

MAINE STATE LEGISLATURE

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(New Draft of H.P. 290, L.D. 375)
(New Title)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1835

H.P. 1343 House of Representatives, June 12, 1987
Reported by Representative THISTLE from the Committee on
Judiciary and printed under Joint Rule 2.

EDWIN H. PERT, Clerk
Original bill reported pursuant to Title 29, section
2202.

STATE OF MAINE

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

1 AN ACT to Transfer Administrative Authority
2 over Traffic Infractions to the
3 Secretary of State.
4

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

7 Sec. 1. 4 MRSA §164, sub-§12, ¶A, as repealed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

9 A. Traffic offense ~~shall mean~~ means any viola-
10 tion of a statute law, ordinance or regulation
11 relating to the operation or use of motor vehi-
12 cles and any violation of a statute law, ordi-
13 nance or regulation relating to the use of
14 streets and highways by pedestrians or by the op-

1 eration or use of any other vehicle, except for
2 those offenses under the authority of the Secretary
3 of State pursuant to Title 29, section 2202.

4 Sec. 2. 4 MRSA §164, sub-§12, ¶C, as amended by
5 PL 1975, c. 408, §18, is amended to read:

6 C. Any person charged with any traffic
7 infraction offense within the authority of the
8 violations clerk may file an appearance in person
9 or by mail before the violations clerk and enter
10 a plea admitting the infraction offense charged
11 and waiver of trial and pay the fine established
12 for the infraction offense charged, and costs.
13 Any person so entering a plea admitting the
14 infraction offense charged shall be informed of
15 his rights including his right to stand trial,
16 that his signature to a plea admitting the
17 infraction offense charged will have the same ef-
18 fect as a judgment of the court and that the
19 record of adjudication will be sent to the Secretary
20 of State.

21 Sec. 3. 4 MRSA §164, sub-§12, ¶D, as amended by
22 PL 1977, c. 696, §22, is further amended to read:

23 D. Any person who has been found guilty of or
24 who has signed a plea of guilty to, or who has
25 been found to have committed or who has signed a
26 plea admitting or admitting with an explanation,
27 one or more previous traffic offenses subject to
28 this subsection or traffic infractions within a ~~12-month's~~
29 12-month period shall not be permitted
30 to appear before the violations clerk unless the
31 court shall, by order, permit such appearance.
32 Each waiver of hearing filed under this subsection
33 shall recite on the oath or affirmation of
34 the offender whether or not he has been previously
35 found guilty or to have committed or has previously
36 signed a plea of guilty to, admitting, or
37 admitting with an explanation one or more traffic
38 offenses or traffic infractions within a ~~12~~
39 month's 12-month period. ~~Swearing falsely~~ Sign-
40 ing a false oath or affirmation to any such
41 statement shall be a civil violation for which a
42 forfeiture not to exceed \$50 may be adjudged.

1 Sec. 4. 4 MRSA §171-A, as enacted by PL 1975, c.
2 731, §4, is amended to read:

3 §171-A. Civil violation complaints

4 When complaint is made to the proper officer of
5 the District Court charging a person with the commis-
6 sion of a traffic infraction or some other civil vio-
7 lation, ~~such~~ the officer of the District Court shall
8 cause to be served upon the person a Uniform Traffic
9 Ticket and Complaint or other process in such form
10 and under such circumstances as the Supreme Judicial
11 Court shall by rule provide. Service shall be made
12 in accordance with the Maine Rules of Civil Procedure,
13 Rule 4.

14 Sec. 5. 4 MRSA §173-A, as amended by PL 1985, c.
15 481, Pt. A, §5, is repealed and the following en-
16 acted in its place:

17 §173-A. Costs taxable for the State in civil viola-
18 tion or traffic infraction proceedings

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

28 Sec. 6. 28-A MRSA §2053, as enacted by PL 1987,
29 c. 45, Pt. A, §4, is repealed.

30 Sec. 7. 28-A MRSA §2053-A is enacted to read:

31 §2053-A. Suspension of minor operator's license for
32 violation

33 1. Admission of violation. Upon adjudication of
34 any traffic infraction under section 2052 by an ad-
35 mission under Title 29, section 2203, subsection 2,
36 paragraph A, the Secretary of State shall suspend the
37 operator's license, right to operate and right to ob-
38 tain a license for that person for a minimum period

1 of 20 days and may suspend the license for a period
2 not to exceed 60 days. The Secretary of State shall
3 assign demerit points according to Title 29, section
4 2241, subsection 2.

5 2. Adjudication of violation. Upon adjudication
6 of any traffic infraction under section 2052, the
7 court shall suspend the operator's license, right to
8 operate and right to obtain a license of that person
9 for a minimum period of 20 days and may suspend the
10 license for a period not to exceed 60 days. Upon receipt
11 of the adjudication, the Secretary of State
12 shall assign demerit points according to Title 29,
13 section 2241, subsection 2.

14 3. Exclusive penalty. It is intended that the
15 penalty defined in this section shall be the sole and
16 exclusive penalty for the adjudication for this traf-
17 fic infraction.

18 Sec. 8. 28-A MRSA §2054, as enacted by PL 1987,
19 c. 45, Pt. A, §4, is repealed.

20 Sec. 9. 29 MRSA §1, sub-§1, as repealed and re-
21 placed by PL 1975, c. 731, §19, is amended to read:

22 1. Adjudication. "Adjudication" shall mean means
23 a finding by a judge of the District Court or the
24 Secretary of State upon receipt of an admission under
25 section 2203, subsection 2, paragraph A, that a per-
26 son has committed a traffic infraction, and shall in-
27 clude the entry of a plea an answer, by a person
28 charged with the commission of a traffic infraction,
29 admitting the infraction charged.

30 Sec. 10. 29 MRSA §1, sub-§17-C, as amended by PL
31 1975, c. 731, §20, is repealed and the following en-
32 acted in its place:

33 17-C. Traffic infraction. "Traffic infraction"
34 means any violation of this Title, or of any rules
35 established in this Title, not expressly defined as a
36 crime, and otherwise not punishable by incarceration
37 or by a fine of more than \$500, or any violation of
38 Title 28-A, section 2052. The penalty for such a vi-
39 olation shall not be deemed for any purpose a penal
40 or criminal punishment. There shall be no right to a
41 trial by jury for a traffic infraction.

1 Sec. 11. 29 MRS §2184, sub-§1, ¶E, as enacted by
2 PL 1981, c. 679, §43, is amended to read:

3 E. Has failed to appear or answer before the
4 Secretary of State or in court pursuant to any
5 notice or order specified in section 2203 or
6 2301-A.

7 Sec. 12. 29 MRSA §2201, as enacted by PL 1985,
8 c. 800, §1, is amended to read:

9 §2201. Transfer of authority to adjudicate traffic
10 infractions

11 The authority to adjudicate the commission of
12 traffic infractions, as defined by section 1, subsec-
13 tion 17-C, by admission under section 2203, subsec-
14 tion 2, paragraph A, is transferred from the District
15 Court to the Secretary of State effective January 1,
16 1988 1989.

17 Sec. 13. 29 MRSA §2202, as enacted by PL
18 1985, c. 800, §1, is repealed and the following en-
19 acted in its place:

20 §2202. Adjudication of traffic infractions

21 1. Jurisdiction of Secretary of State. Notwith-
22 standing any inconsistent provisions of law, all vio-
23 lations of this Title defined as a traffic infraction
24 by section 1, subsection 17-C, shall be determined
25 administratively by the Secretary of State upon the
26 filing of an admission under section 2203, subsection
27 1, paragraph A, except as provided in subsection 2.

28 2. Jurisdiction of District Court. The District
29 Court shall retain jurisdiction over any traffic in-
30 fraction proceedings alledged to have been committed
31 prior to January 1, 1989, and jurisdiction to adjudi-
32 cate those traffic infraction proceedings in which a
33 denial has been entered under section 2203, subsec-
34 tion 1, paragraph B.

35 Sec. 14. 29 MRSA §§2203 to 2205 is enacted to
36 read:

37 §2203. Traffic citation answer; failure to answer;
38 failure to appear or pay fine

1 1. Answer. Any person who receives a traffic
2 citation for a traffic infraction shall answer the
3 traffic citation by the date and in the manner speci-
4 fied in the citation. An answer to the traffic cita-
5 tion may be made as provided in paragraph A or B.

6 A. Any person charged with any traffic infrac-
7 tion may file a waiver of hearing in person or by
8 mail before the Secretary of State at the Divi-
9 sion of Motor Vehicles or at any branch of that
10 division and enter an answer admitting the in-
11 fraction charged and pay the fine established for
12 the infraction charged. Any person entering an
13 answer admitting the infraction charged shall be
14 informed of his rights, including:

15 (1) His right to a hearing;

16 (2) That his signature to an answer admit-
17 ting the infraction charged will have the
18 same effect as an adjudication of having
19 committed the infraction; and

20 (3) That the record of adjudication will
21 become part of his permanent record as main-
22 tained by the Secretary of State.

23 Upon receipt of an answer admitting the violation
24 charged, the Secretary of State shall assess a
25 fine in accordance with the fine schedule estab-
26 lished by the Chief Judge of the District Court
27 under section 2204. The Secretary of State shall
28 not accept an admission by waiver without provi-
29 sion for payment of the fine. The fine shall be
30 paid within 30 days after an answer admitting the
31 violation is filed.

32 An answer which admits a traffic infraction shall
33 not be admissible in any civil or criminal pro-
34 ceeding arising out of the same facts.

35 B. If the person charged with any traffic in-
36 fraction denies, either in person or by mail,
37 part or all of the violation as charged on the
38 traffic citation, the Secretary of State shall
39 immediately forward the traffic citation and an-
40 swer to the District Court of the division in

1 which the violation is alledged to have occurred.
2 The person shall be required to appear at a hear-
3 ing as provided in section 2205. The District
4 Court shall notify that person of the hearing by
5 ordinary mail directed to the person at the ad-
6 dress given by that person on the answer.

7 2. Failure to answer or pay fine. If the person
8 charged with the traffic infraction fails to answer
9 the traffic citation or fails to pay any fine as-
10 essed by the Secretary of State following receipt of
11 an answer admitting the infraction charged as pro-
12 vided in this chapter, the Secretary of State shall
13 suspend, without a preliminary hearing, the license
14 or permit, right to operate motor vehicles in this
15 State, right to apply for or obtain a license and may
16 suspend any and all motor vehicle registrations reg-
17 istered to that person. The suspension shall remain
18 in effect until the person:

19 A. Answer the traffic citation or pays the fine
20 assessed; and

21 B. Pays the reinstatement fee provided in sec-
22 tion 2241-D.

23 3. Failure to appear in court or pay fine. In
24 accordance with any related procedures established in
25 Title 14, if the person charged with the traffic in-
26 fraction fails to appear in court on the day speci-
27 fied or fails to pay any fine assessed by the court,
28 the court shall suspend the license or permit, right
29 to operate motor vehicles in this State, and the
30 right to apply for or obtain a license in accordance
31 with section 2301-A.

32 §2204. Schedule of fines; fine amount on traffic ci-
33 tation; collection of fines

34 1. Schedule of fines. The Chief Judge of the
35 District Court shall establish a schedule of the
36 amount of fines to be imposed for each violation of
37 this Title defined as a traffic infraction by section
38 1, subsection 17-C. The order of the Chief Judge of
39 the District Court establishing the fine schedule
40 shall be prominently posted in the place where fines
41 are paid.

1 2. Fine amount on traffic citation. Every law
2 enforcement officer shall indicate the scheduled fine
3 amount on each traffic citation before delivering the
4 traffic citation to a person. The fine amount shall
5 be determined by reference to the fine schedules for
6 traffic infractions established by the Chief Judge
7 under this section.

8 3. Collection of fines. All fines collected by
9 the Secretary of State for traffic infractions shall
10 be transmitted immediately to the Treasurer of State.

11 §2205. Hearings; determinations; penalties

12 1. Hearings. Every hearing for the adjudication
13 of a traffic infraction shall be in the District
14 Court for the division in which the violation is al-
15 leged to have occurred. The State bears the burden of
16 proof. No charge may be established except by a pre-
17 ponderance of the evidence.

18 2. Determinations. If a determination is made
19 that a charge has been established, that decision
20 shall be communicated to the Secretary of State with
21 the traffic citation and answer after the appeal pe-
22 riod has run, and the decision shall be entered in
23 the records of the Secretary of State.

24 3. Penalty. Upon a determination by the Dis-
25 trict Court that the violation charged has been es-
26 tablished, the court shall impose a fine not exceed-
27 ing the maximum amount set forth in section 2303,
28 subsection 1, and shall have the same power of tempo-
29 rary suspension of an operator's license as set forth
30 in section 2305.

31 Sec. 15. 29 MRSA §2300, sub-§4, as amended by PL
32 1975, c. 731, §75, is repealed and the following en-
33 acted in its place:

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

35 A. The traffic citation provided under this sec-
36 tion includes information and is sworn to as re-
37 quired under the general laws of this State in
38 respect to a complaint charging commission of the
39 criminal offense alleged in the citation to have

1 been committed, that citation, when filed within
2 a reasonable time with a court having jurisdic-
3 tion, shall be considered a lawful complaint for
4 the purpose of commencing prosecution of a criminal
5 action under this Title; or

6 B. The traffic citation provided under this section
7 or section 2203 includes information and is
8 signed by a law enforcement officer in respect to
9 a complaint charging commission of the traffic
10 infraction alleged in the citation to have been
11 committed, that citation, when filed within a
12 reasonable time with the Secretary of State,
13 shall be considered a lawful complaint for the
14 purpose of commencing any traffic infraction pro-
15 ceeding under this Title.

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

18 §2302. Jurisdiction.

19 The District-Court Secretary of State shall have
20 original and exclusive jurisdiction over all
21 prosecutions adjudications for traffic infractions as
22 provided in section 2202, subsection 1. The District
23 Court shall have original and exclusive jurisdiction
24 over all adjudications of traffic infractions as pro-
25 vided in section 2202, subsection 2. The District
26 Court shall have original and concurrent jurisdiction
27 with the Superior Court over all prosecutions for any
28 other violations of this Title, except Class C or
29 greater crimes, in which case, District Court juris-
30 isdiction shall be subject to Title 4, section 152.
31 All fines and forfeitures collected under this Title
32 shall accrue to the General Fund, except for fines
33 and forfeitures collected under sections 244, 1611,
34 1654, 1656, 1701 and 1753, only \$5 or 13%, whichever
35 is the greater, of each fine or forfeiture collected
36 through--the-District-Court, shall accrue to the Gen-
37 eral Fund and the balance thereof shall accrue to the
38 General Highway Fund.

39 Sec. 17. 29 MRSA §2303, as amended by PL 1975,
40 c. 731, §80, is repealed and the following enacted in
41 its place:

1 §2303. General penalty

2 1. Traffic infraction; violation. Any violation
3 defined as a traffic infraction shall be punished by
4 a fine of not less than \$25 nor more than \$500 when
5 no other penalty is specifically provided.

6 2. Criminal offense. Any violation of this Title
7 specifically referred to as a criminal offense and
8 not designated as to its class is a Class E crime.

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

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

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

24 (2) Any violation of any ordinance autho-
25 rized by this paragraph shall be a ~~traffie~~
26 ~~infraction~~ civil violation;

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

29 D. Providing for the installation, maintenance
30 and policing of parking meters on any public way
31 or public parking area; providing the fact that a
32 vehicle is in a metered parking space when the
33 time signal on the parking meter for such that
34 space indicates no parking permitted without the
35 deposit of a coin or coins shall be prima facie
36 evidence that ~~said~~ the vehicle has been parked in
37 ~~said~~ that parking space longer than the lawfully
38 permitted period; providing the fact that a vehi-
39 cle is unlawfully parked shall be prima facie ev-

1 idence of the unlawful parking of such that vehi-
2 cle by the person in whose name such the vehicle
3 is registered; establishing reasonable charges
4 for metered parking.

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

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

20 (3) Unlawful parking of a vehicle in viola-
21 tion of any ordinance authorized by this
22 paragraph shall be a traffie-infracation civ-
23 il violation.

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

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

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

38 (2) The municipal officers may by resolu-
39 tion establish specially designated parking
40 areas for motor vehicles operated by handi-
41 capped persons.

1 (3) Any violation of any ordinance autho-
2 rized by this paragraph shall be a ~~traffie~~
3 ~~infraction~~; civil violation;

4 **Sec. 21. Allocation.** The following funds are al-
5 located from the Highway Fund to carry out the pur-
6 poses of this Act.

7 1988-89

8 SECRETARY OF STATE, DEPART-
9 MENT OF

10 Division of Motor Vehi-
11 cles

12	Positions	(9)
13	Personal Services	\$119,342
14	All Other	21,132
15	Capital Expenditures	28,475

16
17 Total \$168,949

18 **Sec. 22. Effective date.** This Act shall take
19 effect on January 1, 1989, except that the Maine Re-
20 vised Statutes, Title 29, section 2201, as amended
21 in this Act, shall take effect 90 days after adjourn-
22 ment of the Legislature.

23 FISCAL NOTE

24 This new draft keeps all 5 revenues in the Gener-
25 al Fund. Therefore, the only fiscal impact is the
26 additional cost to the Highway Fund to staff the new
27 positions at the Division of Motor Vehicles. Due to
28 the estimated effective date of the new draft, only
29 partial funding is provided in fiscal year 1988-89.

2 This new draft attempts to divide the administra-
3 tive and adjudicative functions of the Secretary of
4 State's office and the District Court in a practical
5 way to achieve greater efficiency in the processing
6 of traffic infraction cases and to relieve the courts
7 of their present administrative burden caused by
8 traffic infractions without the sacrifice of any of
9 the protections traditionally accorded accused of-
10 fenders by the courts. The new draft has a delayed
11 effective date of January 1, 1989, to allow suffi-
12 cient time to prepare for the transfer of authority
13 from the courts to the Secretary of State.

14 The new draft eliminates those provisions of the
15 original bill which required the Secretary of State
16 to conduct adjudicative hearings for all contested
17 traffic offenses. Under the new draft, the Secretary
18 of State will perform only the administrative duties
19 relating to traffic infractions. The District Court
20 will continue to hear and decide any traffic infrac-
21 tion cases contested by the alleged offender.

22 Under the new draft, every person issued a cita-
23 tion for a traffic infraction must answer that cita-
24 tion by returning it by mail or appearing in person
25 at the Secretary of State's office or any of the
26 branch offices of the Division of Motor Vehicles lo-
27 cated throughout the State. The person may admit the
28 offense charged by waiving trial and paying a fine
29 set according to a schedule developed by the Chief
30 Judge of the District Court. If the person contests
31 the charge, the matter is referred to the appropriate
32 District Court and scheduled for trial. The person
33 receives notice of the trial date by mail, thus elim-
34 inating the need for 2 court appearances, as is cur-
35 rently required, once for the arraignment and once
36 for the actual trial. If the trial is requested, the
37 matter is handled the same as under current practice,
38 with the court collecting any fine imposed or sus-
39 pending the person's driver's license when appropri-
40 ate. In all other cases, the Secretary of State's
41 office will collect any fines when the offender ad-
42 mits guilt and waives trial and will suspend an
43 offender's license if he fails to answer the citation

1 in time or fails to pay the assessed fine. A person
2 whose license is suspended by the Secretary of State
3 for failure to answer a citation or to pay a fine may
4 at any time have his license reinstated upon compli-
5 ance and payment of a \$25 reinstatement fee, as under
6 present law.

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