

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

R of S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

L.D. 2395

(Filing No. S-472)

STATE OF MAINE
SENATE
113TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT " A " to COMMITTEE AMENDMENT "A " to H.P. 1746, L.D. 2395, Bill, "AN ACT to Strengthen the Drunk Driving Laws."

Amend the amendment in section 3, in the last line (page 2, line 36 in amendment) by inserting after the underlined word "drugs" the following: ', and the court is satisfied that probable cause exists to believe that the operator committed the offense charged.'

Further amend the amendment in section 17, in paragraph D, in the 11th line (page 13, line 31 in amendment) by inserting after the underlined word and punctuation "oath." the following: 'The result of a test taken pursuant to this paragraph is not admissible at trial unless the court is satisfied that probable cause exists, independent of such test result, to believe that the operator was under the influence of intoxicating liquor or drugs or had excessive blood-alcohol level.'

Further amend the amendment in section 17, in the last line (page 14, line 3 in amendment) by inserting after the underlined word and punctuation "level." the following: 'If the person shows, after hearing, that he was not under the influence of intoxicating liquor or drugs or that he did not negligently cause the death, then any suspension shall be removed

SENATE AMENDMENT " A " to COMMITTEE AMENDMENT "A " to
H.P. 1746, L.D. 2395

1 immediately.'

2 Further amend the amendment in section 22, in
3 subsection 11, lines 7 to 9 (page 18, lines 7 to 9 in
4 amendment) by striking out the following: "shall
5 within 6 years of the date of the conviction be a
6 conditional license,"

7 Further amend the amendment in section 22, in
8 subsection 11, in the 2nd line from the end (page 18,
9 line 11 in amendment) by inserting after the
10 underlined word "liquor" the following: ', for the
11 following periods: On first conviction or
12 adjudication, one year from license reinstatement
13 date; and on a 2nd or subsequent conviction or
14 adjudication, 6 years from date of conviction'

15 Further amend the amendment in section 23, in that
16 part designated "§1312-G." in subsection 2, in the
17 last line (page 19, line 13 in amendment) by inserting
18 after the underlined word and punctuation "apply." the
19 following: 'The court shall nevertheless order the
20 vehicle released to any co-owner who was not the
21 operator if that co-owner was not previously notified
22 of a prior seizure of that vehicle.'

23 Further amend the amendment in section 23, in that
24 part designated "§1312-G." in subsection 5, paragraph
25 G, in the 2nd line (page 22, line 24 in amendment) by
26 inserting after the underlined words "subject to" the
27 underlined word 'documented'

28 Further amend the amendment in section 23, in that
29 part designated "§1312-G." in subsection 5, paragraph
30 G, in lines 3, 4 and 5 (page 22, lines 25 to 27 in
31 amendment) by striking out the underlined words "on
32 file with the Secretary of State or the corresponding
33 officer in the State of registration or title"

34 Further amend the amendment in section 23, in that
35 part designated "§1312-G." in subsection 6, in lines 9
36 to 12 (page 23, lines 14 to 17 in amendment) by
37 striking out the following: ", including the full
38 term of any revocation as habitual offender if the 3rd
39 or subsequent conviction or adjudication was for that
40 offense,"

R. of 3

SENATE AMENDMENT " A " to COMMITTEE AMENDMENT " A " to
H.P. 1746, L.D. 2395

1 Further amend the amendment in section 24, in that
2 part designated "§1313-B." in subsection 1, in the 7th
3 line (page 25, line 2 in amendment) by inserting after
4 the following: "1312," the following: 'negligently'

5 Further amend the amendment in section 24, in that
6 part designated "§1313-B." in subsection 5, in the 4th
7 line (page 25, line 37 in amendment) by striking out
8 the underlined word "his" and inserting in its place
9 the underlined words 'the person's negligent'

10 Further amend the amendment in section 24, in that
11 part designated "§1313-B." in subsection 6, in the 4th
12 and 5th lines (page 26, lines 6 and 7 in amendment) by
13 striking out the following: "criminal or civil
14 charges" and inserting in its place the following:
15 'criminal charges or civil infractions'

16 Further amend the amendment in section 24, in that
17 part designated "§1313-B." in subsection 6, in the 6th
18 line (page 26, line 8 in amendment) by striking out
19 the following: "criminal or civil charges" and
20 inserting in its place the following: 'criminal
21 charges or civil infractions'

22 Further amend the amendment in section 24, in that
23 part designated "§1313-B." in subsection 7, in lines 7
24 to 9 (page 26, lines 23 to 25 in amendment) by
25 striking out the following: "proceeding affirmatively
26 determines that that person was not at fault" and
27 inserting in its place the following: 'proceeding
28 determines that that person did not negligently cause
29 the death of the other person'

30 Further amend the amendment in section 29, in that
31 part designated "§2241-J." in subsection 1, in lines
32 5, 6, 7 and 8th lines (page 28, lines 9 to 12 in
33 amendment) by striking out the following: "who has
34 within the previous 6 years been convicted of
35 operating under the influence of intoxicating liquor
36 or drugs, or with an excessive blood-alcohol level"

37 Further amend the amendment in section 29, in that
38 part designated "§2241-J." in subsection 1, paragraph
39 B, in lines 2 and 3 (page 28, lines 18 and 19 in

SENATE AMENDMENT " A " to COMMITTEE AMENDMENT "A " to
H.P. 1746, L.D. 2395

1 amendment) by striking out the following: "while
2 having 0.02%" and inserting in its place the
3 following: 'during the period of the conditional
4 license while having 0.05%'

5 Further amend the amendment in section 29, in that
6 part designated "§2241-J." in subsection 2, in lines 1
7 to 4 (page 28, lines 21 to 24 in amendment) by
8 striking out the following: ", within the previous 6
9 years has been convicted of operating under the
10 influence of intoxicating liquor or drugs or with an
11 excessive blood-alcohol level who"

12 Further amend the amendment in section 29, in that
13 part designated "§2241-J." in subsection 2, in the 6th
14 line (page 28 line 26 in amendment) by inserting after
15 the following: "State," the following: 'during the
16 period of a conditional license,'

17 Further amend the amendment in section 29, in that
18 part designated "§2241-J." in subsection 2, in the
19 10th line (page 28, line 30 in amendment) by striking
20 out the following: "0.02%" and inserting in its place
21 the following: '0.05%' and in the 14th line (page 28,
22 line 34 in amendment) by striking out the following:
23 "0.02%" and inserting in its place the following:
24 '0.05%'

25 Further amend the amendment in section 29, in that
26 part designated "§2241-J." in subsection 3, in
27 paragraph A, in the 7th line (page 29, line 9 in
28 amendment) by striking out the following: "0.02%" and
29 inserting in its place the following: '0.05%'

30 Further amend the amendment in section 29, in that
31 part designated "§2241-J." in subsection 4, in
32 paragraph A, in lines 2 to 5 (page 29, lines 40 and 41
33 and page 30 lines 1 and 2 in amendment) by striking
34 out the following: "has within the previous 6 years
35 been convicted of operating under the influence of
36 intoxicating liquor or drugs, or with an excessive
37 blood-alcohol level" and inserting in its place the
38 following: ', during the period of a conditional
39 license'

40 Further amend the amendment in section 29, in

8 of 8

SENATE AMENDMENT " A " to COMMITTEE AMENDMENT "A " to
H.P. 1746, L.D. 2395

1 subsection 4, paragraph A, in the 7th line (page 30,
2 line 4 in amendment) by striking out the following:
3 "0.02%" and inserting in its place the following:
4 '0.05%' and in the 7th line from the end (page 30,
5 line 12 in amendment) by striking out the following:
6 "0.02%" and inserting in its place the following:
7 '0.05%' and in the 2nd line from the end (page 30,
8 line 17 in amendment) by striking out the following:
9 "0.02%" and inserting in its place the following:
10 '0.05%'

11 Further amend the amendment in section 29, in that
12 part designated "§2241-J." in subsection 8, in
13 paragraph B, in subparagraph (1), in the 2nd line from
14 the end (page 33, line 9 in amendment) by striking out
15 the following: "0.02%" and inserting in its place the
16 following: '0.05%' and in subparagraph (3), in the
17 first line (page 33, line 13 in amendment) by striking
18 out the following: "0.02%" and inserting in its place
19 the following: '0.05%'

20 Further amend the amendment in section 29, in that
21 part designated "§2241-J." in subsection 8, in
22 paragraph B, by striking out all of subparagraph (4)
23 (page 33, lines 15 to 18 in amendment) and inserting
24 in its place the following:

25 '(4) Had a conditional license under section
26 1312-D, subsection 11.'

27 Further amend the amendment in section 29, in that
28 part designated "§2241-J." in subsection 8, paragraph
29 D, in line 4 (page 33, line 40 in amendment) by
30 striking out the following: "had not been so
31 convicted within 6 years of" and inserting in its
32 place the following: 'did not have a conditional
33 license at'

34 Further amend the amendment in section 29, in that
35 part designated "§2241-J." in subsection 8, in
36 paragraph D, in the 7th line (page 34, line 3 in
37 amendment) by striking out the following: "0.02%" and
38 inserting in its place the following: '0.05%'

39 Further amend the bill in section 29 by inserting
40 at the end the following:

2 of 5

SENATE AMENDMENT " A " to COMMITTEE AMENDMENT "A " to H.P. 1746, L.D. 2395

1 '14. Work-restricted license. Upon receipt by
2 the Secretary of State of a petition for a restricted
3 license for employment purposes by any person whose
4 license or right to operate a motor vehicle has been
5 suspended under subsection 1, paragraph B following
6 first offense of a violation of section 1312-B, the
7 Secretary of State may stay the suspension during the
8 statutory period and issue a restricted license if no
9 alternate means of transportation is available as
10 follows: A work-restricted license may be issued and
11 shall be conditioned upon a showing by a petitioner by
12 clear and convincing evidence that such a license is
13 necessary to operate a motor vehicle between the
14 residence and place of employment or to operate a
15 motor vehicle in the scope of employment, or both.
16 The issuance of a work-restricted license under this
17 subsection is contingent upon the completion of an
18 alcohol treatment or rehabilitation program. The
19 Secretary of State shall suspend, without preliminary
20 hearing, the work-restricted license of any person who
21 is adjudicated or convicted of any violation of this
22 Title committed during the period when a
23 work-restricted license has been issued or who
24 violates any restriction or condition contained on the
25 license.'

26 Further amend the amendment by inserting before
27 the fiscal note the following:

28 'Sec. 31. Allocation. The following funds are
29 allocated from the Highway Fund to carry out the
30 purposes of this Act.

31		<u>1988-89</u>
32	<u>SECRETARY OF STATE,</u>	
33	<u>DEPARTMENT OF THE</u>	
34	Administration -	
35	Motor Vehicles	
36	Positions	(1)
37	Personal Services	\$11,575
38	Capital Expenditures	400

P. of S

SENATE AMENDMENT " A " to COMMITTEE AMENDMENT "A " to
H.P. 1746, L.D. 2395

1		
2	Total	<u>\$11,975</u>
3	Provides funds for one	
4	clerk typist III to	
5	administer the	
6	provisions of the	
7	reduced criteria for	
8	operating a motor	
9	vehicle under the	
10	influence of	
11	intoxicating liquor	
12	for first and	
13	subsequent offenders.'	

14 STATEMENT OF FACT

15 1. This amendment increases the blood-alcohol
16 level limit for conditional license holders from 0.02%
17 to 0.05%;

18 2. Reduces the duration of conditional licenses
19 for first time offenders to one year;

20 3. Provides for an appeal of license suspension
21 based on refusal to take a blood-alcohol test for
22 operators involved in fatal accidents;

23 4. Requires the establishment of probable cause
24 in a trial prior to admission of a test result;

25 5. Provides for a work-restricted license for a
26 first-time offender whose conditional license is
27 suspended; and

28 6. Makes other appropriate technical changes to
29 the amendment.

SENATE AMENDMENT " A " to COMMITTEE AMENDMENT "A " to
H.P. 1746, L.D. 2395

1 This amendment also provides a Highway Fund
2 allocation to the Division of Motor Vehicles to
3 provide clerical support for the administration of the
4 Operating Under the Influence provisions for first and
5 subsequent offenders.

6

5612041588

7 (Sen. DOW)

8 SPONSORED BY: 

9 COUNTY: Kennebec

Reproduced and Distributed Pursuant to Senate Rule 12.
(4/15/88) (Filing No. S-472)