

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1965

S.P. 771

In Senate, June 29, 1991

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Judiciary 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 GAUVREAU of Androscoggin
Cosponsored by Representative PARADIS of Augusta, Senator HOLLOWAY of Lincoln and
Representative OTT of York.

STATE OF MAINE

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

**An Act to Authorize the Establishment of a Violations Bureau in the
District Court.**

(AFTER DEADLINE)

(EMERGENCY)



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

Whereas, the District Court, pursuant to the Maine Revised Statutes, Title 4, section 164, subsection 12, paragraph C, is permitted to accept payment of waiver fines by persons in traffic infraction offenses without the filing of a signed waiver form; and

Whereas, many waiver fines are being tendered to the District Court in criminal traffic offenses by persons who do not file the required signed waiver forms; and

Whereas, the fines tendered in criminal traffic offenses without the signed waiver forms must be returned; and

Whereas, the District Court should be permitted to accept payment of waiver fines in criminal traffic offenses without the necessity of the filing of signed waiver forms; 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,

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

Sec. 1. 4 MRSA §159, as amended by PL 1983, c. 131, §1, is further amended to read:

§159. Clerks, clerical assistants; appointment; compensation

For each division, for the violations bureau and for the office of the Chief Judge, the Chief Judge shall appoint such clerks and deputy clerks as may be necessary. If the business of any division or the violations bureau does not require the full-time service of a clerk, the Chief Judge may appoint a part-time clerk for such division or violations bureau. Whenever the clerk is unable to perform the duties of his that office or so directs, his the deputy shall ~~have~~ has all the power and ~~perform~~ performs all the duties of clerk. Whenever a clerk is absent or temporarily unable to perform his the duties as clerk and there is no deputy clerk authorized or available to exercise the powers and perform the duties of clerk and an existing or immediate session of the court renders it necessary, the Chief Judge may designate a clerk pro tempore who shall ~~have~~ has the same powers and duties of the clerk.

2 **Sec. 2. 4 MRSA §163, sub-§1**, as amended by PL 1991, c. 132,
§2, is further amended to read:

4 **1. District Court funds.** Except as otherwise provided by
6 law, all fines, forfeitures, surcharges and fees collected in any
8 division of the District Court or by the violations bureau must
10 be paid to the clerk of that District Court, who shall deposit
12 them in a special account in a timely manner. Once each month,
14 the clerk shall remit the sums to the Treasurer of State, who
16 shall credit them to the General Fund. At the same time, the
18 clerk shall remit the sums that have been collected in accordance
with section 1057. Funds received by the clerk as bail in
criminal cases must be deposited daily in a special account. The
clerk shall deposit the funds in an interest-bearing account
unless the clerk determines that it is not cost effective to do
so. Interest accrued in the account is the property of and
accrues to the State. The forfeiture and setoff of bail is
governed as otherwise provided by law.

20 The court shall file a monthly report with the State Auditor
itemizing the amount of fines imposed and to whom each is payable.

22 **Sec. 3. 4 MRSA §164, sub-§12**, as amended by PL 1991, c. 91, is
24 repealed and the following enacted in its place:

26 **12. Violations bureau.** Notwithstanding any other statute
28 or law, establish the violations bureau.

30 A. The violations bureau has jurisdiction over all traffic
32 infractions committed in this State. Unless otherwise
ordered by a court, trial of a traffic infraction must be in
the division in which the alleged infraction was committed.

34 B. The Chief Judge by order, which may from time to time be
36 amended, shall designate the amount of fines imposed for
traffic infractions.

38 C. The Maine Rules of Civil Procedure applies in all
40 traffic infraction proceedings.

42 D. The clerk of each division has the authority to accept
pleadings and fines on behalf of the violations bureau;

44 **Sec. 4. 4 MRSA §§164-A and 164-B** are enacted to read:

46 **§164-A. Acceptance of fine and guilty plea**

48 The clerk of each division may accept a guilty plea to a
50 criminal traffic offense upon payment of a fine and surcharge in
accordance with a schedule of offenses and fines established by

2 the Chief Judge. A person tendering payment of a fine without
4 filing a signed waiver is deemed to have read and waived that
6 person's rights, to understand that tendering payment is deemed a
8 waiver and has the same effect as a judgment of the court and to
10 understand that the record of the judgment will be sent to the
12 Secretary of State.

14 §164-B. Appointment of clerk

16 On or after October 1, 1991 the Chief Judge may appoint a
18 clerk of the violations bureau to facilitate the establishment of
20 the violations bureau. This section is repealed on January 2,
22 1992.

24 Sec. 5. 4 MRSA §173, sub-§2-A is enacted to read:

26 2-A. Costs in traffic infraction or civil violation cases.
28 The Chief Judge shall establish costs to be paid by a defendant
30 to reopen a traffic infraction or civil violation case after the
32 case has been disposed of by default resulting from the
34 defendant's failure to file a timely written answer or the
36 defendant's failure to appear for trial.

38 Sec. 6. 14 MRSA §3143, as amended by PL 1989, c. 875, Pt. E,
40 §§19 and 20, is repealed.

42 Sec. 7. 17-A MRSA §17, sub-§1, as amended by PL 1991, c. 459,
44 §5, is further amended to read:

46 1. A law enforcement officer who has probable cause to
48 believe that a civil violation has been committed by a person
50 must issue or have delivered a written summons to that person
directing the person to appear in the District Court to answer
the allegation that the person has committed the violation. The
summons must include the signature of the officer, a brief
description of the alleged violation, the time and place of the
alleged violation and the time, place and date the person is to
appear in court. The form used must be the Violation Summons and
Complaint, as prescribed in Title 29, section 2300, for traffic
infractions and the Uniform Summons and Complaint for other civil
violations, except that, if the agency by whom the officer is
employed has on May 1, 1991 current stocks of forms that the
agency is authorized to use, the agency may permit officers to
use those forms in place of the Uniform Summons and Complaint
until those stocks are depleted. A person to whom a summons is
issued or delivered must give a written promise to appear. If
the person refuses to sign the summons after having been ordered
to do so by a law enforcement officer, the person commits a Class
E crime. The law enforcement officer may not order a person to
sign the summons for a civil violation unless the civil violation

2 is an offense defined in Title 12; Title 23, section 1980; Title
3 28-A, section 2052; or Title 29. As soon as practicable after
4 service of the summons, the officer shall cause a copy of the
5 summons to be filed with the court.

6 **Sec. 8. 28-A MRSA §2052, sub-§3**, as amended by PL 1991, c.
7 337, §1, is further amended to read:

8
9 **3. Violation.** Any minor who violates this section commits
10 a ~~traffic infraction~~ civil violation for which a forfeiture may
11 be adjudged of not more than \$500. A forfeiture must be adjudged
12 of not less than \$200 for a 2nd offense and not less than \$400
13 for a 3rd or subsequent offense, none of which may be suspended.

14 **Sec. 9. 29 MRSA §1, sub-§1**, as repealed and replaced by PL
15 1975, c. 731, §19, is amended to read:

16
17 **1. Adjudication.** "~~Adjudication~~" shall ~~mean~~ means a finding
18 by a judge of the District Court that a person has committed a
19 traffic infraction, and shall ~~include~~ includes the entry ~~of a~~
20 plea, acceptance by the clerk of the violations bureau or any
21 judicial division of an answer of no contest by a person charged
22 with the commission of a traffic infraction, ~~admitting~~ the
23 ~~infraction~~ charged.

24
25 **Sec. 10. 29 MRSA §1, sub-§17-C**, as amended by PL 1975, c. 731,
26 §20, is further amended to read:

27
28 **17-C. Traffic infraction.** "Traffic infraction" shall ~~mean~~
29 means any violation of any provision of this Title, or of any
30 rules ~~or regulations~~ established ~~thereunder~~ under this Title, not
31 expressly defined as a felony ~~or~~ misdemeanor or crime, and
32 otherwise not punishable by incarceration or, unless specifically
33 authorized, by a fine of more than \$500. A traffic infraction is
34 not a crime, but is a civil violation and the penalty therefor
35 shall ~~may~~ not be deemed for any purpose a penal or criminal
36 punishment. There shall ~~be~~ is no right to trial by jury for a
37 traffic infraction. The exclusive penalty for a traffic
38 infraction violation of any public or private law of this State,
39 or of any rule adopted pursuant to any law of this State, is a
40 fine and suspension of license, permit, the right to operate a
41 motor vehicle in this State and the right to apply for or obtain
42 a license or permit, or both. The exclusive penalty for a
43 traffic infraction violation of any ordinance enacted by any
44 political subdivision of this State is a fine.

45
46 The term "traffic infraction" as used in any public or private
47 law of this State, or in any rule ~~or regulation~~ adopted pursuant
48 to any law of this State, shall ~~have~~ or in any ordinance enacted

2 by any political subdivision of this State, has this same meaning
and effect.

4 **Sec. 11. 29 MRSA §58-A, sub-§2, ¶A,** as enacted by PL 1983, c.
773, §1, is amended to read:

6
8 A. A clerk or deputy clerk of any judicial division of the
District Court or the violations bureau may certify a
10 transcript of motor vehicle data from all ~~District-Courts-~~
divisions and the violations bureau;

12 **Sec. 12. 29 MRSA §2241-E,** as amended by PL 1987, c. 415, §28,
is further amended to read:

14 **§2241-E. Suspension**

16
18 Except for a ~~court-ordered~~ suspension under section ~~2301-~~or~~~~
2301-A or 2301-B, any suspension authorized under this Title
shall ~~be~~ is effective on a specified date not less than 10 days
20 after the mailing of the notification of suspension and the
period of suspension shall ~~be~~ is computed from that date. Any
22 ~~court-ordered~~ suspension under section ~~2301-~~or~~~~ 2301-A shall ~~be~~ or
2301-B is effective ~~when entered by the court on the date of the~~
24 suspension order or on such later date as may be set forth in the
suspension order. Upon motion and good cause shown, the court
26 ordering in which the suspension was ordered under section ~~2301~~
~~or 2301-A or 2301-B~~ may waive all or any part of the
28 reinstatement fee.

30 **Sec. 13. 29 MRSA §2300,** as amended by PL 1991, c. 459, §6, is
further amended to read:

32 **§2300. Uniform Summons and Complaint; Violation Complaint and**
34 **Summons**

36 1. **Form of Uniform Summons and Complaint.** ~~Except--as~~
provided ~~in subsection 1-A, every~~ Every law enforcement agency in
38 this State shall use traffic summonses for criminal traffic
offenses defined in Title 23, section 1980 or this Title in the
40 form known as the Uniform Summons and Complaint, which must be
uniform throughout the State and must be issued in books with
42 summonses in no less than quadruplicate and meeting the
requirements of this chapter. The Uniform Summons and Complaint
44 must include, at a minimum, the signature of the officer, a brief
description of the alleged offense, the time and place of the
46 alleged offense and the time, place and date the person is to
appear in court. The Uniform Summons and Complaint must also
48 include a statement that signing the summons does not constitute
an admission or plea of guilty and that refusal to sign after
50 having been ordered to do so by a law enforcement officer is a

2 separate Class E crime. A person to whom a Uniform Summons and
4 Complaint is issued or delivered must give a written promise to
6 appear. The form of the Uniform Summons and Complaint must be
8 approved by the Chief Judge of the District Court prior to its
10 use.

12 ~~1-A.--Exception for certain forms.--Law enforcement agencies
14 may use current stocks of Uniform Traffic Ticket and Complaint
16 forms until these stocks are depleted.~~

18 1-B. Form of Violation Summons and Complaint. Every law
20 enforcement agency in this State shall use traffic summonses for
22 traffic infractions in the form known as the Violation Summons
24 and Complaint, which must be uniform throughout the State and
26 must be issued in books with summonses in no less than
quadruplicate and meeting the requirements of this chapter. The
form must include, at a minimum, the signature of the officer, a
brief description of the alleged offense, the time and place of
the alleged offense and the date on or before which the person is
to file a written answer with the violations bureau. The
Violation Summons and Complaint must also include a statement
that signing the summons does not constitute an admission or plea
of guilty and that refusal to sign after having been ordered to
do so by a law enforcement officer is a separate Class E crime.
The form of the Violation Summons and Complaint must be approved
by the Chief Judge of the District Court prior to its use.

28 **2. Responsibility for issuance and disposition.**

30 A. The District Court is responsible for printing all
32 ~~Uniform--Traffic--Tickets--and--Complaints--issued--to--law~~
enforcement--agencies--~~or--others~~ copies of the Violation
34 Summons and Complaint forms. The Department of Public
Safety is responsible for printing all copies of the Uniform
36 Summons and Complaints--issued Complaint forms issuing both
types to law enforcement agencies ~~for~~ or others.

38 B. The chief executive officer of every such law
40 enforcement agency or that chief executive officer's
designate designee is responsible for the further issuance
42 of ~~books~~ summons and complaint forms to individual law
enforcement officers and for the proper disposition of those
44 ~~books~~ forms.

46 **3. Illegal disposition.** It is unlawful and official
48 misconduct for any law enforcement officer or other officer or
public employee to dispose of a ~~Uniform--Traffic--Ticket~~ Violation
50 Summons and Complaint or a Uniform Summons and Complaint or any
portion of either or of the record of the issuance of a ~~Uniform~~
~~Traffic--Ticket~~ Violation Summons and Complaint or a Uniform

2 Summons and Complaint in a manner other than as required under
3 rules adopted pursuant to this section. Any person who solicits
4 or aids in the disposition, or attempted disposition, of a
5 ~~Uniform--Traffic--Ticket~~ Violation Summons and Complaint or a
6 Uniform Summons and Complaint or any portion of either in any
unauthorized manner commits a Class E crime.

8 **3-A. Uniform Summons and Complaint as summons.** A Uniform
9 Summons and Complaint ~~er-a-Uniform-Traffic-Ticket-and-Complaint,~~
10 ~~as-authorized-under-subsection-1-A,~~ when issued or delivered to a
11 person by a law enforcement officer or served on the person in
12 the manner prescribed by rule of the Supreme Judicial Court, acts
13 as a summons to appear in court on the date and time specified in
14 the summons ~~er-ticket~~ or to otherwise respond in accordance with
15 law on or before the date and time specified in the summons ~~er~~
16 ~~ticket~~. Any person who fails to appear in court as directed by
17 the summons ~~er-ticket~~ or to otherwise respond in accordance with
18 law on or before the date and time specified in the summons ~~er~~
19 ~~ticket~~ commits a Class E crime. Upon the person's failure to
20 appear or respond, the court may issue a warrant of arrest. It
21 is an affirmative defense to prosecution under this subsection
22 that the failure to appear or respond resulted from just cause.

24 **3-B. Violation Summons and Complaint as summons.** The
25 Violation Summons and Complaint, when issued or delivered to a
26 person by a law enforcement officer or served on the person in
27 the manner prescribed by rule of the Supreme Judicial Court, acts
28 as an order to file written answer to the complaint on or before
29 the date specified in the summons.

30 **4. When a lawful complaint.** If the ~~traffie--summons--or~~
31 ~~ticket-provided-under-this-section~~ Uniform Summons and Complaint
32 is duly sworn to as required by law and otherwise legally
33 sufficient in respect to the form of a complaint and to charging
34 commission of the offense alleged in the summons ~~er-ticket~~ to
35 have been committed, then the summons ~~er-ticket~~ when filed with a
36 court having jurisdiction constitutes a lawful complaint for the
37 purpose of the commencement of any ~~traffie-infraction-proceeding~~
38 ~~er-the~~ prosecution of a misdemeanor, or Class D or Class E crime
39 under Title 23, section 1980 or this Title. When filed with the
40 violations bureau, the Violation Summons and Complaint is
41 considered a lawful complaint for the purpose of the commencement
42 of a traffic infraction proceeding.

44 **4-A. Responsibility of law enforcement officer to file**
45 **summonses and complaints with District Court.** Every law
46 enforcement officer issuing a Violation Summons and Complaint
47 charging the commission of a traffic infraction shall file the
48 original of the summons and complaint with the violations bureau
49 within 5 days of the issuance of the Violation Summons and
50 Complaint.

2 Complaint. Every law enforcement officer issuing a Uniform
3 ~~Traffic-Ticket-and-Complaint-or-Uniform~~ Summons and Complaint
4 that charges the commission of an offense shall file the original
5 of the Uniform ~~Traffic-Ticket-and-Complaint-or-Uniform~~ Summons
6 and Complaint with the District Court having jurisdiction over
7 the offense or in such other location as instructed by the Chief
8 Judge of the District Court without undue delay and, in any
9 event, within 5 days after the issuance of the Uniform ~~Traffic~~
10 ~~Ticket-and-Complaint-or-Uniform~~ Summons and Complaint.

11
12 5. **Refusal to sign.** Any person who refuses to sign a
13 Uniform Summons and Complaint or a ~~Uniform--Traffic--Ticket~~
14 Violation Summons and Complaint, ~~as provided under subsection~~
15 ~~1-A,~~ after having been ordered to do so by a law enforcement
16 officer commits a Class E crime. A law enforcement officer may
17 not order a person to sign the summons Uniform Summons and
18 Complaint for a civil violation unless the civil violation is an
19 offense defined in Title 12; Title 28-A, section 2052; or this
20 Title 29.

21
22 **Sec. 14. 29 MRSA §2301-A,** as amended by PL 1991, c. 459, §7,
23 is further amended to read:

24 **§2301-A. Suspension on nonappearance or nonpayment of fine**

25
26 If a person fails to appear in court on the day date and
27 time specified in response to a Uniform Summons and Complaint, a
28 ~~Uniform-Traffic-Ticket-and-Complaint-as-provided-under-section~~
29 ~~2300, subsection 1-A,~~ a summons, a condition of bail or order of
30 court for any criminal violation of Title 23, section 1980; a
31 civil violation under Title 28-A, section 2052; or any criminal
32 provision of this Title, or for any further appearance ordered by
33 the court, including one for the payment of a fine, either in
34 person or by counsel, or fails to pay a fine imposed for a
35 criminal traffic offense, the court clerk shall suspend the
36 person's license or permit, the right to operate a motor vehicles
37 vehicle in this State and the right to apply for or obtain a
38 license or permit.

39
40 If a person who is not an individual fails to appear or pay
41 a fine in a criminal traffic offense, the court ~~may~~ clerk shall
42 suspend the registration of the motor vehicle involved in the
43 offense or that person's right to operate that vehicle in the
44 State.

45
46 On receipt of a copy of a ~~court~~ an order suspending ~~a~~
47 ~~person's license or right to operate in this State of any such~~
48 suspension in a criminal traffic offense, the Secretary of State
49 shall immediately notify that person of the suspension by regular
50 mail or personal service. ~~A court-ordered~~ The suspension shall

2 have has the same force and effect as a suspension by the
3 Secretary of State. A The suspension ~~shall-remain~~ remains in
4 effect until the person appears, either in person or by counsel,
5 or pays the fine. On appearances or payment of the fine,
6 whichever was the basis for the suspension, and on the condition
7 of payment of a \$25 reinstatement fee to the Secretary of State,
8 the clerk of the court in which the suspension was ordered shall
9 rescind the suspension and ~~order~~ notify the Secretary of State ~~to~~
10 who, upon receipt of the \$25 reinstatement fee, shall delete any
11 record of the suspension from that person's driving record.

12 **Sec. 15. 29 MRSA §2301-B** is enacted to read:

14 **§2301-B. Suspension for failure to appear, answer or pay a fine**
15 **in a traffic infraction offense**

16 If a person fails to answer in any traffic infraction
17 proceeding under Title 23, section 1980 or any traffic infraction
18 provision of this Title by the date specified in the Violation
19 Summons and Complaint, fails to appear for trial or pay a fine
20 assessed in any traffic infraction proceeding, the clerk shall
21 suspend the person's license or permit, right to operate a motor
22 vehicle in this State and the right to apply for or obtain a
23 license or permit.

24 If a person who is not an individual fails to appear, answer
25 or pay a fine in a traffic infraction proceeding, the clerk shall
26 suspend the registration of the motor vehicle involved in the
27 offense or that person's right to operate that vehicle in the
28 State.

29 The clerk shall immediately notify that person of the
30 suspension by regular mail or personal service. The suspension
31 has the same force and effect as a suspension by the Secretary of
32 State. The suspension remains in effect until the person answers
33 or appears, either in person or by counsel, or pays the fine. On
34 answer, appearance or payment of the fine, whichever was the
35 basis for the suspension, and on condition of payment of a \$25
36 reinstatement fee to the Secretary of State, the clerk of the
37 court in which the suspension was ordered shall rescind the
38 suspension and notify the Secretary of State who, upon receipt of
39 the \$25 reinstatement fee, shall delete any record of the
40 suspension from that person's driving record.

41 **Sec. 16. 30-A MRSA §3009, sub-§1, ¶¶A to C,** as amended by PL
42 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

43 A. The municipal officers may regulate pedestrian traffic
44 in the public ways, including, but not limited to, setting
45 off portions of a municipality's public ways for sidewalks

2 and regulating their use; providing for the removal of snow
and ice from the sidewalks by the owner, occupant or agent
4 having charge of the abutting property; and establishing
crosswalks or safety zones for pedestrians.

6 (1) The violation of any ordinance authorized by this
paragraph is a ~~traffie-infraetien~~ civil violation.

8 (2) The municipal officers may establish a method by
10 which persons charged with the violation of ordinances
governing pedestrian traffic on the public ways may
12 waive all court action by payment of specified fees
within stated periods of time.

14 B. The municipal officers may regulate the operation of all
16 vehicles in the public ways and on publicly owned property.

18 (1) The violation of any ordinance authorized by this
paragraph is a ~~traffie-infraetien~~ civil violation.

20 C. The municipal officers may regulate the parking of motor
22 vehicles on any public way or public parking area,
including, but not limited to, providing for the
24 installation of parking meters, providing the fact that any
vehicle is illegally parked or is in a metered space when
26 the time signal on the parking meter for that space
indicates no parking permitted without the deposit of a coin
28 or coins is prima facie evidence that the vehicle has been
parked illegally by the person in whose name the vehicle is
30 registered, and establishing reasonable charges for metered
parking.

32 (1) Illegal parking of a vehicle in violation of any
34 ordinance authorized by this paragraph is a ~~traffie~~
~~infraetien~~ civil violation.

36 (2) The municipal officers may establish a method by
38 which persons charged with the violation of parking
regulations may waive all court action by payment of
40 specified fees within stated periods of time.

42 (3) The revenue collected from parking meters shall
must be used:

44 (a) To purchase, maintain and police the meters;

46 (b) To construct and maintain public ways;

48 (c) To acquire, construct, maintain and operate
50 public parking areas; and

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(d) For no other purpose.

(4) Any motor vehicle or motorcycle registered by a handicapped person is exempt from any parking meter fare when that vehicle properly displays special designating plates or a placard issued under Title 29, sections 252, 252-A and 252-C, and may park a length of time which that does not exceed twice the time limit otherwise applicable.

Sec. 17. Effective date. This Act takes effect January 1, 1992, except that the section of this Act that enacts the Maine Revised Statutes, Title 4, sections 164-A and 164-B takes effect when this Act is approved.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved, unless otherwise indicated.

STATEMENT OF FACT

This bill establishes a violations bureau within the District Court for the purpose of handling in a central location all waivers in traffic infraction cases.