

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1618

S.P. 614

In Senate, April 24, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CONLEY of Cumberland

Cosponsored by Representative STEVENS of Bangor and Representative TRACY of Rome.

STATE OF MAINE

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

**An Act to Provide Due Process To Participants in the Driver Education
Evaluation Program.**

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

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4 **Sec. 1. 22 MRSA §7201, sub-§3**, as enacted by PL 1987, c. 536, §2, is amended to read:

6 **3. Completion of treatment.** "Completion of treatment," for
8 the purpose of recommendation by the department to the Secretary
10 of State concerning full restoration of the driver's license to
12 the client, means that the individual has responded to treatment
to the extent that there is a substantial probability that the
individual will not be operating under the influence. This
substantial probability may be shown by:

14 A. An acknowledgement by the client of the extent of the
client's alcohol or drug problem;

16 B. A demonstrated ability to abstain from the use of
18 alcohol and drugs; and

20 C. A willingness to seek continued voluntary treatment or
22 to participate in an appropriate self-help program, or both,
as necessary; and

24 D. Payment of all costs and fees incurred.

26 **Sec. 2. 22 MRSA §7206, sub-§3** is enacted to read:

28 **3. Payment of fees for appeal proceedings.** Any participant
30 in the Driver Education Evaluation Program who requests an appeal
32 of a counselor's petition for revocation with the Secretary of
34 State shall pay the counselor's time and travel expenses
associated with testifying at the hearing. The department may
waive all or part of the fee for clients who provide sufficient
evidence of inability to pay.

36 **Sec. 3. 29 MRSA §1312-D, sub-§2**, as amended by PL 1987, c.
38 773, §11, is further amended to read:

40 **2. Education and treatment programs.** Following the
42 expiration of 2/3 of the total period of suspension imposed on a
44 first time offender pursuant to subsections 1 and 1-A, section
46 1312-B, former section 1312-B, subsection 2, or Title 15, section
48 3314, the Secretary of State may issue or, following the
50 expiration of the total period of suspension, the Secretary of
52 State shall issue a conditional license or permit to the person
if he the Secretary of State receives written notice that the
person has satisfactorily-completed entered the alcohol and other
drug education, evaluation and treatment program administered by
the Department of Human Services, as defined in Title 22, chapter
1602. A license or permit may not be issued under this
subsection to 2nd and subsequent offenders.

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Sec. 4. 29 MRSA §1312-D, sub-§2-A is enacted to read:

2-A. Conditional licenses for Driver Education Evaluation Program participants. Any license or permit restored to the driver by the Secretary of State pursuant to subsection 2 is conditioned upon the driver's successful completion of the Driver Education Evaluation Program. If the driver refuses or fails to continue treatment after receiving the conditional license, or if the Driver Education Evaluation Program counselor believes that restoration of the driver's license would be adverse to the health and safety of the public, the Driver Education Evaluation Program counselor may petition the Secretary of State to revoke the license. The Secretary of State may then revoke the license with notice and opportunity for a hearing for the driver pursuant to section 1311-A and Title 5, sections 9051 to 9064. Upon certification of successful completion as defined in Title 22, section 7201, subsection 3 the Secretary of the State may fully restore the driver's license.

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STATEMENT OF FACT

This bill restores the licenses of Driver Education Evaluation Program, or DEEP, participants, conditioned on their continued participation and completion of DEEP, after the mandatory suspension period has lapsed. In this way, the determination for suspending and restoring licenses is retained by the Secretary of State's office, while the Department of Human Services maintains control of the DEEP portion of the participant's sentence. This bill also provides that DEEP participants who request a hearing must pay for the counselor's time and travel costs associated with testifying at the hearing. In the case of indigent clients, the State may save money by reducing the number of unneeded extensions of treatment that currently the counselors have full discretion to recommend.