

MAINE STATE LEGISLATURE

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(EMERGENCY)
(New Draft of H.P. 1801, L.D. 2376)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document No. 2457

H.P. 1856 House of Representatives, April 10, 1984

Reported by Report B from the Committee on Legal Affairs and printed under Joint Rule 2.

Original bill presented by Representative Joyce of Portland and cosponsored by Representative Crowley of Stockton Springs and Senator Hichens of York.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

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

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

Whereas, motor vehicle accidents are the leading cause of death among young people; and

Whereas, in 1982 only 2.4% of licensed Maine drivers were 20 years old, but 9.1% of the drinking drivers involved in fatal highway crashes were age 20, making this group overrepresented by a factor of 3.4 to 1; and

1 Whereas, from 1980 to 1982 alone, 33 people died
2 in crashes in Maine involving 20-year-old drinking
3 drivers; and

4 Whereas, such statistics led the Presidential
5 Commission on Drunk Driving in its November, 1983 re-
6 port to recommend that all states adopt age 21 as a
7 uniform minimum drinking age and the national trend
8 is to raise the drinking age; and

9 Whereas, in the judgment of the Legislature,
10 these facts create an emergency within the meaning of
11 the Constitution of Maine and require the following
12 legislation as immediately necessary for the preser-
13 vation of the public peace, health and safety; now,
14 therefore,

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

17 Sec. 1. 28 MRSA §2, sub-§11, as amended by PL
18 1977, c. 23, §1, is further amended to read:

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

21 Sec. 2. 28 MRSA §201, as amended by PL 1983, c.
22 79, §1, is further amended to read:

23 §201. Eligibility

24 No license may be issued to any natural person
25 unless such person is at least ~~20~~ 21 years of age and
26 is a citizen of the United States and of this State.
27 A part-time license, as authorized by law, may be is-
28 sued to any natural person who is at least ~~20~~ 21
29 years of age and is a citizen of the United States.
30 No license may be issued to a partnership or to an
31 association unless all persons having an interest
32 therein are at least ~~20~~ 21 years of age and are citi-
33 zens of the United States and of this State. A part-
34 time license, as authorized by law, may be issued to
35 a partnership or association if all persons having an
36 interest therein are at least ~~20~~ 21 years of age and
37 are citizens of the United States. No license may be
38 issued to any corporation unless it shall be incorpo-

1 rated under the laws of this State or authorized to
2 transact business in this State. No license may be
3 issued to a corporation any of the principal officers
4 of which would not personally be eligible for a li-
5 quor license because such officer had had a license
6 for sale of liquor revoked. No person, who is not at
7 the time of the offense the holder of a liquor li-
8 cense, convicted of violating any of the laws of this
9 State or the United States with respect to manufac-
10 ture, transportation, importation, possession or sale
11 of intoxicating liquor may be granted a license for
12 sale of liquor for a period of 5 years from the date
13 of such conviction, and no person who sells liquor of
14 a greater alcoholic content than authorized by his
15 license may be considered the holder of a license for
16 the purposes of this sentence. No clerk, servant or
17 agent of a licensee, who is convicted of sale of li-
18 quor on Sunday, may himself be granted a license for
19 sale of liquor for a period not exceeding 5 years
20 from the date of such conviction. No person whose li-
21 cense for sale of liquor expires pending an appeal
22 from conviction of a violation of law forbidding sale
23 of intoxicating liquor on Sunday, by himself or his
24 clerk, servant or agent, on his licensed premises,
25 may, after subsequent final conviction of himself,
26 clerk, servant or agent be eligible for a liquor li-
27 cense for a period not exceeding 5 years from the
28 date of such final conviction. No license may be is-
29 sued in which any law enforcement official benefits
30 financially either directly or indirectly.

31 All licensees who are 20 years of age at the time
32 this paragraph becomes effective shall be exempt from
33 the provisions raising the age for a liquor license
34 from 20 to 21 years of age. Any other legal entity,
35 including a partnership, corporation or association
36 of persons, having one or more persons with an inter-
37 est therein who are 20 years of age at the time this
38 paragraph becomes effective and holding a liquor li-
39 cence at that time shall be exempt from the provi-
40 sions raising the age for a liquor license from 20 to
41 21 years of age with respect to those persons.

42 Sec. 3. 28 MRSA §303, as amended by PL 1983, c.
43 81, is further amended to read:

44 §303. Credit sales; sales to certain persons re-
45 stricted

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

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

40 Any person under the age of 20 21 years who pur-
41 chases any intoxicating liquor or any person under
42 the age of 20 21 years who consumes any intoxicating
43 liquor or has on his or her person any intoxicating
44 liquor in any on-sale premises, or who presents or
45 offers to any licensee, his agent or employee any

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

19 All persons who are 20 years of age at the time
20 this paragraph becomes effective shall be exempt from
21 the provisions of this section raising the legal age
22 from 20 to 21 years of age.

23 Sec. 4. 28 MRSA §1001, as amended by PL 1977, c.
24 23, §§7 and 8, is further amended to read:

25 §1001. Transportation restricted

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

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

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

1 this section to be within the passenger or driver's
2 section thereof.

3 Any violation of this section shall be a traffic
4 infraction.

5 All persons who are 20 years of age at the time
6 this paragraph becomes effective shall be exempt from
7 the provisions of this section raising the legal age
8 from 20 to 21 years of age.

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

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

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

34 §2241-G. Provisional license

35 1. Licensee 21 years of age and older. The orig-
36 inal state license issued to a new applicant ~~20~~ 21
37 years of age and older shall be a provisional license
38 for a period of one year following the date of issue
39 and shall remain in force as a nonprovisional license
40 to the next normal expiration date. If a person is

1 convicted of or adjudicated to have committed a motor
2 vehicle moving violation while in possession of a
3 provisional license on the first offense, the license
4 shall be suspended for 30 days. If he is convicted
5 of or adjudicated to have committed a 2nd moving vio-
6 lation, his license shall be suspended for 60 days
7 and if he is convicted of or adjudicated to have com-
8 mitted a 3rd moving violation, the license shall be
9 suspended to the 2nd birthday next following the date
10 of issue or for 90 days, whichever shall be the
11 longer period of time. In these cases, a hearing may
12 be requested of the Secretary of State, and the Sec-
13 retary of State shall afford the provisional licensee
14 opportunity for hearing as soon as practicable after
15 receipt of the request. Upon the hearing, the Secre-
16 tary of State, for good cause shown, may continue,
17 modify or rescind the suspension. This subsection
18 shall not prevail when a person is convicted of or
19 adjudicated to have committed an offense which car-
20 ries a suspension or revocation period greater than
21 that prescribed in this subsection.

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

35 A. During the first year from the date of issue
36 of the provisional license, if a person is con-
37 victed of or adjudicated to have committed a mo-
38 tor vehicle moving violation, on the first of-
39 fense, the license shall be suspended for 30
40 days. If he is convicted of or adjudicated to
41 have committed a 2nd moving violation, his li-
42 cense shall be suspended for 60 days and if he is
43 convicted of or adjudicated to have committed a
44 3rd moving violation, the license shall be sus-
45 pended to the 2nd birthday next following the

1 date of issue or for 90 days, whichever shall be
2 the longer period of time. In these cases, a
3 hearing may be requested of the Secretary of
4 State, and the Secretary of State shall afford
5 the provisional licensee opportunity for hearing
6 as soon as practicable after receipt of the re-
7 quest. Upon the hearing, the Secretary of State,
8 for good cause shown, may continue, modify or re-
9 scind the suspension. This paragraph shall not
10 prevail when a person is convicted of or adjudi-
11 cated to have committed an offense which carries
12 a suspension or revocation period greater than
13 that prescribed in this paragraph.

14 B. The Secretary of State shall suspend for a
15 minimum period of one year, without preliminary
16 hearing, the provisional license of any person
17 under ~~20~~ 21 years of age:

18 (1) As to whom there is received a record
19 of conviction or adjudication for violation
20 of section 1312-B or 1312-C or Title 15,
21 section 3103, subsection 1, paragraph F; or

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

26 Any person not having attained the age of ~~20~~ 21
27 years who operates or attempts to operate a motor
28 vehicle within this State shall, in addition to
29 the requirements of section 1312, have the duty
30 to submit to a test to determine his
31 blood-alcohol level by analysis of his blood or
32 breath, if there is probable cause to believe he
33 has operated or attempted to operate a motor ve-
34 hicle while having 0.02% or more by weight of al-
35cohol in his blood. The provisions of section
36 1312 shall apply, except that in all cases prob-
37 able cause shall be to believe that the person
38 was operating or attempting to operate a motor
39 vehicle while having 0.02% or more by weight of
40 alcohol in his blood and that the suspension for
41 failing to comply with the duty to submit to the
42 test shall be for a period of one year.

1 The provisions of section 1312, subsection 6,
2 shall apply, except that probable cause shall be
3 to believe that the person was operating or at-
4 tempting to operate a motor vehicle while having
5 0.02% or more by weight of alcohol in his blood.

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

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

1 Any person whose provisional license is suspended
2 under this section on the basis of a
3 blood-alcohol test shall have the right to file a
4 petition in the Superior Court in the county
5 where he resides, or in Kennebec County, to re-
6 view the order of suspension by the Secretary of
7 State by the same procedure as is provided in
8 section 2242. If the court rescinds the suspen-
9 sion, it shall also order the Secretary of State
10 to delete any record of the suspension.

11 C. Any suspension issued under paragraph B shall
12 run concurrently with any suspension ordered by
13 a court upon conviction or adjudication of any
14 violation of section 1312-B or 1312-C or Title
15 15, section 3103, subsection 1, paragraph F.

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

27 E. Any suspension pursuant to paragraph B or
28 provisional license reissued after suspension
29 pursuant to paragraph D may extend beyond the
30 person's ~~20th~~ 21st birthday to allow for comple-
31 tion of the total suspension period or to contin-
32 ue the period of conditions, restrictions or
33 terms imposed on a license reissued pursuant to
34 paragraph D.

35 F. The Secretary of State may promulgate what-
36 ever rules are necessary to carry out the pur-
37 poses of this section.

38 Sec. 7. Statutory referendum procedure; submis-
39 sion at statewide election; form of question; effec-
40 tive date. This Act shall be submitted to the legal
41 voters of the State of Maine at the next statewide
42 election in the month of June following passage of

1 this Act. The city aldermen, town selectmen and
2 plantation assessors of this State shall notify the
3 inhabitants of their respective cities, towns and
4 plantations to meet, in the manner prescribed by law
5 for holding a statewide election, to vote on the ac-
6 ceptance or rejection of this Act by voting on the
7 following question:

8 "Shall the laws of the State of Maine be amended
9 to raise the legal drinking age to age 21 to pur-
10 chase, transport or consume alcoholic beverages
11 and to hold a license to sell alcoholic bever-
12 ages?"

13 The legal voters of each city, town and
14 plantation shall vote by ballot on this question and
15 shall designate their choice by a cross or check mark
16 placed within a corresponding square below the words
17 "Yes" or "No." The ballots shall be received, sorted,
18 counted and declared in open ward, town and
19 plantation meetings and returns made to the Secretary
20 of State in the same manner as votes for members of
21 the Legislature. The Governor shall review the re-
22 turns, and, if it appears that a majority of the le-
23 gal votes are in favor of the Act, the Governor shall
24 proclaim that fact without delay and the Act shall
25 become effective 30 days after the date of the pro-
26 clamation.

27 The Secretary of State shall prepare and furnish
28 to each city, town and plantation all ballots, re-
29 turns and copies of this Act necessary to carry out
30 the purpose of this referendum.

31 FISCAL NOTE

32 This new draft will result in a loss of revenue
33 to the Division of Motor Vehicles in an amount not
34 yet determined.

35 The Division of Motor Vehicles has indicated that
36 the following allocation would be needed to satisfy
37 the requirements of the new draft.

38

1984-85

1	Positions	(2)
2	Personal Services	\$41,165
3	All Other	4,182
4	Capital Expenditures	<u>2,835</u>
5	Total	\$48,182
6	The estimated increase of highway revenues for	
7	the biennium is:	
8		<u>1984-85</u>
9	Undedicated revenue	\$5,000

10 STATEMENT OF FACT

11 Sections 1 through 6 of this new draft raise the
12 legal drinking age to purchase, transport or consume
13 alcoholic beverages and to hold a license to sell al-
14 coholic beverages to age 21, as did the original ver-
15 sion of the bill. Section 7 adds a provision to
16 submit this Act to the voters in a statutory referen-
17 dum to be held at the next statewide election in
18 June. This new draft also adds "grandparent" provi-
19 sions so that persons 20 years of age on the effec-
20 tive date of this Act will be exempt. Thus, they can
21 continue to hold a current liquor license, have an
22 interest in a legal entity holding a liquor license
23 and buy and transport liquor just as they can under
24 present law. Persons who reach age 20 after the ef-
25 fective date of this Act would not be exempt and
26 would have to reach age 21 before they could enjoy
27 these privileges.