

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## SECOND REGULAR SESSION - 1990

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Legislative Document

No. 2233

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S.P. 871

In Senate, January 25, 1990

Submitted by the Department of Human Services pursuant to Joint Rule 24.

Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator PERKINS of Hancock.

Cosponsored by Senator BUSTIN of Kennebec, Representative FOSTER of Ellsworth and Representative ROLDE of York.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

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An Act to Continue the Driver Education Evaluation Program.

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(EMERGENCY)



Emergency preamble. Whereas, Acts of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted  
as emergencies; and

4  
Whereas, the Driver Education Evaluation Program that  
6 educates, assesses, evaluates and treats those who lose their  
licenses for operating motor vehicles under the influence of  
8 alcohol and other drugs will sunset on August 1, 1990; and

10  
Whereas, the sunset of the Driver Education Evaluation  
Program will eliminate state-administered client services  
12 designed for the first, multiple and youthful offender; and

14  
Whereas, in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
16 Maine and require the following legislation as immediately  
necessary for the preservation of the public peace, health and  
18 safety; now, therefore,

20 **Be it enacted by the People of the State of Maine as follows:**

22 **Sec. 1. 22 MRSA §7203, sub-§1, as amended by PL 1987, c. 773,**  
§§11 and 12, is further amended to read:

24  
26 **1. First offenders; adult.** The alcohol and other drug  
education preliminary assessment, evaluation and treatment  
28 program required for adult clients without a previous alcohol or  
drug related motor vehicle offense consists of education, a  
30 preliminary assessment, evaluation and treatment components. All  
first offender clients are required to complete the education and  
32 assessment component unless otherwise provided by this chapter.  
The following evaluation and treatment components may be required  
if necessary:

34  
36 ~~A. The education component, consisting of at least 9 hours  
of information utilizing films, lectures and discussion and  
designed to educate the client about the effects of alcohol  
38 and other drugs on his behavior, especially behavior  
involving the operation of a motor vehicle;~~

40  
42 B. The assessment component, utilizing an assessment  
instrument, the client's driving record for the past ~~6~~  
44 years, 6-year period prior to and ending with the most  
recent alcohol related motor vehicle incident and up to one  
46 hour an interview with the instructor and designed to make  
a preliminary assessment regarding the extent of a client's  
48 alcohol or other drug use or abuse or potential for abuse.  
A client may be referred for further evaluation based on the  
results of his the preliminary assessment;

50  
52 C. The evaluation component, designed to identify abusers  
of alcohol and other drugs. If the evaluation indicates

2 that treatment for alcohol or other drug abuse is needed,  
the client will be referred to the appropriate alcohol or  
4 other drug treatment service; and

6 D. The treatment component, provided by a community-based  
service provider, designed to address the client's specific  
8 problem with or abuse of alcohol or other drugs.

10 The division may require completion of the multiple offender  
residential intervention program by first offenders determined to  
12 need the evaluation component referred to in paragraph C.

14 **Sec. 2. 22 MRSA §7206, sub-§1**, as amended by PL 1987, c. 773,  
§§7, 11 and 12, is further amended to read:

16 1. **First offense program.** The department may charge a  
18 registration an assessment fee, not to exceed \$105 \$60, to  
clients for the education-and preliminary assessment components  
20 component of the program. This fee along with any unexpended  
balance as of July 1, 1988 1991, shall must be transferred to the  
22 General Fund. The client is responsible for the costs of the  
evaluation and treatment components. The department may waive  
24 all or part of the fee for clients who provide sufficient  
evidence of inability to pay.

26 **Sec. 3. 22 MRSA §7207, sub-§3**, as amended by PL 1987, c. 773,  
28 §§11 and 12, is further amended to read:

30 3. **Appointment; term; removal.** The board shall--consist  
consists of 3 6 members appointed by the Governor for 2-year  
32 terms, except that, initially, 2 4 members shall must be  
appointed for 2-year terms and one--member 2 members for a  
34 one-year term. A vacancy occurring prior to the expiration of a  
term shall must be filled by an appointment for the unexpired  
term. Members may be removed by the Governor for cause.

36 **Sec. 4. 22 MRSA §7207, sub-§7, ¶B**, as amended by PL 1987, c.  
38 773, §§11 and 12, is further amended to read:

40 B. The client may appeal an evaluation decision referring a  
42 client to treatment or a completion of treatment decision  
pursuant to section 7203. ~~A client may only appeal under  
44 this paragraph after the client has sought a 2nd opinion of  
the need for treatment or of satisfactory completion of  
46 treatment.~~

48 **Sec. 5. 22 MRSA §7225, sub-§2, ¶F**, as enacted by PL 1987, c.  
735, §38, is amended to read:

50 F. Making a separate written report to the Chief Justice,  
52 the Governor and the Legislature not later than May 1st of  
each year, commencing with 1982 1990, on the ~~enforcement~~-of

2 ~~laws relating to drinking and driving during the preceding~~  
3 ~~calendar year effectiveness of the State's operating under~~  
4 ~~the influence laws and programs. The report shall must~~  
5 ~~contain at least the following information: an analysis of~~  
6 ~~significant characteristics of operating under the influence~~  
7 ~~offenders arrested during each of the previous 3 calendar~~  
8 ~~years. The report must identify, when practical, the~~  
9 ~~relationship between various sanctions, including, but not~~  
10 ~~limited to, fines, jail sentences, substance abuse~~  
11 ~~evaluations and treatment, and rearrest rates.~~

12 ~~(1) The number, by county, of arrests for attempting~~  
13 ~~to or operating under the influence;~~

14 ~~(2) The number, by county, of revocations of implied~~  
15 ~~consent for each category of offense;~~

16 ~~(3) The number and percentage, by court, of~~  
17 ~~convictions, guilty pleas to lesser charges,~~  
18 ~~dismissals, and not guilty for these offenses, for each~~  
19 ~~category of offense;~~

20 ~~(4) The number and percentages of successful~~  
21 ~~completion of the Driver Education Evaluation Program;~~

22 ~~(5) The number and percentages, by court, of persons~~  
23 ~~whose licenses were suspended, who were fined, and who~~  
24 ~~spent time in jail, for each category of offense;~~

25 ~~(6) The average, minimum and maximum, fine, jail~~  
26 ~~sentence and period of license suspension, by court,~~  
27 ~~for each category of operating under the influence~~  
28 ~~offense;~~

29 ~~(7) The number and percentages, by court, of~~  
30 ~~convictions for operating after suspension and for~~  
31 ~~being a habitual offender, guilty pleas to a lesser~~  
32 ~~charge, dismissals, and not guilty findings;~~

33 ~~(8) The average, minimum and maximum, fine, jail~~  
34 ~~sentence and period of license suspension for operating~~  
35 ~~after suspension and for being a habitual offender, by~~  
36 ~~court, and~~

37 ~~(9) Other items that are considered important to the~~  
38 ~~review of the enforcement of the laws relating to~~  
39 ~~drinking and driving.~~

40 **Sec. 6. PL 1987, c. 773, §12 is repealed.**

41 **Emergency clause.** In view of the emergency cited in the  
42 preamble, this Act takes effect when approved.  
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## STATEMENT OF FACT

This bill allows for the continuation of the Driver Education Evaluation Program and for certain improvements to be made in the existing program. The bill:

1. Eliminates the educational component for those first offenders who are not referred for an evaluation;

2. Allows the multiple offender program to be utilized for evaluation of selected first offenders;

3. Decreases the fee for first offenders from \$105 for registration previously charged for the education and preliminary assessment to \$60 for the assessment;

4. Expands the membership of the Driver Education Evaluation Program Appeals Board from 3 to 6 members to enable the board to respond to an anticipated increase in the number of appeals;

5. Eliminates the 2nd opinion on evaluation results and completion of treatment prior to petitioning the Driver Education Evaluation Program Appeals Board for a hearing;

6. Repeals the sunset provision and provides for continuation of the Driver Education Evaluation Program; and

7. Changes the content of the mandated operating under the influence report from enforcement of the laws to an analysis of operating under the influence sanctions, including fines, jail sentences, substance abuse evaluation and treatment, and rearrest rates.