

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 135

H.P. 94

House of Representatives, January 14, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative RICHARDS of Hampden.

Cosponsored by Representative GREENLAW of Standish, Representative PLOURDE of Biddeford and Representative STEVENS of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Provide for Community Service as an Alternative to Fines for
Persons Convicted of Operating Under the Influence.**



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

2
4 Sec. 1. 29 MRSA §1312-B, sub-§2, ¶A, as amended by PL 1989, c. 784, §5, is further amended to read:

6 A. Except as provided in paragraph B, in the case of a
8 person having no previous convictions of a violation of
10 former section 1312, subsection 10, former section 1312-B or
12 this section and having no previous suspension of license or
14 privilege to operate for failure to comply with the duty to
16 submit to and complete chemical testing under section 1312
18 within a 6-year period, the fine may not be less than \$300
 and the court shall suspend the defendant's license or
 permit to operate, right to operate a motor vehicle and
 right to apply for and obtain a license for a period of 90
 days, which penalties may not be suspended except as
 provided in paragraph H.

20 Sec. 2. 29 MRSA §1312-B, sub-§2, ¶B, as amended by PL 1989, c. 771, §3 and c. 784, §6, is repealed and the following enacted in
22 its place:

24 B. In the case of a person having no previous convictions
26 of a violation of former section 1312, subsection 10, former
28 section 1312-B or this section and having no previous
30 suspension of license or privilege to operate for failure to
32 comply with the duty to submit to and complete chemical
34 testing under section 1312 within a 6-year period, the fine
36 may not be less than \$300, the sentence must include a
38 period of incarceration of not less than 48 hours and the
40 court shall suspend the defendant's license or permit to
42 operate, right to operate a motor vehicle and right to apply
44 for and obtain a license for a period of 90 days, which
46 penalties may not be suspended except as provided in
48 paragraph H, when the person:

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

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

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

2 (4) Failed to submit to a chemical test for the
4 determination of that person's blood-alcohol level or
6 drug concentration at the request of a law enforcement
8 officer on the occasion that resulted in the
10 conviction; or

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

18 **Sec. 3. 29 MRSA §1312-B, sub-§2, ¶C,** as amended by PL 1989, c.
20 784, §7, is further amended to read:

22 C. In the case of a person having one previous conviction
24 of a violation of former section 1312, subsection 10, former
26 section 1312-B or this section, or having at least one
28 previous suspension for failure to comply with the duty to
30 submit to and complete chemical testing to determine the
32 level of blood-alcohol or drug concentration under section
34 1312 within a 6-year period, the fine may not be less than
36 \$500, the sentence shall must include a period of
38 incarceration of not less than 7 days and the court shall
40 suspend the defendant's license or permit to operate, right
42 to operate a motor vehicle and right to apply for and obtain
44 a license for a period of one year, which penalties may not
46 be suspended except as provided in paragraph H.

48 **Sec. 4. 29 MRSA §1312-B, sub-§2, ¶D,** as repealed and replaced
50 by PL 1985, c. 412, §4, is amended to read:

 D. In the case of a person having 2 or more previous
 convictions of violations of former section 1312, subsection
 10, former section 1312-B or this section, within a 6-year
 period, the fine shall may not be less than \$750, the
 sentence shall must include a period of incarceration of not
 less than 30 days and the court shall suspend the
 defendant's license or permit to operate, right to operate a
 motor vehicle and right to apply for and obtain a license
 for a period of 2 years, which penalties may not be
 suspended except as provided in paragraph H.

Sec. 5. 29 MRSA §1312-B, sub-§2, ¶E, as enacted by PL 1985, c.
 412, §4, is amended to read:

 E. The Except as provided in paragraph H, the penalties
 provided under paragraphs A, B, C and D shall may not be
 suspended by the court. The court shall give notice of the
 suspension and take physical custody of the operator's
 license as provided in section 2241-H. The Secretary of
 State may impose an additional period of suspension as
 provided in section 1312-D, subsection 1-A, or may extend

2 any period of suspension until satisfaction of any
3 conditions imposed pursuant to section 1312-D, subsection 3.

4 Sec. 6. 29 MRSA §1312-B, sub-§2, ¶H is enacted to read:

6 H. If the court finds that a person is financially unable
7 to pay the minimum fine required under paragraph A, B, C or
8 D, and that an opportunity for community service
9 commensurate with the amount of the fine imposed exists in
10 the person's community, the court may suspend the fine and
11 impose the community service requirement in lieu of the fine.

14 STATEMENT OF FACT

16 The bill permits courts to impose a community service
17 obligation instead of a mandatory fine for a person convicted of
18 operating a motor vehicle under the influence of drugs or alcohol
19 or with an excessive blood-alcohol level, if the person is unable
20 to pay the fine and a community service opportunity exists.

22 The bill also repeals and replaces the Maine Revised
23 Statutes, Title 29, section 1312-B, subsection 2, paragraph B, to
24 resolve a conflict created by the passage of 2 laws amending that
25 paragraph in the Second Regular Session of the 114th
26 Legislature. One law provided for enhanced penalties for a
27 person convicted of operating under the influence when there is a
28 minor in the motor vehicle; the 2nd law provided for chemical
29 testing to determine whether a person is under the influence of a
30 drug. The conflict is corrected in this bill by repealing the
31 paragraph, and reenacting a new paragraph B that includes
32 existing law, incorporating the changes made by both laws. In
33 addition, the paragraph includes language necessary to the
34 changes being made in this bill, which provides that the fine may
be suspended in some instances.