

# 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)

OK  
H. of S.

L.D. 2438

(Filing No. S-743 )

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44

STATE OF MAINE  
SENATE  
115TH LEGISLATURE  
SECOND REGULAR SESSION

SENATE AMENDMENT "B" to H.P. 1749, L.D. 2438, Bill, "An Act to Improve the Effectiveness of the Driver Education and Evaluation Programs"

Amend the bill by inserting after section 2 the following:

'Sec. 3. 5 MRSA §20005, sub-§5, as amended by PL 1991, c. 601, §6, is further amended to read:

5. **Budget.** Develop and submit to the Legislature by January 15th of the first year of each legislative biennium recommendations for continuing and supplemental allocations, deappropriations or reduced allocations and appropriations from all funding sources for all state alcohol and drug abuse programs. The office shall make final recommendations to the Governor before any substance abuse funds are appropriated or deappropriated in the Governor's proposed budget. The office shall formulate all budgetary recommendations for the Driver Education and Evaluation Programs with the advice, consultation and full participation of the chief executive officer of the Driver Education and Evaluation Programs;

Further amend the bill in section 5 in subsection 4-B by striking out all of paragraph A (page 2, lines 8 and 9 in L.D.) and inserting in its place the following:

'A. Was tested as having a blood-alcohol level of 0.15% or more;'

Further amend the bill in section 7 in subsection 3 in paragraph A in the first line (page 3, line 18 in L.D.) by striking out the following: "A" and inserting in its place the

**SENATE AMENDMENT**

SENATE AMENDMENT "B" to H.P. 1749, L.D. 2438

2 following: '--A- For all aggravated first offenders and all multiple offenders, a'

4 Further amend the bill in section 7 in subsection 3 in  
6 paragraph B in the first line (page 3, line 25 in L.D.) by  
striking out the following: "A" and inserting in its place the  
8 following: '--A- For aggravated first offenders pursuant to section 20071, subsection 4-B, paragraphs A, B, C and D and all multiple offenders, a'

10 Further amend the bill in section 10 in that part designated  
12 "§20075." in the first paragraph in the 5th line (page 4, line 16  
14 in L.D.) by striking out the following: "3" and inserting in its  
place the following: '-3- 2'

16 Further amend the bill in section 11 in subsection 3 in  
18 paragraph A by striking out all of subparagraphs (1) and (2)  
(page 4, lines 36 to 43 in L.D.) and inserting in their place the  
following:

20 '(1) For a multiple offender the fee may not exceed  
22 \$350.

24 '(2) For a first offender with an aggravated offense  
26 pursuant to section 20071, subsection 4-B, the fee may not exceed \$245.'

28 Further amend the bill by inserting after section 15 the  
30 following:

32 'Sec. 16. 29 MRSA §1312-B, sub-§2, ¶A, as amended by PL 1989,  
c. 784, §5, is further amended to read:

34 A. Except as provided in paragraph B, in the case of a  
36 person having no previous convictions of a violation of  
former section 1312, subsection 10, former section 1312-B or  
38 this section and having no previous suspension of license or  
privilege to operate for failure to comply with the duty to  
40 submit to and complete chemical testing under section 1312  
\$400 and the court shall suspend the defendant's license or  
42 permit to operate, right to operate a motor vehicle and  
right to apply for and obtain a license for a period of 90  
44 days, which penalties may not be suspended.

46 'Sec. 17. 29 MRSA §1312-B, sub-§2, ¶B, as repealed and replaced  
by PL 1991, c. 377, §18, is amended to read:

48 B. In the case of a person having no previous convictions  
50 of a violation of former section 1312, subsection 10, former

19 of 20

SENATE AMENDMENT "B" to H.P. 1749, L.D. 2438

2 section 1312-B or this section and having no previous  
4 suspension of license or privilege to operate for failure to  
6 comply with the duty to submit to and complete chemical  
8 testing under section 1312 within a 6-year period, the fine  
10 may not be less than \$300 \$400, the sentence must include a  
period of incarceration of not less than 48 hours and the  
court shall suspend the defendant's license or permit to  
operate, right to operate a motor vehicle and right to apply  
for and obtain a license for a period of 90 days. These  
penalties may not be suspended when the person:

12 (1) Was tested as having a blood-alcohol level of  
14 0.15% or more;

16 (2) Was driving in excess of the speed limit by 30  
18 miles an hour or more during the operation that  
resulted in the prosecution for operating under the  
influence or with a blood-alcohol level of 0.08% or  
more;

20 (3) Eluded or attempted to elude an officer, as  
22 defined in section 2501-A, subsection 3, during the  
operation that resulted in prosecution for operating  
24 under the influence or with a blood-alcohol level of  
0.08% or more;

26 (4) Failed to submit to a chemical test for the  
28 determination of that person's blood-alcohol level or  
30 drug concentration at the request of a law enforcement  
officer on the occasion that resulted in the  
conviction; or

32 (5) Was, on the occasion that resulted in the  
34 conviction, operating or attempting to operate a motor  
vehicle with a passenger under 16 years of age.

36 **Sec. 18. 29 MRSA §1312-B, sub-§2, ¶C**, as amended by PL 1989,  
38 c. 784, §7, is further amended to read:

40 C. In the case of a person having one previous conviction  
42 of a violation of former section 1312, subsection 10, former  
section 1312-B or this section, or having at least one  
44 previous suspension for failure to comply with the duty to  
submit to and complete chemical testing to determine the  
46 level of blood-alcohol or drug concentration under section  
1312 within a 6-year period, the fine may not be less than  
\$500 \$575, the sentence shall must include a period of  
48 incarceration of not less than 7 days and the court shall  
suspend the defendant's license or permit to operate, right

**SENATE AMENDMENT**

P. of S.

SENATE AMENDMENT "B" to H.P. 1749, L.D. 2438

2 to operate a motor vehicle and right to apply for and obtain  
a license for a period of one year, which penalties may not  
be suspended.'

4  
6 Further amend the bill by inserting after section 17 the  
following:

8 'Sec. 18. Special purpose audit. The State Auditor shall issue  
a separate special purpose audit report based on agreed upon  
10 procedures of the Office of Substance Abuse and the Driver  
Education and Evaluation Programs, including a review of the  
12 programs' participation in federal maintenance of effort  
requirements for substance abuse programs. The State Auditor  
14 shall submit findings to the joint standing committees of the  
Legislature, having jurisdiction over audit and program review,  
16 human resources and appropriations and financial affair matters  
by July 1, 1992.

18  
20 Sec. 19. Funding; appropriation. Funds appropriated to the  
Office of Substance Abuse may not be less than the revenue  
22 generated through fees by the Driver Education and Evaluation  
Programs. The Driver Education and Evaluation Programs must be  
24 funded at the level needed to provide the required services to  
all clients in a timely manner.'

26 Further amend the bill by striking out all of section 18 and  
inserting in its place the following:

28  
30 'Sec. 18. Appropriation. The following funds are appropriated  
from the General Fund to carry out the purposes of this Act.

32 1992-93

34 EXECUTIVE DEPARTMENT

36 Driver Education and Evaluation  
Programs - Substance Abuse

38	Positions	(2.0)
40	Personal Services	\$76,318
	All Other	114,928

42  
44 Provides funds for 2 Alcohol Rehabilitation  
Counselor II positions and the operating  
46 expenses necessary for the increased number  
of Weekend Intervention Program sessions.

48 EXECUTIVE DEPARTMENT  
TOTAL \$191,246'

50

R. of S.

2 Further amend the bill by renumbering the sections to read  
consecutively.

4  
6 Further amend the bill by striking out all of the fiscal  
note and inserting in its place the following:

8  
10 **FISCAL NOTE**

12 The 740 additional clients for the Weekend Intervention  
14 Program will increase General Fund revenue by \$195,175 from  
16 additional fees. The increase of General Fund revenue will  
exceed the total General Fund appropriation by \$3,929. The  
appropriation provides funds for the Driver Education and  
Evaluation Programs within the Office of Substance Abuse for  
staff and operating expenses.

18  
20 The reductions to the fee structure in the Driver Education  
and Evaluation Programs will be offset by an increase in the  
22 minimum fine for persons convicted of operating under the  
influence. There will be no net effect on General Fund revenue.'

24  
26 **STATEMENT OF FACT**

28 This amendment restores the blood-alcohol level factor of  
0.15 used to identify aggravated first offenders; decreases the  
certification period for individual providers to 2 years; reduces  
30 the Weekend Intervention Program fee to what it was prior to  
enactment of Public Law 1991, chapter 622; makes up the loss of  
32 General Fund revenue by increasing the minimum fines for persons  
convicted of operating under the influence; exempts aggravated  
34 first offenders identified through use of the substance abuse and  
life circumstance evaluation assessment instrument from mandatory  
36 treatment; requires the Office of Substance Abuse to prepare  
budgets for the Driver Education and Evaluation Programs with the  
38 advice, consultation and full participation of the Driver  
Education and Evaluation Programs; requires the State Auditor to  
40 conduct a special purpose audit of the Driver Education and  
Evaluation Programs as well as the Office of Substance Abuse;  
42 authorizes 2 Alcohol Rehabilitation Counselor II positions;  
adjusts total appropriations to the Driver Education and  
44 Evaluation Programs to reflect a net increase of \$3,929 in  
increased revenues to the General Fund; requires that funds  
46 appropriated to the Office of Substance Abuse may not be less  
than the revenue generated through fees by the Driver Education

2. of 3.

SENATE AMENDMENT "B" to H.P. 1749, L.D. 2438

2 and Evaluation Programs; and requires that the Driver Education  
and Evaluation Programs must be funded at the level needed to  
4 provide required services to all clients in a timely manner.

6

8

(Senator BUSTIN)  
SPONSORED BY: Beverly Bustin cc

10

COUNTY: Kennebec

12

Reproduced and Distributed Pursuant to Senate Rule 12.  
(3/28/92) (Filing No. S-743)