

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)



115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1236

S.P. 460

In Senate, March 21, 1991

Reference to the Committee on Legal Affairs 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 CONLEY of Cumberland

STATE OF MAINE

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

**An Act Concerning Continuances Requested by Petitioners in Hearings
for Operating under the Influence.**



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

2
3 Sec. 1. 29 MRSA §1311-A, sub-§5, ¶A, as repealed and replaced
4 by PL 1983, c. 850, §1, is amended to read:

6 A. Any suspension imposed shall--be is effective on a
7 specified date not less than 10 days after the mailing of
8 the notification of suspension by the Secretary of State.
9 If a person whose license is suspended desires to have a
10 hearing, he--shall the person must so notify the Secretary of
11 State, in writing, within 10 days from the effective date of
12 the suspension. The suspension shall--be is stayed for 10
13 days from the effective date of the suspension. If, within
14 10 days from the effective date of the suspension, the
15 Secretary of State is notified, in writing, of a request for
16 a hearing, the suspension shall--be is stayed until a hearing
17 is held and a decision is issued. The Secretary of State
18 shall conduct a hearing and issue a decision within 30 days
19 from the date of receipt of a written request for hearing.
20 Failure by the Secretary of State to conduct a hearing and
21 issue a decision within such 30-day period shall--result
22 results in an extension of the stay of the Secretary of
23 State's suspension order until such time as a hearing is
24 conducted and a decision issued. Notwithstanding this
25 subsection, unless the petitioner shows good cause, there
26 shall may be no stay of suspension during the period of any
27 delay in hearing which that is caused or requested by the
28 petitioner.

30 Sec. 2. 29 MRSA §2241-G, sub-§2, ¶G, as enacted by PL 1983, c.
31 850, §4, is amended to read:

32 G. ~~Effeetive~~ The effective date and period of suspension
33 are as follows.

36 (1) Any suspension imposed shall--be is effective on a
37 specified date not less than 10 days after the mailing of
38 the notification of suspension by the Secretary of
39 State. If a person whose license is suspended desires
40 to have a hearing, he--shall the person must so notify
41 the Secretary of State, in writing, within 10 days from
42 the effective date of the suspension. The suspension
43 shall--be is stayed for 10 days from the effective date
44 of the suspension. If, within 10 days from the
45 effective date of the suspension, the Secretary of
46 State is notified, in writing, of a request for a
47 hearing, the suspension shall--be is stayed until a
48 hearing is held and a decision is issued. The Secretary
49 of State shall conduct a hearing and issue a decision
50 within 30 days from the date of receipt of a written
51 request for hearing. Failure by the Secretary of State
52 to conduct a hearing and issue a decision within the
30-day period shall--result results in an extension of

2 the stay of the Secretary of State's suspension order
3 until such time as a hearing is conducted and a
4 decision issued. Notwithstanding this subsection,
5 unless the petitioner shows good cause, there shall ~~may~~
6 be no stay of suspension during the period of any delay
7 of hearing which that is caused or requested by the
8 petitioner.

10 (2) When a person's license is suspended under this
11 section and is also suspended after having that person
12 has been adjudicated or convicted on charges arising
13 out of the same occurrence for a violation of section
14 1312-B ~~or 1312-C~~ or Title 15, section 3103, subsection
15 1, paragraph F, the period of time ~~his~~ the license has
16 been suspended under this section prior to the
17 adjudication or conviction ~~shall-be~~ is deducted from
18 the period of time of any court-imposed suspension
19 ordered pursuant to section 1312-B ~~or 1312-C~~ or Title
20 15, section 3103, subsection 1, paragraph F.

22 **Sec. 3. 29 MRSA §2241-J, sub-§6, ¶A**, as enacted by PL 1987, c.
791, §29, is amended to read:

24 A. Any suspension imposed ~~shall-be~~ is effective on a
25 specified date not less than 10 days after the mailing of
26 the notification of suspension by the Secretary of State.
27 If a person whose license is suspended desires to have a
28 hearing, that person shall notify the Secretary of State, in
29 writing, within 10 days from the effective date of the
30 suspension. The suspension ~~shall-be~~ is stayed for 10 days
31 from the effective date of the suspension. If, within 10
32 days from the effective date of the suspension, the
33 Secretary of State is notified, in writing, of a request for
34 a hearing, the suspension ~~shall-be~~ is stayed until a hearing
35 is held and a decision is issued. The Secretary of State
36 shall conduct a hearing and issue a decision within 30 days
37 from the date of receipt of a written request for hearing.
38 Failure by the Secretary of State to conduct a hearing and
39 issue a decision within the 30-day period ~~shall--result~~
40 results in an extension of the stay of the Secretary of
41 State's suspension order until such time as a hearing is
42 conducted and a decision issued. Notwithstanding this
43 subsection, unless the petitioner shows good cause, there
44 shall may be no stay of suspension during the period of any
45 delay of hearing which that is caused or requested by the
46 petitioner.

48 STATEMENT OF FACT

50 Under current law, there may be no stay of suspension during
52 the period of any delay caused by a petitioner in a hearing

2 on operating a motor vehicle with an excessive blood-alcohol level. This bill permits such a stay of suspension upon the petitioner's showing of good cause.