

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 816

6
7 S.P. 327

In Senate, February 28, 1985

8 Reference to the Committee on Judiciary suggested. On motion of
9 Senator Clark of Cumberland, referred to the Committee on Legal Affairs.
Sent down for concurrence and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Gauvreau of Androscoggin.

11 Cosponsored by Representative Bost of Orono and Representative
Paradis of Augusta.

12 STATE OF MAINE
13

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

17 AN ACT Relating to Sentencing for Persons
18 Convicted of Repeated Criminal
19 Violations of Operation under the
20 Influence of Intoxicating Liquor or
21 Drugs or with an Excessive
22 Blood-alcohol Level.
23

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

26 Sec. 1. 29 MRSA §1312-B, sub-§2, ¶B, as enacted
27 by PL 1981, c. 468, §10, is repealed and the follow-
28 ing enacted in its place:

29 B. The sentence for any conviction shall include
30 a period of incarceration, which shall not be
31 suspended except as provided in subsection 2-A,
32 of not less than:

33 (1) Forty-eight consecutive hours for a
34 first conviction within a 6-year period;

1 (2) One hundred twenty consecutive hours in
2 the case of a person previously convicted
3 once of violating subsection 10 of former
4 section 1312, this section or section 1312-C
5 within a 6-year period;

6 (3) Ten days in the case of a person previ-
7 ously convicted twice of violating subsec-
8 tion 10 of former section 1312, this section
9 or section 1312-C within a 6-year period;
10 and

11 (4) Forty-five days in the case of a person
12 previously convicted of 3 or more times of
13 violating subsection 10 of former section
14 1312, this section or section 1312-C within
15 a 6-year period.

16 Sec. 2. 29 MRSA §1312-B, sub-§2-A is enacted to
17 read:

18 2-A. Suspension of sentence. The court may sus-
19 pend all or part of a sentence imposed under subsec-
20 tion 2, only upon a finding of good cause for such a
21 suspension and only if the reasons for the suspension
22 are specified by the court in writing. If all or
23 part of the sentence is suspended, the court shall
24 require the defendant to perform alternate public
25 service work in lieu of the suspended time.

1

STATEMENT OF FACT

2 The relationship between alcohol abuse and seri-
3 ous traffic related injuries has been well estab-
4 lished. There has been a gradual recognition that
5 operation of a motor vehicle while under the influ-
6 ence of intoxicating liquors is a serious threat to
7 the public safety which requires stern punishment.
8 It is somewhat anomalous for property offenders to
9 receive periods of incarceration for initial convic-
10 tions while motorists who routinely disobey prohibi-
11 tions against driving while intoxicated receive rela-
12 tively minor penalties. Currently, a person con-
13 victed of a criminal operation under the influence
14 faces a minimum mandatory 48-day jail sentence re-
15 gardless of his or her prior traffic record. This
16 bill provides for more severe penalties for 2nd and
17 3rd offenders and multiple offenders on a graduated
18 basis.

19 The bill also reinstates the authority of courts
20 to suspend periods of incarceration in very limited
21 circumstances. Routine suspension of sentences would
22 vitiate the deterrent effect of mandatory jail sen-
23 tences. In exceptional circumstances suspension of
24 incarceration is appropriate. This bill authorizes
25 courts to impose public service work in lieu of man-
26 datory periods of incarceration in such situations.

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