

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1116

H.P. 784

House of Representatives, March 13, 1991

Submitted by the Department of Public Safety pursuant to Joint Rule 24.  
Reference to the Committee on Legal Affairs suggested and ordered printed.

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

EDWIN H. PERT, Clerk

Presented by Representative BAILEY of Farmington.

Cosponsored by Representative BOUTILIER of Lewiston, Senator COLLINS of Aroostook  
and Senator MILLS of Oxford.

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STATE OF MAINE

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

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An Act to Amend the Laws Concerning Operating Under the Influence.

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

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29 MRSA §1312-J is enacted to read:

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§1312-J. Refusal to submit to chemical tests

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1. Offense. A person who fails to comply with the duty to submit to and complete chemical tests, as required by section 1312, is guilty of a Class D crime.

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2. Penalties. The following minimum penalties apply.

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A. If a person has no previous convictions for a violation of former section 1312, subsection 10, former section 1312-B or this section and has no previous suspension of license or privilege to operate for failure to comply with the duty to submit to and complete chemical testing under section 1312 within a 6-year period, the fine may not be less than \$300, the sentence must include a period of incarceration of not less than 48 hours 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. These penalties may not be suspended.

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B. If a person has one previous conviction for a violation of former section 1312, subsection 10, former section 1312-B or this section, or has at least one previous suspension for failure to comply with the duty to submit to and complete chemical testing under section 1312 within a 6-year period, the fine may not be less than \$500, the sentence must include a period of incarceration of not less than 7 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 one year. These penalties may not be suspended.

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C. If a person has 2 or more previous convictions for violations of former section 1312, subsection 10, former section 1312-B or this section within a 6-year period, the fine may not be less than \$750, the sentence 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. These penalties may not be suspended.

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## STATEMENT OF FACT

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6       This bill makes it a Class D crime for a person to refuse to  
submit to chemical tests to determine blood-alcohol level and  
8       drug concentration when there is probable cause to believe the  
person has operated or attempted to operate a motor vehicle while  
under the influence of intoxicating liquor or drugs.