

# MAINE STATE LEGISLATURE

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1

L.D. 2298

2

(Filing No. S-475 )

3

STATE OF MAINE

4

SENATE

5

113TH LEGISLATURE

6

SECOND REGULAR SESSION

7

COMMITTEE AMENDMENT "A" to S.P. 886, L.D. 2298,

8

Bill, "AN ACT to Continue the Driver Education

9

Evaluation Program."

10

Amend the Bill by striking out everything after

11

the enacting clause and inserting in its place the

12

following:

13

'Sec. 1. 22 MRSA §7201, sub-§1, as enacted by

14

PL 1987, c. 536, §§2 and 11, is amended to read:

15

1. Alcohol or drug related motor vehicle

16

incident. "Alcohol or drug related motor vehicle

17

offense incident" means a conviction or

18

administrative action resulting in the suspension of a

19

motor vehicle operator's license for a violation under

20

Title 29, section 1311-A; 1312-B; former section 1312,

21

subsection 10-A; former section 1312-B; former section

22

1312-C; or section 2241-G, subsection 2, paragraph B,

23

subparagraph (2).

24

Sec. 2. 22 MRSA §7201, sub-§2-A is enacted to

25

read:

26

2-A. Community-based service provider.

27

"Community-based service provider" means a provider of

28

either the treatment component or the evaluation

29

component, or both, of the alcohol and other drug

30

education, evaluation and treatment program certified

31

under section 7205 or a Driver Education Evaluation.

COMMITTEE AMENDMENT "A " to S.P. 886, L.D. 2298

1 Program approved program.

2 **Sec. 3. 22 MRSA §7201, sub-§4, as enacted by PL**  
3 **1987, c. 536, §§2 and 11, is amended to read:**

4 **4. Multiple offender.** "Multiple offender" means  
5 a client who has more than one alcohol or drug related  
6 motor vehicle offense incident within a 6-year  
7 period.

8 **Sec. 4. 22 MRSA §7203, sub-§3, ¶B, as enacted by**  
9 **PL 1987, c. 536, §§2 and 11, is amended to read:**

10 **B. A treatment program provided by a**  
11 **community-based service provider, if indicated,**  
12 **designed to address the client's specific alcohol**  
13 **or other drug problem and abuse, using a treatment**  
14 **plan based on the completion of treatment**  
15 **guidelines adopted by the department.**

16 **Sec. 5. 22 MRSA §7204, as enacted by PL 1987,**  
17 **c. 536, §§2, 11, is repealed.**

18 **Sec. 6. 22 MRSA §7204-A is enacted to read:**

19 **§7204-A. Separation of evaluation and treatment**  
20 **functions**

21 **1. Prohibition. A Driver Education Evaluation**  
22 **Program private practitioner or a counselor employed**  
23 **by a substance abuse facility approved or licensed by**  
24 **the department providing services under this chapter**  
25 **may not provide both treatment services and evaluation**  
26 **services for the same individual participating in**  
27 **programs under this chapter. The practitioner or**  
28 **counselor providing evaluation services shall give a**  
29 **client the name of 3 practitioners or counselors who**  
30 **can provide treatment services, at least one of whom**  
31 **must not be employed by the same agency as the**  
32 **practitioner or counselor conducting the evaluation.**

33 **Sec. 7. 22 MRSA §7206, sub-§1, as enacted by PL**  
34 **1987, c. 536, §§2, 11, is amended to read:**

35 **1. First offense program.** The department may  
36 charge a registration fee, not to exceed \$105, to  
37 clients for the education and assessment components of

COMMITTEE AMENDMENT "A" to S.P. 886, L.D. 2298

1 the program. This fee along with any unexpended  
2 balance as of July 1, 1988, shall be used to defray  
3 the cost of the program transferred to the General  
4 Fund. The client is responsible for the costs of the  
5 evaluation and treatment components. The department  
6 may waive all or part of the fee for clients who  
7 provide sufficient evidence of inability to pay.

8 Sec. 8. 22 MRSA §7206, sub-§2, as enacted by  
9 PL 1987, c. 536, §§2 and 11, is amended to read:

10 2. Multiple offender program. The fees and costs  
11 for the multiple offender program are as follows.

12 A. The department may charge a registration fee,  
13 not to exceed ~~§300~~ \$350, to clients for the  
14 expenses of the intervention program, including  
15 the initial evaluation. This fee along with any  
16 unexpended balance as of July 1, 1988, shall be  
17 used to defray the cost of the program  
18 transferred to the General Fund.

19 B. The client is responsible for any costs  
20 associated with 2nd and subsequent evaluations or  
21 treatment which is not a part of the cost in  
22 paragraph A.

23 C. The department may waive all or part of the  
24 fee for clients who provide sufficient evidence of  
25 inability to pay.

26 Sec. 9. 29 MRSA §1312-B, sub-§3-A is enacted to  
27 read:

28 3-A. Instructions at time of sentencing. At the  
29 time of sentencing, the presiding judge shall provide  
30 the defendant with written instructions prepared by  
31 the Division of Driver Education Evaluation. The  
32 instructions shall be written in plain and readable  
33 language and at a minimum include the following:

34 A. An explanation of the circumstances under which  
35 the Secretary of State may suspend a driver's  
36 license;

37 B. An explanation of the different components in  
38 the process the defendant must go through to have

COMMITTEE AMENDMENT "A " to S.P. 886, L.D. 2298

1 a driver's license restored. The explanation  
2 shall include a description of the difference  
3 between those service components provided by state  
4 agencies and those provided by practitioners and  
5 counselors not employed by the State;

6 C. An explanation of the role of the Driver  
7 Education Evaluation Program Appeals Board and the  
8 circumstances under which the defendant has a  
9 right to make an appeal to the board;

10 D. An explanation of the differences between the  
11 procedures applicable to first offenders versus  
12 multiple offenders and adults versus those under  
13 21 years of age;

14 E. An explanation of when the Secretary of State  
15 may stay a suspension and grant a work-restricted  
16 license or other restricted or provisional  
17 license; and

18 F. An explanation of the conditions an offender  
19 must meet to have a license restored or conditions  
20 under which the Secretary of State may restore a  
21 license.

22 **Sec. 10. 29 MRSA §1312-D, sub-§10, as enacted**  
23 **by PL 1987, c. 536, §§7 and 11, is amended to read:**

24 **10. Work-restricted license. Upon the**  
25 **recommendation of a treating counselor that**  
26 **application of a person whose license or right to**  
27 **operate a motor vehicle has been suspended under**  
28 **section 1312-B, subsection 2, paragraph A or B, be**  
29 **issued a restricted license for employment purposes,**  
30 **the Secretary of State, with the advice of a treating**  
31 **counselor and to the extent not in conflict with**  
32 **federal law or federal grant criteria for highway**  
33 **safety programs, may stay the suspension during the**  
34 **statutory period and issue a work-restricted license,**  
35 **subject to whatever conditions, restrictions or terms**  
36 **which the treating counselor recommends and the**  
37 **Secretary of State deems advisable. Any restricted**  
38 **license or permit issued under this subsection shall**  
39 **be restricted to use for travel to and from**  
40 **employment.**

COMMITTEE AMENDMENT "A " to S.P. 886, L.D. 2298

1 The treating counselor may recommend that the  
2 Secretary of State revoke a restricted license or  
3 permit issued under this subsection if the counselor  
4 believes that the revocation is advisable, having in  
5 mind the safety of the public and the welfare of the  
6 person.

7 For the purposes of this subsection, "treating  
8 counselor" means a person licensed under Title 32 as a  
9 registered substance abuse counselor, psychiatrist,  
10 psychologist or social worker who is providing alcohol  
11 or drug treatment services to the person.

12 Sec. 11. PL 1987, c. 536, §11 is repealed.

13 Sec. 12. Sunset provision. The Maine Revised  
14 Statutes, Title 22, chapter 1602 is repealed on August  
15 1, 1990.

16 Sec. 13. Appropriation. The following funds  
17 are appropriated from the General Fund to carry out  
18 the purposes of this Act.

19 1988-89

20 HUMAN SERVICES, DEPARTMENT OF

21 Office of Alcoholism and  
22 Drug Abuse Prevention

23 Division of Driver  
24 Education Evaluation

25	Positions	(15)
26	Personal Services	\$432,588
27	All Other	556,566
28	Capital Expenditures	6,450

29	Total	<u>\$995,604</u>
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31 Sec. 14. Allocation. The following funds are  
32 allocated from Other Special Revenue to carry out the  
33 purposes of this Act.



COMMITTEE AMENDMENT " A " to S.P. 886, L.D. 2298

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STATEMENT OF FACT

2           The purpose of this amendment is to change the  
3 name of an alcohol or drug related motor vehicle  
4 "offense" to "incident", to add a definition of  
5 community-based service provider, to allow the  
6 practitioner conducting the evaluation and the  
7 practitioner providing the treatment to be employed by  
8 the same agency, to have the fees paid by the offender  
9 transferred to the General Fund, to increase the fee  
10 for a multiple offender from \$300 to \$350, to allow  
11 the department to waive all or part of the fees for  
12 multiple offenders, to require the courts to provide a  
13 written set of instructions to the offender at the  
14 time of sentencing, to clarify the role of the  
15 treatment counselor in the Secretary of State's  
16 decision to issue a restricted license, and establish  
17 a sunset for the Maine Revised Statutes, Title 22,  
18 chapter 1602, on August 1, 1990.

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Reported by Senator Kerry for the Committee on Human  
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