

MAINE STATE LEGISLATURE

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R. 013

L.D. 1618

(Filing No. S-263)

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STATE OF MAINE
SENATE
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A " to S.P. 614, L.D. 1618, Bill, "An Act to Provide Due Process To Participants in the Driver Education Evaluation Program"

Amend the bill by inserting before the enacting clause the following:

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

Whereas, it is important to immediately ensure that the constitutional guarantee of due process is provided to all persons, including those whose licenses are suspended for operating under the influence; and

Whereas, there is evidence that some persons are deprived of the due process rights to have their licenses restored; and

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

Further amend the bill in section 1 in subsection 3 in the 3rd line (page 1, line 8 in L.D.) by striking out the following: "full"

Further amend the bill by striking out all of sections 2 to 4 and inserting in their place the following:

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COMMITTEE AMENDMENT " A" to S.P. 614, L.D. 1618

2 'Sec. 2. 22 MRSA §7203, sub-§1, as amended by PL 1989, c. 790,
3 §1, is further amended to read:

4
5 1. **First offenders; adult.** The alcohol and other drug
6 education, evaluation and treatment program required for clients
7 without a previous alcohol or drug related motor vehicle offense
8 consists of education, assessment, evaluation and treatment
9 components. The division shall provide to each client upon
10 entering the program a clear written and oral explanation of the
11 client's rights and responsibilities under the program including
12 the availability of a special license after completion of the
13 education and assessment components. All first offender clients
14 are required to complete the education and assessment component
15 unless otherwise provided by this chapter. The following
16 evaluation and treatment components may be required if necessary:

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

22 B. The assessment component, utilizing an assessment
23 instrument, the client's driving record for the 6-year
24 period prior to and ending with the most recent
25 alcohol-related motor vehicle incident and an interview
26 designed to make a preliminary assessment regarding the
27 extent of a client's alcohol or other drug use or abuse or
28 potential for abuse. A client may be referred for further
29 evaluation based on the results of the preliminary
30 assessment;

31 C. The evaluation component, designed to identify abusers
32 of alcohol and other drugs. If the evaluation indicates
33 that treatment for alcohol or other drug abuse is needed,
34 the client will be referred to the appropriate alcohol or
35 other drug treatment service; and

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

39 **Sec. 3. 29 MRSA §1312-D, sub-§§2-A and 2-B are enacted to read:**

40 **2-A. Special licenses for driver education evaluation**
41 **program participants.** Following the expiration of the total
42 period of suspension imposed on a first time offender pursuant to
43 subsections 1 and 1-A, section 1312-B, former section 1312-B,

2 subsection 2 or Title 15, section 3314, the Secretary of State
4 shall issue a special license or permit to the person if the
6 Secretary of State receives written notice that the person has
8 completed the education and assessment components of the alcohol
10 and other drug program as set out in Title 22, chapter 1602. A
12 special license or permit is conditioned on the person's
14 satisfactory completion of all of the components of the program.
16 A special license or permit may not be issued under this section
18 to 2nd and subsequent offenders.

20 2-B. Suspension of special licenses for driver education
22 evaluation program participants. If the person refuses or fails
24 to complete the alcohol and other drug program set out in Title
26 22, chapter 1062, within 6 months after receiving a special
28 license, the Secretary of State, following notice of such refusal
30 or failure may suspend the special license until the person
32 completes the program. The suspension must continue until the
34 Secretary of State receives written notification from the driver
36 education evaluation program that the person has satisfactorily
38 completed all components of that program. The Secretary of State
40 shall provide notice of suspension and opportunity for hearing
42 pursuant to Title 5, chapter 375, subchapter IV. The sole issue
44 at the hearing is whether the person has written notification
46 from the driver education evaluation program establishing that
48 the person has satisfactorily completed all components of that
50 program as set out in Title 22, chapter 1602.

28 **Sec. 4. Application.** This Act applies to persons who violate
30 the Maine Revised Statutes, Title 29, section 1312-B or Title 15,
32 section 3103, subsection 1, paragraph F after the effective date
34 of this Act.

36 **Emergency clause.** In view of the emergency cited in the
38 preamble, this Act takes effect when approved.

36 FISCAL NOTE

38 This bill requires the Secretary of State to issue a special
40 license to first-time offenders after the person has served the
42 full license suspension and completed the education and
44 assessment components of the driver education evaluation
46 program. Costs associated with the additional work load
48 resulting from issuing special licenses for driver education
50 evaluation program participants will be absorbed by the Division
52 of Motor Vehicles utilizing existing budgeted resources.

48 The costs associated with forwarding written notification to
50 the Secretary of State and providing written explanations to
52 clients about their rights and responsibilities will be absorbed
within the budgeted resources of the driver education evaluation
program within the Department of Human Services.'

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STATEMENT OF FACT

This amendment amends the bill to require the Secretary of State to issue a special license to a first-time operating-under-the-influence offender after the person has served the full license suspension and after the person has completed the education and assessment components of the driver education evaluation program. The special license is conditioned on the person completing the entire program within 6 months. If the person does not complete the program within 6 months, the Secretary of State may suspend the special license until the Division of Driver Education Evaluation provides written notification that the person has completed the program. The person may ask for a hearing under the Maine Administrative Procedure Act regarding the suspension of the special license, but the sole issue to be determined is whether the person has received notification that the program has been completed. A person participating in the driver education evaluation program always has the right to appeal any evaluation or treatment decision to the fair hearing process administered by the Department of Human Services.

The amendment requires that the Division of Driver Education Evaluation provide clear written and oral explanations to clients about their rights and responsibilities. The explanation must include the fact that the special license is available to first-time offenders after the effective date of this amendment and after they complete the education and assessment components of the program.

This amendment makes clear that the special license is available only to people who commit their first operating-under-the-influence offense after the effective date of this amendment.

This amendment adds an emergency preamble and an emergency clause to the bill. The amendment includes a fiscal note.

Reported by Senator Holloway for the Committee on Judiciary.
Reproduced and Distributed Pursuant to Senate Rule 12.
(5/30/91) (Filing No. S-263)