or other form of financial responsibility in the amounts contained in section 791, subsection 4; or
 - C. Due to omission of information or due to an error or misrepresentation on the verification card, the card fails to provide sufficient evidence of financial responsibility as required by this subchapter and rules promulgated by the Secretary of State.
- 4. Reinstatement. The Secretary of State may, pursuant to chapter 17, reinstate the license, right to operate, right to obtain a license or the registration of a person suspended pursuant to subsection 3, upon presentation of evidence of financial responsibility satisfactory to the Secretary of State and payment of the required fee. Notwithstanding this subsection, the Secretary of State may refuse reinstatement if he requires the person to file proof of financial responsibility pursuant to section 794 and the person has not fulfilled that requirement.

5. Sunset provision. This section expires on December 31, 1987, except that any person from whom evidence of financial responsibility has been required on or before that date, and who has failed to provide that evidence, remains subject to this section.

§794. Proof of financial responsibility

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- 8 1. Security and proof of financial responsibili-9 ty may be required. Notwithstanding any other provision of this subchapter, the Secretary of State may 10 11 require any motor vehicle operator or owner to file 12 with this office proof of financial responsibility for a period not to exceed 3 years from the date of 13 requirement, that period to be determined by the Sec-14 15 retary of State, under any of the following condi-16 tions:
- A. Repeated noncompliance with section 793, subsection 1;
 - B. Accident record; or
 - C. Record of motor vehicle violations.
 - 2. Amount of proof required. Proof of financial responsibility means proof of ability to respond in damages for any liability thereafter incurred, arising out of the ownership maintenance, control or use of a motor vehicle, trailer or semitrailer in the amount of \$20,000 because of bodily injury or death to any one person, and subject to the limit respecting one person, in the amount of \$40,000 because of bodily injury to or death to 2 or more persons in any one accident, and in the amount of \$10,000 because of injury to and destruction of property in any one accident. Whenever required under this subchapter, that proof in those amounts shall be furnished for each motor vehicle, trailer or semitrailer registered by that person, except that any trailer, semitrailer, camp trailer or mobile home registered in the name of any person required to file proof of financial responsibility, which is automatically covered by a policy on any motor vehicle registered by that person, which also provides the coverage required for a motor vehicle liability policy, shall not be subject to this section.

3. Methods of giving proof. Proof of financial responsibility when required under this subchapter may be given by any of the following methods:

- A. By filing with the Secretary of State a certificate, as defined in section 791, subsection 1, of an insurance company or of a surety company;
- B. By the deposit of money or securities as provided in subsection 4; or
- 10 C. By satisfying the Secretary of State that any corporation has financial ability to comply with the requirements of this subchapter.
 - 4. Money or securities deposited as proof. A person may give proof of financial responsibility by delivering to the Secretary of State a receipt of the Treasurer of State showing the deposit with the Treasurer of State of money in an amount or of securities approved by the Treasurer of State and of a market value in a total amount, as would be required for coverage in a motor vehicle liability policy furnished by the person giving proof under this subchapter. The securities shall be of a type which may legally be purchased by savings banks or for trust funds. All money or securities so deposited shall be subject to execution to satisfy any judgment mentioned in this subchapter but shall not otherwise be subject to attachment or execution.
 - 5. Limitation. The Treasurer of State shall not accept any deposit or issue a certificate therefor and the Secretary of State shall not accept any certificate, unless accompanied by evidence that there are no unsatisfied judgments against the depositor registered in the office of the clerk of the Superior Court for the county where the depositor resides.
 - 6. May substitute other proof. The Secretary of State shall return any certificate of insurance, or shall direct the Treasurer of State to return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this subchapter.

- 7. Cancellation of policy. No motor vehicle liability policy certified as proof of financial responsibility under this subchapter may be canceled until at least 10 days after notice of cancellation of the insurance so certified is filed in the office of the Secretary of State, except that such a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.
- 8. Operating without giving proof. Any person whose operator's license or registration certificates or other privilege to operate a motor vehicle, trailer or semitrailer has been suspended or revoked, restoration thereof or the issuance of a new license or registration being contingent upon the furnishing of security or proof of financial responsibility, and who, during that suspension or revocation or in the absence of full authorization from the Secretary of State, drives any motor vehicle, trailer or semitrailer upon any highway or knowingly permits any motor vehicle, trailer or semitrailer owned by that person to be operated by another upon any highway, except as permitted under this subchapter, shall be punished as provided in section 2184. Where any person is required under this subchapter to maintain proof of financial responsibility, the Secretary of State may issue a restricted license to that person, authorizing the operation of any motor vehicle, trailer or semitrailer so long as the owner thereof shall maintain proof of financial responsibility.

§795. Policy form

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1. Policy form. No motor vehicle liability policy, as defined in section 791, subsection 4, may be certified as proof of financial responsibility in accordance with section 794 until a copy of the form of the policy has been on file with the Superintendent of Insurance for at least 30 days, unless, before the expiration of that period, the Superintendent of Insurance approves the form of the policy in writing, or if the Superintendent of Insurance notifies the company in writing that, in his opinion, the form of the policy does not comply with the laws of the State, provided that he shall notify the company in

writing within the period of his approval or disapproval thereof. The Superintendent of Insurance shall approve a form of policy which contains the name and address of the insured, a description of the motor vehicles and trailers or semitrailers covered, with the premium charges therefor, the policy period, the limits of liability and an agreement that insurance is provided in accordance with and subject to this subchapter.

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- 2. Required provisions. A motor vehicle liability policy certified as proof of financial responsibility in accordance with section 794 is subject to the following provisions which need not be contained therein.
 - A. The liability of any company under a motor vehicle liability policy shall become absolute whenever loss or damage covered by the policy occurs, and the satisfaction by the insured of a final judgment for that loss or damage shall not be a condition precedent to the right or duty of the company to make payment on account of that loss or damage. No such contract of insurance may be canceled or annulled by any agreement between the company and the insured after the insured has become responsible for the loss or damage, and any such cancellation or annulment shall be void. Upon the recovery of a final judgment against any person for any loss or damage specified in this section, if the judgment debtor was, at the accrual of the cause of action, insured against liability therefor under a motor vehicle liability insurance policy, the judgment creditor shall be entitled to have the insurance money applied to the satisfaction of the judgment.
 - B. The policy, the written application therefor, if any, and any rider or endorsement which shall not conflict with this subchapter shall constitute the entire contract between the parties.
 - C. No statement made by the insured or on his behalf, and no violation of the terms of the policy, may operate to defeat or avoid the policy so as to bar recovery within the limit provided in the policy.

- D. If the death, insolvency or bankruptcy of the insured occurs within the policy period, the policy during the unexpired portion of that period shall cover the legal representatives of the insured. The policy shall contain such provisions as are not inconsistent with this subchapter as may be required by the Superintendent of Insurance.
- E. Damages shall not be assessed except by special order of the court in a civil action, payment of the judgment wherein is secured by a motor vehicle liability policy and the defendant has been defaulted for failure to enter an appearance until the expiration of 30 days after the plaintiff has given notice of that default to the company issuing or executing the policy and has filed an affidavit thereof. This notice may be given by mailing it, postage prepaid, to the company or to its agent who issued or executed the policy. Upon receipt of information and having become satisfied that the insured has failed to comply with the terms of his policy in regard to notice to the company of an accident, the Secretary of State, pursuant and subject to chapter 17, shall revoke his license and registration for such period as the Secretary of State shall determine.
- 3. Prohibition. No motor vehicle liability policy other than that defined in section 791 may be certified as proof of financial responsibility in accordance with section 794, by any authorized insurance company, except that an authorized insurance company may certify what is known as a standard automobile liability policy containing an agreement that insurance is provided in accordance with and subject to this subchapter which agreement has been approved by the Superintendent of Insurance.

§796. Judament debtors

Upon receipt by the Secretary of State of a copy of any judgment which has been rendered against either the owner or the operator of the motor vehicle involved in an accident required to be reported under section 797, subsection 1, which judgment resulted

- from a cause of action that arose from that accident, 1 2 the Secretary of State shall, pursuant to Chapter 17, immediately suspend the license, the right to obtain 3 4 a license or the right to operate of a person operat-5 ing who has thus become a judgment debtor, and the registration certificates and plates or the right to 5 7 register any vehicle of any person owning a motor ve-3 hicle, trailer or semitrailer involved in the accident who has thus become a judgment debtor, until: ą
- 10 <u>l. Satisfied judgment. The judgment is satis-</u> 11 fied, in the following amounts:
- A. When \$20,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident;

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- B. When, subject to such a limit of \$20,000 because of bodily injury to or death of one person, the sum of \$40,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of 2 or more persons as the result of any one accident; or
- C. When \$10,000 has been credited upon any judgment or judgments rendered in excess of that
 amount because of injury to or destruction of
 property of others as a result of any one accident.
- 28 Credit for these amounts shall be deemed a satisfac-29 tion of any such judgment or judgments in excess of 30 the amounts only for the purposes of this subchapter.
- Payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section;
- 39 <u>3. Bankruptcy. The judgment debtor obtains re-</u>
 40 lief from the debt in bankruptcy.

§797. Reports

- 1. Contents of report and duty of the Chief of the State Police. Where an accident on a public way, or in any place where public traffic may reasonably be anticipated, has resulted in bodily injury to or death of any person, or in property damage to an apparent extent of \$300 or more, the accident report required by section 891 shall contain, in a form prescribed by the Secretary of State, such additional relevant information as the Secretary of State shall require. The Secretary of State may rely upon the accuracy of the information unless and until he has reason to believe that the information is erroneous.
- 2. Verification by insurer. Upon receipt of notice from the Secretary of State that an automobile liability policy was carried at a certain time, or that the liability of the owner or operator for damages resulting from an accident was covered by any other form of insurance or bond, the insurance carrier shall notify the Secretary of State within 15 days, in such manner as he may require, if the policy was not in effect at the time of the accident. When erroneous information with respect to the existence of insurance is furnished to the Secretary of State, he shall take appropriate action after receiving correct information with respect to that coverage.
- 3. Penalty. Any person who gives information required in a report or otherwise, as provided for in this section, knowing or having reason to believe that information is false, commits a Class E crime.
- §798. Application of provisions to nonresidents and accidents in other states
 - 1. Nonresidents. The operation of a motor vehicle, trailer or semitrailer on a public way of the State by a nonresident, or with his express or implied consent if an owner, shall be deemed equivalent to an appointment by the nonresident of the Secretary of State or his successor in office to be his true and lawful attorney, upon whom may be served all lawful processes in any action against the nonresident growing out of any accident in which he may be involved while so operating or so permitting to be operated a motor vehicle on such a way.

- 2. Information to home state. When a nonresident's operating privilege is suspended, pursuant to section 793 or section 794, the Secretary of State shall transmit a certified copy of the record of the action to the official in charge of the issuance of licenses and registration certificates in the state in which the nonresident resides, if the law of that state provides for action in relation thereto similar to that provided for in subsection 3.
 - 3. Accidents in other states. Upon receipt of the certification that the operating privilege of a resident of this State has been suspended or revoked in any other state pursuant to a law providing for its suspension or revocation for failure to provide proof of financial responsibility, under circumstances which require the Secretary of State to suspend a nonresident's operating privilege had the accident occurred in this State, the Secretary of State may suspend the license of that resident and all registration certificates and registration plates. The suspension may continue until that resident furnishes evidence of his compliance with the law of the other state and until that resident files proof of financial responsibility if required by that law.

§799. Opportunity for hearing

- 1. Desire for hearing. Any person entitled under this subchapter to a hearing on the decision of the Secretary of State in applying or invoking the requirements of this subchapter shall notify the Secretary of State in writing of his desire for a hearing within 10 days after receipt of the requirement. Pending the hearing, the requirement of the subchapter may not be invoked. This provision shall not be construed to relieve any person from the requirement to provide evidence of financial responsibility as provided in section 793, subsection 1.
- 2. Determination of issuance. If the Secretary of State, in carrying out his responsibilities to administer and enforce this subchapter, holds a hearing as provided in section 53 to determine whether or not a motor vehicle operator's license or certificate of registration should be issued to a person against whom the motor vehicle financial responsibility law

1	has been invoked, he shall provide notice of the
1 2 3	hearing to the other party or parties in the accident
3	which gave rise to that law being invoked.
4	§800. Limitation and saving clause
5	This subchapter shall not be construed to prevent
6	the plaintiff in any civil action from relying upon
7	the other processes provided by law.
8	Sec. 3. Allocation. The following funds are
9	allocated from the Highway Fund to carry out the pur-
10	poses of this Act.
11	1984-85
12	SECRETARY OF STATE, DEPARTMENT OF
13	Division of Motor Vehicles
14	Positions (10)
15	Personal Services \$167,469
16	All Other 43,100
17	Capital Expenditures 10,305
18	Total \$220,874
19 20 21 22 23 24 25	Sec. 4. Effective date. Except as provided in section 3, this Act shall take effect January 1, 1985. Prior to the effective date of this Act, the Secretary of State may promulgate rules and take any other actions required or permitted under this Act in order to assure that the provisions of this Act become effective on that date.
26	FISCAL NOTE

FISCAL NOTE

 This new draft increases Highway Fund revenues by approximately \$750,000 in fiscal year 1984-85. The Division of Motor Vehicles will need 10 positions to administer this Act at a cost of \$220,874 in fiscal year 1984-85.

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This new draft makes several changes in the manner in which the State will seek to assure, that all motorists maintain some form of financial responsibility as a condition of owning or operating a motor vehicle in this State.

First, the new draft removes provisions which would have required the issuance of identification cards by insurers of uniform insurance, and for those cards to be carried by motorists and exhibited on demand of a law enforcement officer.

Instead, motorists are required by a law enforcement officer to provide evidence of insurance, for example, when stopped for an offense or after an ac-The officer is authorized to issue a "verification card," provided by the Secretary of State, by which the motorist is required to demonstrate to the Secretary of State that he is financially responsible. While the precise form of the cards is left to rulemaking, the procedure is similar to the current, informal practice of issuing "defect cards" to motorists for inspection matters. If this procedure failed to satisfactorily demonstrate the motorist's financial responsibility, the Secretary of State is authorized to suspend the person's right to operate or register vehicles. As with other suspensions, reinstatement is subject to payment of applicable fees, and in addition the motorist is required to provide satisfactory evidence of financial responsibility. In case of repeated violations, the Secretary of State may require not only this evidence, but a filing of proof of financial responsibility for a period of up to 3 years.

This approach has the advantage that the burden of verification rests only on those from whom evidence of responsibility is sought, not on all motorists and insurers.

Administrative costs for both private and public sector is therefore minimized.

The new draft clarifies that the specific requirements made in the current financial responsibil-

ity law for those policies certified as proof of financial responsibility, such as the requirement that insurers notify the Secretary of State 10 days before canceling a policy, would apply only to those policies which are certified as "proof," not to all policies.

Finally, the new draft provides funding for the administration of the system, which is estimated to have no net cost to the Highway Fund, a January 1, 1985, effective date and a sunset provision.