

# MAINE STATE LEGISLATURE

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L.D. 1953

(Filing No. H-878)

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
114TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1405, L.D. 1953, Bill, "An Act to Strengthen Penalties for Operating under the Influence When a Minor Is a Passenger"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 29 MRSA §1311-A, sub-§5, ¶B, as amended by PL 1989, c. 502, Pt. B, §34, is further amended to read:

B. The Except as provided in paragraph B-1, the period of license suspension for a person whom the Secretary of State has determined to have operated or attempted to operate a motor vehicle with an excessive blood-alcohol level for a first or subsequent offense shall-be is the same suspension period as if the person were convicted or adjudicated of a violation of section 1312-B or Title 15, section 3103, subsection 1, paragraph F.

Sec. 2. 29 MRSA §1311-A, sub-§5, ¶B-1 is enacted to read:

B-1. If the Secretary of State determines that a person with an excessive blood-alcohol level operated or attempted to operate a motor vehicle with a passenger under 16 years of age, the Secretary of State may impose a suspension period of up to 275 days, in addition to the suspension period under paragraph B.

Sec. 3. 29 MRSA §1312-B, sub-§2, ¶B, as amended by PL 1987, c. 791, §19, is further amended to read:

B. In the case of a person having no previous convictions of a violation of former section 1312, subsection 10, former section 1312-B, or this section and having no previous

2 suspension of license or privilege to operate for failure to  
3 comply with the duty to submit to and complete a test to  
4 determine the level of blood-alcohol under section 1312  
5 within a 6-year period, the fine shall may not be less than  
6 \$300, the sentence shall must include a period of  
7 incarceration of not less than 48 hours and the court shall  
8 suspend the defendant's license or permit to operate, right  
9 to operate a motor vehicle and right to apply for and obtain  
10 a license for a period of 90 days, which penalties may not  
be suspended, when the person:

12 (1) Was tested as having a blood-alcohol level of  
13 0.15% or more;

14 (2) Was driving in excess of the speed limit by 30  
15 miles an hour or more during the operation which that  
16 resulted in the prosecution for operating under the  
17 influence or with a blood-alcohol level of 0.08% or  
18 more;

19 (3) Eluded or attempted to elude an officer, as  
20 defined in section 2501-A, subsection 3, during the  
21 operation which that resulted in prosecution for  
22 operating under the influence or with a blood-alcohol  
23 level of 0.08% or more; ~~ex~~

24 (4) Failed to submit to a chemical test for the  
25 determination of that person's blood-alcohol level, at  
26 the request of a law enforcement officer on the  
27 occasion which that resulted in the conviction; or

28 (5) Was, on the occasion that resulted in the  
29 conviction, operating or attempting to operate a motor  
30 vehicle with a passenger under 16 years of age.

31 **Sec. 4. 29 MRSA §1312-B, sub-§3**, as amended by PL 1987, c.  
32 791, §21, is further amended to read:

33 **3. Sentencing procedure.** Notwithstanding the provisions of  
34 Title 15, section 757, in determining the appropriate sentence,  
35 the court shall consider whether the defendant operated or  
36 attempted to operate a motor vehicle with a passenger under 16  
37 years of age, the record of convictions for criminal traffic  
38 offenses, adjudications of traffic infractions and suspensions of  
39 license or privilege to operate for failure to comply with the  
40 duty to submit to and complete a test to determine the level of  
41 blood alcohol of the defendant. The court may rely upon oral  
42 representations based on records maintained by the courts, by the  
43 State Bureau of Identification or by the Secretary of State,  
44 including telecommunications of records maintained by the  
45 Secretary of State. If the defendant disputes the accuracy of  
46 any representation concerning a conviction or adjudication,

2 the court shall grant a continuance for the purposes of  
determining the accuracy of the record.'

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**STATEMENT OF FACT**

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The amendment replaces the bill.

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10 The amendment subjects a person convicted of a first offense  
of operating or attempting to operate a motor vehicle while  
12 under the influence to a mandatory minimum sentence of 48 hours  
incarceration, in addition to the current minimum penalties of a  
\$300 fine and loss of license for 90 days, if there was a  
14 passenger under 16 years of age in the motor vehicle. The  
amendment requires the court in imposing sentence for all  
16 operating-under-the-influence convictions to consider whether  
there was a passenger under 16 years of age.

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20 The amendment also authorizes the Secretary of State to  
impose an additional period of license suspension, up to 275  
22 days, if the Secretary of State determines that a person charged  
with operating under the influence had a passenger in the motor  
vehicle under 16 years of age.

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Reported by the Committee on Legal Affairs  
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