

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1291

H.P. 962 House of Representatives, April 21, 1987
Reported by Representative MANNING from the Committee on
Human Resources. Sent up for concurrence and ordered
printed. Approved by the Legislative Council on April 15,
1986.

EDWIN H. PERT, Clerk

Reported from the Joint Standing Committee on Human
Resources under Joint Rule 19.

STATE OF MAINE

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

1 AN ACT to Implement the Recommendations of
2 the Driver Education Evaluation
3 Program Study.
4

5 Emergency preamble. Whereas, Acts of the Legis-
6 lature do not become effective until 90 days after
7 adjournment unless enacted as emergencies; and

8 Whereas, the Division of Driver Education Evalua-
9 tion Programs is funded entirely from client fees for
10 services; and

11 Whereas, the number of operating under the influ-
12 ence convictions has decreased, the number of Divi-
13 sion of Driver Educational Evaluation Programs cli-
14 ents is not increasing as projected and the costs of
15 the programs have increased; and

1 Whereas, because of this, the Division of Driver
2 Education Evaluation Programs income is inadequate to
3 maintain the quality of services and level of
4 staffing to meet clients' needs; and

5 Whereas, the revised fee schedule proposed in
6 this legislation is necessary to prevent reduction in
7 staffing and client services which would take effect
8 July 1, 1987, without this legislative action; 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. 22 MRSA c. 1602 is enacted to read:

18 CHAPTER 1602

19 DRIVER EDUCATION EVALUATION PROGRAMS

20 §7201. Definitions

21 As used in this chapter, unless the context oth-
22 erwise indicates, the following terms have the fol-
23 lowing meanings.

24 1. Alcohol or drug related motor vehicle of-
25 fense. "Alcohol or drug related motor vehicle of-
26 fense" means an arrest or administrative action re-
27 sulting in the suspension of a motor vehicle
28 operator's license for a violation under Title 29,
29 section 1311-A, 1312-B, 2241-G, former section 1312,
30 subsection 10-A, former section 1312-B, former sec-
31 tion 1312-C, illegal transportation of liquor or re-
32 usal to submit to a blood alcohol test.

33 2. Client. "Client" means a person who is re-
34 quired to complete the alcohol and other drug educa-
35 tion, evaluation and treatment program for an alcohol
36 or drug related motor vehicle offense.

1 3. Multiple offender. "Multiple offender" means
2 a client who has more than one alcohol or drug relat-
3 ed motor vehicle offense within a 6-year period.

4 §7202. Program components

5 1. First offenders. The alcohol and other drug
6 education, evaluation and treatment program required
7 for clients without a previous alcohol or drug relat-
8 ed motor vehicle offense consists of education, as-
9 essment, evaluation and treatment components. All
10 first offender clients are required to complete the
11 education and assessment component. The evaluation
12 and treatment components may be required if neces-
13 sary.

14 A. The education component is designed to edu-
15 cate the client about the effects of alcohol and
16 other drugs on his behavior, especially behavior
17 involving the operation of a motor vehicle.

18 B. The assessment component is designed to make
19 a preliminary assessment regarding the extent of
20 a client's alcohol or other drug use or abuse or
21 potential for abuse. A client may be referred
22 for further evaluation based on the results of
23 his preliminary assessment.

24 C. The evaluation component is designed to iden-
25 tify abusers of alcohol and other drugs. If the
26 evaluation indicates that treatment for alcohol
27 or other drug abuse is needed, the client will be
28 referred to the appropriate alcohol or other drug
29 treatment service.

30 D. The treatment component is designed to ad-
31 dress the client's specific problem with or abuse
32 of alcohol or other drugs.

33 2. Multiple offenders; adult. The education,
34 evaluation and treatment program required for adult
35 multiple offenders consists of the following compo-
36 nents:

37 A. A rigorous, highly-structured intervention
38 program designed to create an acceptance and com-
39 mitment by the client for treatment and an evalu-

1 ation designed to identify abusers of alcohol and
2 other drugs; and

3 B. A treatment program, if indicated, designed
4 to address the client's specific alcohol or other
5 drug problem and abuse, using a treatment plan
6 based on the completion of treatment guidelines
7 adopted by the department.

8 3. Multiple offenders; under 21 years of age.
9 Multiple offenders under 21 years of age shall attend
10 the alcohol and other drug education, evaluation and
11 treatment program for adult first offenders under
12 subsection 1.

13 §7203. Fees

14 1. First offense program. The department may
15 charge a registration fee, not to exceed \$125, to
16 clients for the education and assessment components
17 of the program. This fee shall be used to defray the
18 cost of the program. The client is responsible for
19 the costs of the evaluation and treatment components.

20 A. The department may refund up to \$25 of the
21 fee for clients who successfully complete the ed-
22 ucation and assessment components of the program
23 within 3 months of conviction.

24 B. The department may waive all or part of the
25 fee for clients who are unable to pay.

26 2. Multiple offender program. The fees and
27 costs for the multiple offender program are as fol-
28 lows.

29 A. The department may charge a registration fee,
30 not to exceed \$300, to clients for the expenses
31 of the intervention program. This fee shall be
32 used to defray the cost of the program.

33 B. The client is responsible for any costs asso-
34 ciated with evaluation or treatment which is not
35 a part of the cost in paragraph A.

36 §7204. Certification; recertification

1 All providers of the evaluation, intervention and
2 treatment components of the program must be certified
3 by the department. The certification period for in-
4 dividual providers is 3 years and 2 years for agen-
5 cies. The department shall adopt rules requiring
6 continuing education for recertification.

7 Sec. 2. 29 MRSA §1312-D, sub-§§2, 3 and 4, as
8 amended by PL 1985, c. 412, §6, are further amended
9 to read:

10 2. Education and treatment programs. Following
11 the expiration of 2/3 of the total period suspension
12 imposed pursuant to subsection 1 and 1-A, section
13 1312-B, former section 1312-B, subsection 2 or Title
14 15, section 3314, the Secretary of State may issue a
15 license or permit to the person if he receives writ-
16 ten notice that the person has satisfactorily com-
17 pleted the alcohol and other drug education, evalua-
18 tion and treatment program ~~of administered by the De-~~
19 ~~partment of Human Services and, when required, has~~
20 ~~satisfactorily completed an alcohol treatment or re-~~
21 ~~habilitation program approved or licensed by the~~
22 ~~department as defined in Title 22, chapter 1602.~~

23 3. Restricted licenses. After certification un-
24 der subsection 2, the Secretary of State may issue
25 the license or permit with whatever conditions, re-
26 strictions or terms he deems advisable, having in
27 mind the safety of the public and the welfare of the
28 petitioner. Following the expiration of the total
29 period of suspension imposed pursuant to subsections
30 1 and 1-A, section 1312-B or Title 15, section 3314,
31 the Secretary of State may issue a license or permit,
32 subject to the conditions, restrictions or terms he
33 deems advisable, to the person if the Secretary of
34 State has received or when he receives written notice
35 that the person has satisfactorily completed the al-
36 cohol educational and other drug education, evalua-
37 tion and treatment program of administered by the De-
38 partment of Human Services and, when required, has
39 satisfactorily completed an alcohol treatment or re-
40 habilitation program approved or licensed by the
41 department as defined in Title 22, chapter 1602.
42 The license or permit may contain the condition that
43 the person abstain from the use of intoxicating li-
44 quor or drugs. Any license or permit issued under

1 subsection 2 or under this subsection shall be re-
2 stricted to use for travel to an alcohol and other
3 drug education or treatment program or to employment
4 if the amount of the total period of suspension which
5 has expired is less than 90 days. Any such license
6 or permit issued shall remain restricted until the
7 amount of time the license or permit was actually
8 suspended plus the amount of time the restricted li-
9 cense or permit has been issued equals a minimum of
10 90 days.

11 4. Special restricted licenses for participation
12 in programs. Notwithstanding any other provision of
13 law, the Secretary of State may issue a temporary re-
14 stricted license to a person suspended under section
15 1312-B for the purpose of allowing that person to
16 participate in the alcohol and other drug education,
17 evaluation and treatment program ~~of~~ administered by
18 the Department of Human Services as defined in Title
19 22, chapter 1602, or in any other program under sub-
20 section 2 or 3.

21 Sec. 3. 29 MRSA §1312-D, sub-§6, as amended by
22 PL 1983, c. 718, is repealed.

23 Sec. 4. 29 MRSA §1318 is enacted to read:

24 §1318. Legislative intent concerning operating under
25 the influence

26 1. Minimum sentence. It is the intent of the
27 Legislature to mandate minimum sentences for operat-
28 ing under the influence offenses. Minimum sentences
29 are mandated in the law to indicate the least penalty
30 which is considered appropriate for the offense. The
31 minimum sentence is not intended to be the maximum
32 sentence. The court is encouraged to use its discre-
33 tion to individualize each sentence in accordance
34 with Title 17-A, section 1151 and the circumstances
35 of the particular case to ensure the appropriateness
36 of each sentence to the seriousness of the offense.

37 2. Use of education, evaluation and treatment
38 program. Education, evaluation and treatment are es-
39 sential in responding to the problems created by peo-
40 ple operating under the influence of alcohol or other
41 drugs. It is th policy of the State to use approved

1 education, evaluation and treatment programs to the
2 maximum extent possible as an appropriate sentence
3 component for persons convicted of operating under
4 the influence. The programs shall be coordinated
5 with the alcohol and other drug education, evaluation
6 and treatment programs required in section 1312-D.

7 Sec. 5. 34-A M RSA §5405 is enacted to read:

8 §5405. Supervision of persons convicted of operating
9 under the influence

10 The Division of Probation and Parole and the Di-
11 vision of Driver Education Evaluation Programs shall
12 coordinate their efforts to treat and monitor the
13 treatment of offenders who are required to partici-
14 rate in an alcohol and other drug treatment program
15 as part of their sentence for an operating under the
16 influence offense.

17 Sec. 6. Allocation. There is allocated from the
18 Other Special Revenue Fund accruing to the Division
19 of Driver Education Evaluation Program for the fiscal
20 years ending June 30, 1988, and June 30, 1989, the
21 following funds.

	<u>1987-88</u>	<u>1988-89</u>
22		
23	<u>HUMAN SERVICES, DEPARTMENT</u>	
24	<u>OF</u>	
25	Office of Alcoholism and	
26	Drug Abuse Prevention	
27	Division of Driver Edu-	
28	cation Evaluation Pro-	
29	grams	
30	First Offender Program	
31	Positions	(5) (6)
32	Personal Services	\$130,301 \$162,684
33	Capital Expenditures	11,550 6,450

1 This allocation is
 2 made solely to re-
 3 place positions and
 4 funds eliminated by
 5 the Department of
 6 Human Services in
 7 its Part I Budget
 8 request and only to
 9 the extent that rev-
 10 enues are available
 11 from the increase in
 12 fees established in
 13 the Maine Revised
 14 Statutes, Title 22,
 15 section 7203, sub-
 16 section 1. The to-
 17 tal position count
 18 for this program
 19 shall not exceed
 20 that in existence as
 21 of January 1, 1987.

22			
23	Total	\$141,851	\$169,134
24	Multiple Offender Pro-		
25	gram		
26	Positions	(4)	(4)
27	Personal Services	\$ 81,230	\$ 88,743
28	All Other	256,570	269,909
29	Capital Expenditures	11,850	

30 This allocation is
 31 made from revenues
 32 obtained by the fee
 33 established in the
 34 Maine Revised Stat-
 35 utes, Title 22, sec-
 36 tion 7203, subsec-
 37 tion 2. The Multi-
 38 ple Offender Program
 39 shall be considered
 40 separate and dis-
 41 tinct from the First
 42 Offender Program.

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Total

\$349,650

\$358,652

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Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

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STATEMENT OF FACT

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This bill is the result of the study, authorized by the Legislative Council, conducted by the Joint Standing Committee on Human Resources to evaluate the Driver Education Evaluation Programs for operating under the influence offenders.

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This bill recognizes, in law, the existing Division of Driver Education Evaluation Programs and the Driver Education Evaluation Programs. The study determined that the Driver Education Evaluation Programs did not adequately address the problem of operating under the influence multiple offenders. It creates a special program for people who are convicted of operating under the influence more than once within 6 years. It establishes a weekend intervention program to specifically address the offender who will not admit that he has a substance abuse problem.

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The bill increases the fee for all operating under the influence offenders. The fees are increased to pay for the program and provide a small fund which can be used to subsidize the fees of indigent offenders who have had their fine waived by the judge. A separate fee is established to pay for the increased cost of the multiple-offender program.

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The bill also establishes continuing education requirements for treatment providers and evaluators. This requirement will help provide some quality control over the service providers.

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If judges place operating under the influence offenders on probation with conditions that the offenders satisfactorily participate in the Driver Educa-

1 tion Evaluation Program there will be added costs to
2 probation and parole for supervision of probation, as
3 well as extra costs to the Division of Driver Educa-
4 tion Evaluation Programs. The amount of the costs
5 will depend on how many judges utilize the program as
6 a part of probation and how the 2 divisions divide up
7 the day-to-day tasks involved in the supervision of
8 such probation. The amount of these costs cannot be
9 estimated at this time.

10 This bill, without amending the substantive oper-
11 ating under the influence laws, inserts into the
12 chapter containing the operating under the influence
13 laws a statement of legislative policy and intent.
14 The statement clarifies that the mandatory minimum
15 sentences are not intended to be interpreted as maxi-
16 mum sentences as well. The Legislature, in creating
17 the crime of operating under the influence, deter-
18 mined that such behavior was serious enough to war-
19 rant being classed as a Class D crime. Mandating
20 minimum sentences was the Legislature's method of en-
21 suring that sentences would not be suspended, except
22 in certain first-offense cases and that a minimum pe-
23 riod of incarceration would be required on a base pe-
24 riod of incarceration of all offenders.

25 The statement of intent clarifies that education,
26 evaluation and treatment are very important in deal-
27 ing with operating under the influence offenders and
28 in eliminating the danger they cause by their operat-
29 ing under the influence. The Legislature encourages
30 judges to consider using the Division of Driver Edu-
31 cation Evaluation Programs for first offenders and
32 multiple offenders when imposing probation in appro-
33 priate circumstances. The Division of Probation and
34 Parole and the Division of Driver Education Evalua-
35 tion Programs shall coordinate with each other in su-
36 pervising probation which includes participation in
37 Driver Education Evaluation Programs.

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