

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

SECOND REGULAR SESSION-1992

Legislative Document

No. 2386

S.P. 931

In Senate, February 27, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Human Resources 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

Cosponsored by Senator GILL of Cumberland, Senator BERUBE of Androscoggin and
Representative TARDY of Palmyra.

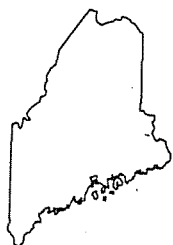
STATE OF MAINE

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

An Act to Rescind Changes in the Driver Education Evaluation Program.

(AFTER DEADLINE)

(EMERGENCY)



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

4 Whereas, Public Law 1991, chapter 622 made drastic changes
6 to certain provisions of the law relating to programs for
alcohol-related or drug-related motor vehicle offenders
8 administered through the Office of Substance Abuse; and

10 Whereas, there is an immediate need to rescind those
changes made by Public Law 1991, chapter 622 and to return the
12 programs formerly offered through the Driver Education and
Evaluation Programs; and

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

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

22 **Sec. 1. 5 MRSA §12004-G, sub-§15-A,** as amended by PL 1991, c.
24 622, Pt. Y, §1, is further amended to read:

26	15-A.	Safety-Train-	\$75/Day	5 MRSA
	Substance	Operating-under-		§20078
28	Abuse	the-influence		
		Programs-Appeals		
30		Board		
		<u>Driver Education</u>		
32		<u>and Evaluation</u>		
		<u>Programs Appeals</u>		
34		<u>Board</u>		

36 **Sec. 2. 5 MRSA §20071, sub-§§4-A and 4-B,** as enacted by PL
1991, c. 622, Pt. Y, §2, are repealed.

38 **Sec. 3. 5 MRSA §20072,** as amended by PL 1991, c. 622, Pt. Y,
40 §3, is further amended to read:

42 **§20072. Driver Education and Evaluation Programs**

44 The ~~safety-training-operating-under-the-influence-programs~~
Driver Education and Evaluation Programs are established in the
46 Office of Substance Abuse and shall administer the alcohol and
other drug ~~safety---training---operating-under-the-influencee~~
48 education, evaluation and treatment programs as provided in this
chapter. The office shall certify to the Secretary of State:

2 1. **Completion of Driver Education and Evaluation Programs.**
3 Those individuals who have satisfactorily completed a program
4 prescribed by section 20073-A 20073; and

6 2. **Completion of Nondriver Education and Evaluation**
7 **Programs.** Those individuals who have satisfied the requirement
8 for completion of treatment as defined in section 20071 by means
9 other than a program prescribed by section 20073-A 20073. ~~The~~
10 ~~Office of Substance Abuse may charge an administrative fee, not~~
11 ~~to exceed \$50, to clients under this paragraph. This fee must be~~
12 ~~transferred to the General Fund.~~

14 **Sec. 4. 5 MRSA §20073**, as repealed by PL 1991, c. 622, Pt. Y,
15 §4, is reenacted to read:

16 **§20073. Program components**

18 1. **First offenders; adult.** The alcohol and other drug
19 education, evaluation and treatment program required for clients
20 without a previous alcohol-related or drug-related motor vehicle
21 offense consists of education, assessment, evaluation and
22 treatment components. All first offender clients are required to
23 complete the education and assessment components unless otherwise
24 provided by this subchapter. The evaluation and treatment
25 components may be required if necessary. The components are as
26 follows:

28 A. The education component, consisting of at least 9 hours
29 of information using films, lectures and discussion and
30 designed to educate the client about the effects of alcohol
31 and other drugs on behavior, especially behavior involving
32 the operation of a motor vehicle;

34 B. The assessment component, using an assessment
35 instrument, the client's driving record for the 6-year
36 period prior to the most recent alcohol-related or
37 drug-related motor vehicle incident and an interview
38 designed to make a preliminary assessment regarding the
39 extent of a client's alcohol or other drug use or abuse or
40 potential for abuse. A client may be referred for further
41 evaluation based on the results of the preliminary
42 assessment;

44 C. The evaluation component, designed to identify abusers
45 of alcohol and other drugs. If the evaluation indicates
46 that treatment for alcohol or other drug abuse is needed,
47 the client must be referred to the appropriate alcohol or
48 other drug treatment service; and

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

6 2. Multiple offender program offered to first offenders.
8 If the office determines that a first offender must have an
10 evaluation as described in subsection 1, paragraph C, the first
 offender may choose a private evaluation or participation in the
 multiple offender residential intervention program described in
 subsection 4, paragraph A.

12 3. First offenders under 21 years of age. First offenders
14 under 21 years of age shall attend the driver education and
16 evaluation programs for teenagers as established by this
 subsection. The driver education and evaluation programs for
 teenagers consists of the following elements.

18 A. The education component is a program of at least 10
20 hours during which clients receive education, especially
22 designed for the age group, on substance use, abuse and
24 addiction. Education is provided through a group discussion
 process, which includes segments on values clarification,
 peer pressure and decision making.

26 B. The assessment component is designed to make a
28 preliminary assessment regarding the extent of a client's
 alcohol or other drug use or abuse or potential for abuse.
30 A client may be referred for further evaluation based on the
 results of the client's preliminary assessment.

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

38 D. The treatment component is designed to address the
40 client's specific problem with or abuse of alcohol or other
 drugs.

42 4. Multiple offenders; adult. The education, evaluation
44 and treatment program required for adult multiple offenders
 consists of the following components:

46 A. A rigorous, highly structured, residential intervention
48 program, consisting of at least 22 hours, using films,
 lectures, group discussion and individual sessions, designed
 to educate the client on the effects of substance use, abuse

2 and addiction and an evaluation using assessment
3 instruments, data collection and self-assessment, designed
4 to create an acceptance and commitment by the client for
5 treatment; and

6 B. A treatment program provided by a community-based
7 service provider, designed to address the client's specific
8 alcohol or other drug problem and abuse, using a treatment
9 plan based on the completion of treatment guidelines adopted
10 by the office, if additional treatment is necessary.

11 The office may require completion of the first offender program
12 to satisfy the requirements of the multiple offender program if
13 an approved multiple offender program is unavailable for the
14 client. In such cases, the fee schedule of the first offender
15 program applies.

16 5. Multiple offenders under 21 years of age. Multiple
17 offenders under 21 years of age shall attend the alcohol and
18 other drug education, evaluation and treatment program for adult
19 offenders under subsection 4.

20 Sec. 5. 5 MRSA §20073-A, as enacted by PL 1991, c. 622, Pt.
21 Y, §5, is repealed.

22 Sec. 6. 5 MRSA §20074, as amended by PL 1991, c. 622, Pt. Y,
23 §6, is further amended to read:

24 **§20074. Separation of evaluation and treatment functions**

25 A ~~safety--training--operating under the influence--programs~~
26 Driver Education and Evaluation Programs private practitioner or
27 a counselor employed by a substance abuse facility approved or
28 licensed by the office providing services under this subchapter
29 may not provide both treatment services and evaluation services
30 for the same individual participating in programs under this
31 subchapter. The practitioner or counselor providing evaluation
32 services shall give a client the name of 3 practitioners or
33 counselors who can provide treatment services, at least one of
34 whom may not be employed by the same agency as the practitioner
35 or counselor conducting the evaluation.

36 Sec. 7. 5 MRSA §20076, as repealed by PL 1991, c. 622, Pt. Y,
37 §7, is reenacted to read:

38 **§20076. Fees**

39 1. First offender program. The office may charge a
40 registration fee, not to exceed \$105, to clients for the
41 education and assessment components of the program. This fee
42

2 must be transferred to the General Fund. The client is
3 responsible for the costs of the evaluation and treatment
4 components. The office may waive all or part of the fee for
5 clients who provide sufficient evidence of inability to pay.

6 2. Multiple offender program. This subsection applies to
7 multiple offenders and first offenders who choose to participate
8 in the multiple offender residential intervention program in
9 accordance with this subchapter. The fees and costs for the
10 multiple offender program are as follows.

12 A. The office may charge a registration fee, not to exceed
13 \$350, to clients for the expenses of the intervention
14 program, including the initial evaluation. This fee must be
15 transferred to the General Fund.

16 B. The client is responsible for any costs associated with
17 2nd and subsequent evaluations or treatments that are not a
18 part of the cost in paragraph A.

19 C. The office may waive all or part of the fee for clients
20 who provide sufficient evidence of inability to pay.

21 Sec. 8. 5 MRSA §20076-A, as enacted by PL 1991, c. 622, Pt.
22 Y, §8, is repealed.

23 Sec. 9. 5 MRSA §20078, first ¶, as amended by PL 1991, c. 622,
24 Pt. Y, §9, is further amended to read:

25 The ~~safety-training-operating-under-the-influence--programs~~
26 Driver Education and Evaluation Programs Appeals Board,
27 established by Title 5, section 12004-G, subsection 15-A, is
28 referred to as the "board" in this subchapter and is governed by
29 this section.

30 Sec. 10. 5 MRSA §20078, sub-§§1, 6 and 7, as amended by PL 1991,
31 c. 622, Pt. Y, §10, are further amended to read:

32 1. Qualifications. Each member of the board must have
33 training, education, experience and demonstrated ability in
34 successfully treating clients with substance abuse problems.
35 Board members may not hold a current certificate to provide
36 ~~safety-training-operating-under-the-influence~~ driver education,
37 evaluation and treatment services during their terms of
38 appointment.

39 6. Appeal from decision. A client of ~~safety--training~~
40 ~~operating-under-the-influence---~~programs Driver Education and
41 Evaluation Programs may appeal to the board as follows.

2 A. The client may appeal a failure to certify completion of
4 treatment pursuant to section 20072, subsection 2.

6 B. The client may appeal an evaluation decision referring
8 the client to treatment or a completion-of-treatment
10 decision pursuant to section 20073-A 20073. A client may
appeal under this paragraph only after the client has sought
a 2nd opinion of the need for treatment or of satisfactory
completion of treatment.

12 **7. Appeal procedure and action.** An appeal is heard and
14 decided by one board member. The board may affirm or reverse the
16 decision of the treatment provider or agency, require further
evaluation, make a finding of completion of treatment or make an
18 alternate recommendation. The board, after due consideration,
shall make a written decision and transmit that decision to the
~~safety--training--operating under the influence--programs~~ Driver
Education and Evaluation Programs and the client who appealed the
20 case. The decision of the board is final agency action for
purposes of judicial review pursuant to Title 5, chapter 375,
22 subchapter VII.

24 **Sec. 11. 29 MRSA §1312-B, sub-§2, ¶D-1,** as amended by PL 1991,
c. 622, Pt. Y, §11, is further amended to read:

26 D-1. In addition to the penalties provided under paragraphs
28 B, C and D, the court shall order the defendant to
participate in the alcohol and other drug ~~safety--training~~
30 ~~operating under the influence~~ education, evaluation and
treatment program for ~~first--offenders with an aggravated~~
32 ~~operating under the influence offense and~~ multiple offenders
administered by the Office of Substance Abuse, as defined in
34 Title 5, chapter 521. The court may waive the ~~first~~
~~offender with an aggravated operating under the influence or~~
36 multiple offender intervention program under Title 5,
section 20073-A 20073, subsection 3 4, paragraph A, if the
38 court finds that the defendant has completed a residential
treatment program, or its equivalent, subsequent to the date
40 of the offense.

42 **Sec. 12. 29 MRSA §1312-D, sub-§§2-A and 2-B,** as amended by PL
1991, c. 622, Pt. Y, §12, are further amended to read:

44 2-A. **Special licenses for driver education evaluation**
46 **program participants.** Following the expiration of the total
period of suspension imposed on a first time offender pursuant to
48 subsections 1 and 1-A, section 1312-B, former section 1312-B,
subsection 2 or Title 15, section 3314 ~~or section 1312-B,~~ the

2 Secretary of State shall issue a special license or permit to the
3 person if the Secretary of State receives written notice that the
4 person has completed the education and assessment components of
5 the alcohol and other drug program as set out in Title 5, section
6 20073-A 20073. A special license or permit is conditioned on the
7 person's satisfactory completion of all of the components of the
8 program. ~~First-----offenders-----with-----an-----aggravated~~
9 ~~operating-under-the-influence-offense-are-entitled-to-received-a~~
10 ~~special-license-after-completion-of-the-evaluation-provided-by~~
11 ~~the-Office-of-Substance-Abuse.~~ A special license or permit may
12 not be issued under this section to 2nd and subsequent offenders.

13
14 **2-B. Suspension of special licenses for driver education**
15 **program participants.** If the person refuses or fails to complete
16 the alcohol and other drug program set out in Title 5, section
17 20073-A 20073, within 6 months after receiving a special license,
18 the Secretary of State, following notice of that refusal or
19 failure may suspend the special license until the person
20 completes the program. The suspension must continue until the
21 Secretary of State receives written notification from the ~~Office~~
22 ~~of-Substance-Abuse~~ driver education evaluation program that the
23 person has satisfactorily completed all ~~required~~ components of
24 that program. The Secretary of State shall provide notice of
25 suspension and opportunity for hearing pursuant to Title 5,
26 chapter 375, subchapter IV. The sole issue at the hearing is
27 whether the person has written notification from the ~~Office-of~~
28 ~~Substance-Abuse~~ driver education evaluation program establishing
29 that the person has satisfactorily completed all components of
30 that program as set out in Title 5, section 20073-A 20073.

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

33 **STATEMENT OF FACT**

34
35 This bill eliminates the safety training
36 ~~operating-under-the-influence~~ programs established by Public Law
37 1991, chapter 622 and restores the Driver Education and
38 Evaluation Programs known as DEEP.
39
40