

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 375

H.P. 290 House of Representatives, February 17, 1987
Reported by Representative PARADIS for the Secretary of
State pursuant to Title 29, section 2202.

Reference to the Joint Standing Committee on Judiciary
suggested and printing ordered under Joint Rule 18.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

1 AN ACT to Implement Administrative
2 Adjudication of Traffic Infractions.
3

4 Be it enacted by the People of the State of Maine as
5 follows:

6 Sec. 1. 4 MRSA §164, sub-§12, ¶A, as repealed
7 and replaced by PL 1969, c. 299, is amended to read:

8 A. Traffic offense shall mean means any viola-
9 tion of a statute law, ordinance or regulation
10 relating to the operation or use of motor vehi-
11 cles and any violation of a statute law, ordi-
12 nance or regulation relating to the use of
13 streets and highways by pedestrians or by the op-
14 eration or use of any other vehicle, except for
15 those offenses under the authority of the Secre-
16 tary of State pursuant to Title 29, section 2202.

1 Sec. 2. 4 MRSA §164, sub-§12, ¶C, as amended by
2 PL 1975, c. 408, §18, is repealed.

3 Sec. 3. 4 MRSA §171-A, as enacted by PL 1975, c.
4 731, §4, is amended to read:

5 §171-A. Civil violation complaints

6 When complaint is made to the proper officer of
7 the District Court charging a person with the commis-
8 sion of a ~~traffie infraetion~~ or some other civil vio-
9 lation, ~~such the~~ officer of the District Court shall
10 cause to be served upon the person a ~~Unifer~~ Uniform Traffic
11 Ticket and Complaint or other process in such form
12 and under such circumstances as the Supreme Judicial
13 Court shall by rule provide.

14 Sec. 4. 4 MRSA §173-A, as amended by PL 1985, c.
15 481, Pt. A, §5, is further amended to read:

16 §173-A. Costs taxable for the State in civil viola-
17 tion proceedings

18 Costs taxable for the State in civil violation ~~or~~
19 ~~traffie infraetion~~ proceedings shall be as follows:;
20 Unless the defendant shows that his failure to pay
21 was neither intentional nor knowing nor due to a
22 failure on his part to make a good faith effort to
23 obtain the funds required for the payment, for fail-
24 ure to pay a fine, imposed for the commission of a
25 civil violation ~~or traffie infraetion~~ within 30 days
26 of entry of judgment, \$25 in costs shall be taxed.

27 Sec. 5. 4 MRSA §176, as amended by PL 1975, c.
28 430, §18, is further amended to read:

29 §176. Fees for entering an appeal

30 No Judge of a District Court division shall ~~may~~
31 demand or receive any fees for entering an appeal or
32 admitting to bail to prosecute it, in a criminal ~~or~~
33 ~~traffie infraetion~~ case. The legal fees therefor may
34 be taxed in the bill of costs, and certified and paid
35 like other fees.

36 Sec. 6. 28 MRSA §1002, as amended by PL 1981, c.
37 253, §§1 and 2, is repealed and the following enacted
38 in its place:

1 §1002. Suspension of minor operator's license for
2 violation

3 Upon adjudication of any traffic infraction under
4 section 1001, the Secretary of State shall suspend
5 the operator's license, right to operate and right to
6 obtain a license of that person for a minimum period
7 of 20 days and may suspend the license for a period
8 not to exceed 60 days. He shall also assign demerit
9 points according to Title 29, section 2241, subsec-
10 tion 2.

11 It is intended that the penalty defined in this
12 section shall be the sole and exclusive penalty for
13 the adjudication for this traffic infraction.

14 Sec. 7. 28 MRSA §1003, as amended by PL 1975, c.
15 731, §18, is repealed.

16 Sec. 8. 29 MRSA §1, sub-§1, as repealed and re-
17 placed by PL 1975, c. 731, §19, is amended to read:

18 1. Adjudication. "Adjudication" shall mean means
19 a finding by a judge of the District Court or the
20 Secretary of State that a person has committed a
21 traffic infraction, and shall include the entry of a
22 plea an answer, by a person charged with the commis-
23 sion of a traffic infraction, admitting the infrac-
24 tion charged.

25 Sec. 9. 29 MRSA §1, sub-§17-C, as amended by PL
26 1975, c. 731, §20, is repealed and the following en-
27 acted in its place:

28 17-C. Traffic infraction. "Traffic infraction"
29 means any violation of any provision of this Title,
30 or of any rules established in this Title, not ex-
31 pressly defined as a crime, and otherwise not punish-
32 able by incarceration or by a fine of more than \$250.
33 The penalty therefor shall not be deemed for any pur-
34 pose a penal or criminal punishment. There shall be
35 no right to a trial by jury for a traffic infraction.

36 Sec. 10. 29 MRSA §2184, sub-§1, ¶E, as enacted
37 by PL 1981, c. 679, §43, is amended to read:

1 E. Has failed to appear or answer before the
2 Secretary of State or in court pursuant to any
3 notice or order specified in section 2203 or
4 2301-A.

5 Sec. 11. 29 MRSA §2201, as enacted by PL 1985,
6 c. 800, §1, is amended to read:

7 §2201. Transfer of authority to adjudicate traffic
8 infractions.

9 The authority to adjudicate the commission of
10 traffic infractions, as defined by section 1, subsection
11 17-C, is transferred from the District Court to
12 the Secretary of State effective January 1, 1988
13 1989.

14 Sec. 12. 29 MRSA §2202, as enacted by PL 1985,
15 c. 800, §1, is repealed and the following enacted in
16 its place:

17 §2202. Administrative adjudication of traffic in-
18 fractions

19 1. Jurisdiction. Notwithstanding any inconsis-
20 ent provisions of law, all violations of this Title
21 defined as a traffic infraction by section 1, subsection
22 17-C, and any violation of Title 28, section
23 1001, shall be heard and determined administratively
24 by the Secretary of State, except as provided in sub-
25 section 2.

26 2. Jurisdiction of District Court. The District
27 Court shall retain jurisdiction over any traffic in-
28 fraction proceedings alleged to have been committed
29 prior to January 1, 1989.

30 Sec. 13. 29 MRSA §§2203 to 2206 are enacted to
31 read:

32 §2203. Traffic citation; answer; failure to answer

33 1. Traffic citation. The Secretary of State,
34 with the advice of the Chief Judge of the District
35 Court, is authorized to prescribe the form for a
36 traffic citation to be used by every law enforcement
37 agency in this State for all traffic infraction vio-

1 lations of this Title and Title 28, section 1001.
2 Section 2300, subsections 3, 4 and 5, apply to any
3 traffic citation prescribed by the Secretary of
4 State.

5 2. Answer. Any person who receives a traffic
6 citation for a violation described in section 2202,
7 subsection 1, shall answer the traffic citation by
8 the date and in the manner specified in the citation.
9 An answer to the traffic citation may be made as pro-
10 vided in paragraph A or B.

11 A. Any person charged with any traffic infrac-
12 tion as defined in this section may file a waiver
13 of hearing in person or by mail before the Secre-
14 tary of State at the Division of Motor Vehicles
15 or at any branch of that division and enter a
16 plea admitting the infraction charged and pay the
17 fine established for the infraction charged. Any
18 person entering a plea admitting the infraction
19 charged shall be informed of his rights, includ-
20 ing his right to a hearing, that his signature to
21 a plea admitting the infraction charged will have
22 the same effect as an adjudication of having com-
23 mitted the infraction, and that the record of ad-
24 judication will become part of his permanent
25 record as maintained by the Secretary of State.
26 The Secretary of State shall not accept an admis-
27 sion by waiver without provision for payment of
28 the fine.

29 B. If the person charged with any traffic in-
30 fraction denies, either in person or by mail,
31 part or all of the violation as charged on the
32 traffic citation, he shall be required to appear
33 at a hearing as provided in section 2204 and the
34 Secretary of State shall notify that person of
35 the hearing.

36 3. Failure to answer, appear or pay fine. If
37 the person charged with the traffic infraction fails
38 to answer the traffic citation, fails to appear at a
39 hearing or fails to pay any fine as provided in this
40 chapter, the Secretary of State shall suspend, with-
41 out a preliminary hearing, the license or permit,
42 right to operate motor vehicles in this State, right
43 to apply for or obtain a license and may suspend any

1 and all motor vehicle registrations registered to
2 that person. The suspension shall remain in effect
3 until the person answers the traffic citation or ap-
4 pears at a hearing as required.

5 §2204. Schedule of fines; fine amount on traffic ci-
6 tation; collection of fines

7 1. Schedule of fines. The Secretary of State
8 shall by rule establish a schedule of the amount of
9 finest to be imposed for each violation of this Title
10 defined as a traffic infraction by section 1, subsec-
11 tion 17-C. The order of the Secretary of State es-
12 tablishing the fine schedules shall be prominently
13 posted in the place where fines are paid.

14 2. Fine amount on traffic citation. Every law
15 enforcement office shall indicate the scheduled fine
16 amount on each traffic citation before delivering
17 that traffic citation to a person. The fine amount
18 shall be determined by reference to the rule of the
19 Secretary of State establishing fine schedules for
20 traffic infractions pursuant to this section.

21 3. Collection of fines. All fines collected by
22 the Secretary of State for traffic infractions shall
23 be transmitted immediately to the Treasurer of State.
24 The Treasurer of State shall credit 76% of fines col-
25 lected to the General Fund and shall credit 24% to
26 the Highway Fund.

27 §2205. Hearings; determinations; penalties

28 1. Hearings. Every hearing for the adjudication
29 of a traffic infraction, except as provided in sec-
30 tion 2202, subsection 2, shall be held before a traf-
31 fic violation adjudicator of the Division of Motor
32 Vehicles at the nearest hearing location to where the
33 infraction is alleged to have occurred. The burden
34 of proof shall be upon the State and no charge may be
35 established except by a preponderance of the evi-
36 dence.

37 2. Determinations. After due consideration of
38 the evidence and arguments offered in a contested
39 case, the traffic violation adjudicator shall deter-
40 mine whether the charges have been established. When

1 the charges have not been established, a decision
2 dismissing the charges shall be entered. When a de-
3 termination is made that a charge has been estab-
4 lished or if an answer admitting the charge has been
5 received, the appropriate decision shall be entered
6 in the records of the Secretary of State.

7 3. Penalty. A decision entered after the re-
8 ceipt of an answer admitting a charge or a decision
9 that a charge has been established shall be civil in
10 nature. The traffic violation adjudicator may in-
11 clude in such decision an imposition of any fine not
12 exceeding the amount provided pursuant to section
13 2204 and may order the suspension or revocation of
14 any license or vehicle registration. No decision may
15 include an imprisonment penalty.

16 §2206. Compensation for law enforcement

17 All law enforcement officers appearing for a
18 hearing before the Secretary of State at times other
19 than their regular working hours, at the request of
20 the Secretary of State and whether or not they are
21 called upon to give testimony, shall be compensated
22 from the Highway Fund on an hourly basis equal to
23 that established by the State for their range and
24 step level.

25 Sec. 14. 29 MRSA §2300, sub-§4, as amended by PL
26 1975, c. 731, §75, is repealed and the following en-
27 acted in its place:

28 4. When a lawful complaint. In the event that:

29 A. The traffic citation provided under this sec-
30 tion includes information and is sworn to as re-
31 quired under the general laws of this State in
32 respect to a complaint charging commission of the
33 criminal offense alleged in the citation to have
34 been committed, that citation, when filed with a
35 court having jurisdiction, shall be considered a
36 lawful complaint for the purpose of the commence-
37 ment of the prosecution of a criminal action un-
38 der this Title; or

39 B. The traffic citation provided under this sec-
40 tion or section 2203 includes information and is

1 signed by a law enforcement officer in respect to
2 a complaint charging commission of the traffic
3 infraction alleged in the citation to have been
4 committed, that citation, when filed with the
5 Secretary of State, shall be considered a lawful
6 complaint for the purpose of the commencement of
7 any traffic infraction proceeding under this Ti-
8 tle.

9 Sec. 15. 29 MRSA §2300-A is enacted to read:

10 §2300-A. Traffic infraction complaints

11 When a complaint is made to the Secretary of
12 State charging a person with the commission of a
13 traffic infraction, the Secretary of State or his
14 deputy shall cause a traffic citation to be served
15 upon the person by one of his designees or by any of-
16 ficer charged with enforcing traffic infraction laws.

17 Sec. 16. 29 MRSA §2302, as amended by PL 1985,
18 c. 812, Pt. B, §7, is further amended to read:

19 §2302. Jurisdiction

20 The District Court Secretary of State shall have
21 original and exclusive jurisdiction over all
22 prosecutions adjudications for traffic infractions as
23 provided in section 2202, subsection 1. The District
24 Court shall have original and concurrent jurisdiction
25 with the Superior Court over all prosecutions for any
26 other violations of this Title, except Class C or
27 greater crimes, in which case, District Court juris-
28 isdiction shall be subject to Title 4, section 152.
29 All fines and forfeitures collected under this Title
30 shall accrue to the General Fund, except as otherwise
31 provided in section 2204, subsection 3, and except
32 for fines and forfeitures collected under sections
33 244, 1611, 1654, 1656, 1701 and 1753, only \$5 or 13%,
34 whichever is the greater, of each fine or forfeiture
35 collected through the District Court, shall accrue to
36 the General Fund and the balance thereof shall accrue
37 to the General Highway Fund.

38 Sec. 17. 29 MRSA §2306, as amended by PL 1981,
39 c. 679, §60, is further amended to read:

1 §2306. Execution of suspension stayed during appeal

2 If a person adjudicated to have committed a traf-
3 fic infraction, ~~except for a violation of section~~
4 1312-C, appeals from the adjudication of the trial
5 court, or the Secretary of State, the execution of
6 any suspension of his license and right to operate a
7 motor vehicle shall be stayed until disposition on
8 appeal or withdrawal of the appeal, unless good cause
9 is shown why he should not be allowed to retain his
10 license or right to operate. A ~~stay of execution of~~
11 ~~any suspension imposed pursuant to section 1312-C~~
12 ~~shall be governed by section 1312-D.~~

13 Sec. 18. 30 MRSA §2151, sub-§2, ¶C, as amended
14 by PL 1975, c. 430, §69, is further amended to read:

15 C. Setting off portions of its public ways for
16 sidewalks and regulating their use; providing for
17 the removal of snow and ice from the sidewalks by
18 the owner, occupant or agent having charge of the
19 abutting property; establishing crosswalks and
20 safety zones for pedestrians; and regulating pe-
21 destrian traffic in the public ways.

22 (1) The municipal officers may by resolu-
23 tion establish a method by which pedestrians
24 charged with the violation of regulations
25 for their protection on the public ways may
26 waive all court action by payment of speci-
27 fied fees within stated periods of time; and

28 (2) Any violation of any ordinance autho-
29 rized by this paragraph shall be a ~~traffic~~
30 ~~infraction~~ civil violation.

31 Sec. 19. 30 MRSA §2151, sub-§2, ¶D, as amended
32 by PL 1979, c. 371, §2, is further amended to read:

33 D. Providing for the installation, maintenance
34 and policing of parking meters on any public way
35 or public parking area; providing the fact that a
36 vehicle is in a metered parking space when the
37 time signal on the parking meter for such that
38 space indicates no parking permitted without the
39 deposit of a coin or coins shall be prima facie
40 evidence that said the vehicle has been parked in

1 said that parking space longer than the lawfully
2 permitted period; providing the fact that a vehi-
3 cle is unlawfully parked shall be prima facie evi-
4 dence of the unlawful parking of ~~sueh~~ that vehi-
5 cle by the person in whose name ~~sueh~~ the vehicle
6 is registered; establishing reasonable charges
7 for metered parking.

8 (1) The revenue collected from parking me-
9 ters shall be used to purchase, maintain and
10 police the meters; to construct and maintain
11 public ways; to acquire, construct, maintain
12 and operate public parking areas; and for no
13 other purpose;

14 (2) Any motor vehicle registered by a hand-
15 capped person shall be exempt from any
16 parking meter fare when ~~said~~ the vehicle
17 properly displays special designating plates
18 or placard issued in accordance with Title
19 29, sections 252 and 252-A, and shall be
20 permitted to park a length of time which is
21 not to exceed twice the time limit otherwise
22 applicable;

23 (3) Unlawful parking of a vehicle in viola-
24 tion of any ordinance authorized by this
25 paragraph shall be a ~~traffie infraction~~ civ-
26 il violation.

27 Sec. 20. 30 MRSA §2151, sub-§3, ¶A, as amended
28 by PL 1975, c. 430, §71, is further amended to read:

29 A. Regulating the operation of all vehicles in
30 the public ways and on publicly owned property;
31 providing the fact that a vehicle is unlawfully
32 parked shall be prima facie evidence of the un-
33 lawful parking of ~~sueh~~ that vehicle by the person
34 in whose name ~~sueh~~ the vehicle is registered.

35 (1) The municipal officers may by resolu-
36 tion establish a method by which persons
37 charged with the violation of parking regu-
38 lations may waive all court action by pay-
39 ment of specified fees within stated periods
40 of time;

1 (2) The municipal officers may by resolu-
2 tion establish specially designated parking
3 areas for motor vehicles operated by handi-
4 capped persons; and

5 (3) Any violation of any ordinance autho-
6 rized by this paragraph shall be a ~~traffie~~
7 infraetien civil violation.

8 Sec. 21. 30 MRSA §2151, sub-§3, ¶B, as amended
9 by PL 1975, c. 430, §72, is further amended to read:

10 B. Regulating, or establishing a licensing au-
11 thority which may regulate, rates of fare, routes
12 and standing places of vehicles for hire, except
13 where jurisdiction rests with the Public Utili-
14 ties Commission; requiring an owner or operator
15 of a vehicle for hire to carry a liability insur-
16 ance policy in amount and form satisfactory to
17 the licensing authority as a condition precedent
18 to the granting of a license to operate. Any vi-
19 olation by the owner or operator of a vehicle for
20 hire of any ordinance authorized by this para-
21 graph shall be a ~~traffie infraetien~~ civil
22 violation;

23 Sec. 22. Allocation. The following funds are
24 allocated from the Highway Fund to carry out the pur-
25 poses of this Act.

	<u>1987-88</u>	<u>1988-89</u>
26		
27	<u>SECRETARY OF STATE,</u>	
28	<u>DEPARTMENT OF</u>	
29	Division of Motor	
30	Vehicles	
31	Positions	(1) (28)
32	Personal Services	\$16,125 \$454,298
33	All Other	870 307,881
34	Capital Expenditures	5,480 156,491
35		
36	Total	<u>\$22,475</u> <u>\$918,670</u>

2 The Maine Revised Statutes, Title 29, section
3 2202, enacted by Public Law Chapter 800 passed in the
4 Second Regular Session of the 112th Legislature, di-
5 rects the Secretary of State and Administrative Of-
6 fice of the Court to develop and to submit to the
7 First Regular Session of the 113th Legislature legis-
8 lation detailing a transfer of jurisdiction to adju-
9 dicate traffic infractions from the District Court to
10 the Secretary of State. This bill is the result of
11 that Legislative directive. The Secretary of State
12 and Administrative Office of the Court prepared by
13 the bill, with cooperation from representatives of
14 the District Court, law enforcement officials,
15 prosecutors and attorneys.

16 Under this bill's provisions, traffic offenses
17 set forth in Title 29 and Title 28, section 1001,
18 transportation of liquor by a minor, are retained as
19 "traffic infractions", violations of which are to be
20 adjudicated before the Secretary of State. These ad-
21 ministrative adjudications will be governed by provi-
22 sions of the Maine Administrative Procedures Act, Ti-
23 tle 5, sections 8001 to 11008. Other offenses now
24 defined as "traffic infractions" are redefined as
25 civil violations, and the District Court retains ju-
26 risdiction over them.

27 Sections 1 and 2 of the bill amend and repeal
28 certain provisions of Title 4, section 164, governing
29 operation of the District Court's Traffic Violation
30 Bureau, consistent with the transfer of jurisdiction
31 over traffic infractions.

32 Section 3 amends Title 4, section 171-A, to clar-
33 ify the new division of authority between the Dis-
34 trict Court and Secretary of State for process re-
35 garding civil violations and traffic infractions.

36 Sections 4 and 5 delete references to traffic in-
37 fractions in Title 4, sections 173-A and 176, which
38 respectively govern costs taxable to the State and
39 fees for entering appeals in court cases.

40 Section 6 repeals and replaces Title 28, section

1 1002, so that only the Secretary of State can penal-
2 ize violation of the traffic infraction defined in
3 Title 28, section 1001, transportation of liquor by a
4 minor.

5 Section 7 repeals Title 28, section 1003, which
6 is the law governing appeal from the traffic infrac-
7 tion defined in Title 28, section 1001. That appeal
8 will be governed by Title 29, section 2306, as
9 amended by section 19 of this bill.

10 Sections 8 and 9 amend the definitions of "adju-
11 dication" and "traffic infraction" to make their
12 meanings consistent with the adjudicatory authority
13 of the Secretary of State.

14 Section 10 amends the criminal operating after
15 suspension law, Title 29, section 2184, to make clear
16 that license suspension for failure to answer or ap-
17 pear in a traffic infraction case may be the basis
18 for prosecution.

19 Section 11 makes the transfer of authority to ad-
20 judicate traffic infractions, from the District Court
21 to the Secretary of State, effective January 1, 1989.

22 Section 12 accomplishes the transfer of jurisdic-
23 tion over adjudication of traffic infractions from
24 the District Court to the Secretary of State, except
25 for proceedings commenced before January 1, 1989.

26 Section 13, which is Title 29, section 2203, es-
27 tablishes that the Secretary of State shall prescribe
28 the form for charging instruments in cases involving
29 traffic infractions. It sets forth the procedure for
30 admission of a traffic infraction and payment of the
31 fine in person or by mail. It requires a hearing be-
32 fore the Secretary of State of any traffic infraction
33 case for which the offense has been denied. It pro-
34 vides the penalty for failure to answer a traffic in-
35 fraction complaint or to pay a fine levied for a
36 traffic infraction offense. Title 29, section 2204,
37 of the bill, grants the Secretary of State authority
38 to establish by rule a schedule of monetary penalties
39 for traffic infractions, requires that fine amounts
40 be included on charging instruments and provides for
41 disposition of money collected. Title 29, section

1 2205, of the bill, provides that hearings on traffic
2 infractions be held before officials of the Division
3 of Motor Vehicles, places the burden of proof in
4 those cases on the State by a preponderance of the
5 evidence and provides for the imposition of penal-
6 ties in those cases.

7 Section 14 repeals and replaces Title 29, section
8 2300, subsection 4, to provide requirements for a
9 lawful complaint for either a traffic infraction or a
10 criminal offense defined in Title 29. Requirement
11 that a complaint for a traffic infraction be sworn to
12 is eliminated.

13 Section 15 enacts Title 29, section 2300-A, which
14 provides authority to the Secretary of State for pro-
15 cess of traffic information complaints.

16 Section 16 amends Title 29, section 2302, to make
17 its grants of jurisdiction consistent with the pur-
18 poses of this bill.

19 Section 17 amends Title 29, section 2306, to in-
20 clude adjudications of traffic infractions by the
21 Secretary of State in the law governing appeals.

22 Sections 18, 19, 20 and 21 redefine traffic in-
23 fractions set forth in Title 30 as civil violations.
24 They will be prosecuted in the District Court pursu-
25 ant to District Court Civil Rule 80H.

26 Section 22 provides for an allocation of funds.
27 The cost of the program established by the bill will
28 be offset by increasing the traffic fine schedule
29 24%. It is estimated that this increase will provide
30 additional revenue of \$1.2 million a year.

31

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