

# MAINE STATE LEGISLATURE

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R. of S.

L.D. 2438

(Filing No. S- 758)

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STATE OF MAINE  
SENATE  
115TH LEGISLATURE  
SECOND REGULAR SESSION

SENATE AMENDMENT "C" 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 striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

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

15-A.	Safety-Training	\$75/Day	5 MRSA
Substance	Operating-under-		§20078
Abuse	the-influence		
	Programs-Appeals		
	Board		
	<u>Driver Edu-</u>		
	<u>cation and Eval-</u>		
	<u>uation Programs</u>		
	<u>Appeals Board</u>		

Sec. 2. 5 MRSA §20003, sub-§3, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

3. **Approved treatment facility.** "Approved treatment facility" means a public or private alcohol treatment facility meeting standards approved by the office in accordance with section 20005 and licensed pursuant to ~~Title-22,--chapter-1602,~~ subchapter V and other applicable provisions of state law.

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

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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;

Sec. 4. 5 MRSA §20005, sub-§6, ¶B, as amended by PL 1991, c. 557, §1 and c. 601, §6, is repealed and the following enacted in its place:

B. Establish operating and treatment standards and inspect and issue certificates of approval for approved treatment facilities, drug abuse treatment facilities or programs, including residential treatment centers and community-based service providers pursuant to section 20024 and subchapter V; and

Sec. 5. 5 MRSA §20024, first ¶, as amended by PL 1991, c. 601, §18, is further amended to read:

The office shall periodically enter, inspect and examine a treatment facility or program and examine its books, programs, standards, policies and accounts. This examination process must include a review of the requirements to be a community-based service provider pursuant to subchapter V. The office shall fix and collect the fees for the inspection and certification and shall maintain a list of approved public and private treatment facilities.

Sec. 6. 5 MRSA §20072, as amended by PL 1991, c. 622, Pt. Y, §3, is further amended to read:

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

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

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

2. **Completion of treatment other than Driver Education and Evaluation Programs.** Those individuals who have satisfied the requirement for completion of treatment as defined in section 20071 by means other than a program prescribed by section 120073-A. The Office of Substance Abuse may charge an administrative fee, not to exceed \$50, to clients under this paragraph subsection. This fee must be transferred to the General Fund.

Sec. 7. 5 MRSA §20073-A, sub-§3, as enacted by PL 1991, c. 622, Pt. Y, §5, is amended to read:

3. **First offender with an aggravated offense and multiple offenders; adult.** ~~The-----safety-----training operating-under-the-influence-program-required-for-adult~~ Adult first offenders with an aggravated ~~operating-under-the-influence~~ offense and multiple offenders shall attend the Weekend Intervention Program as established in this subsection. The Weekend Intervention Program consists of the following components:

A. A rigorous, highly structured, residential intervention 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 and addiction and an evaluation using assessment instruments, data collection and self-assessment; and

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

Sec. 8. 5 MRSA §20073-A, sub-§4 is enacted to read:

4. Multiple offenders under 21 years of age. Multiple offenders under 21 years of age shall attend the Weekend Intervention Program under subsection 3.

Sec. 9. 5 MRSA §20074, as amended by PL 1991, c. 622, Pt. Y, §6, is further amended to read:

§20074. Separation of evaluation and treatment functions

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2 A ~~safety--training--operating under the influence--programs~~  
3 Driver Education and Evaluation Programs private practitioner or  
4 a counselor employed by a substance abuse facility approved or  
5 licensed by the office providing services under this subchapter  
6 may not provide both treatment services and evaluation services  
7 for the same individual participating in programs under this  
8 subchapter unless a waiver is granted on a case-by-case basis by  
9 the Driver Education and Evaluation Programs. The practitioner  
10 or counselor providing evaluation services shall give a client  
11 the name of 3 practitioners or counselors who can provide  
12 treatment services, at least one of whom may not be employed by  
13 the same agency as the practitioner or counselor conducting the  
14 evaluation.

15 **Sec. 10. 5 MRSA §20075**, as enacted by PL 1991, c. 601, §28,  
16 is amended to read:

17 **§20075. Certification; recertification**

18 All providers of the evaluation, intervention and treatment  
19 components of the program Driver Education and Evaluation  
20 Programs must be certified by the office pursuant to section  
21 20005 and this subchapter. The certification period for  
22 individual providers and agencies is ~~3--years--and~~ 2 years ~~for~~  
23 ~~agencies.~~ The office shall adopt rules requiring continuing  
24 education for recertification.  
25

26 **Sec. 11. 5 MRSA §20078, first ¶**, as amended by PL 1991, c. 622,  
27 Pt. Y, §9, is further amended to read:

28 The ~~Safety--Training--Operating under the influence~~ Driver  
29 Education and Evaluation Programs Appeals Board, established by  
30 Title 5, section 12004-G, subsection 15-A, is referred to as the  
31 "board" in this subchapter and is governed by this section.  
32

33 **Sec. 12. 5 MRSA §20078, sub-§§1, 6 and 7**, as amended by PL 1991,  
34 c. 622, Pt. Y, §10, are further amended to read:

35 **1. Qualifications.** Each member of the board must have  
36 training, education, experience and demonstrated ability in  
37 successfully treating clients with substance abuse problems.  
38 Board members may not hold a current certificate to provide  
39 ~~safety--training--operating under the influence~~ Driver Education  
40 and Evaluation Programs services during their terms of  
41 appointment.  
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43 **6. Appeal from decision.** A Driver Education and Evaluation  
44 Programs client of ~~safety--training--operating under the influence~~  
45 ~~programs~~ may appeal to the board as follows.  
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2 A. The client may appeal a failure to certify completion of  
treatment pursuant to section 20072, subsection 2.

4 B. The client may appeal an evaluation decision referring  
6 the client to treatment or a completion-of-treatment  
8 decision pursuant to section 20073-A. A client may appeal  
under this paragraph only after the client has sought a 2nd  
10 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  
18 evaluation, make a finding of completion of treatment or make an  
20 alternate recommendation. The board, after due consideration,  
shall make a written decision and transmit that decision to the  
22 ~~safety--training--operating--under--the--influence--programs~~ Driver  
Education and Evaluation Programs and the client who appealed the  
case. The decision of the board is final agency action for  
purposes of judicial review pursuant to Title 5, chapter 375,  
subchapter VII.

24 **Sec. 13. 5 MRSA §20078, sub-§8,** as enacted by PL 1991, c. 601,  
§28, is amended to read:

26 **8. Repeal.** This section and Title 5, section 12004-G,  
28 subsection 15-A are repealed July 1, ~~1992~~ 1993.

30 **Sec. 14. 5 MRSA §20078, sub-§9** is enacted to read:

32 **9. Report.** The board shall report on its activities under  
this section by April 1, 1993 to the joint standing committees of  
the Legislature having jurisdiction over human resource matters  
and audit and program review matters.

36 **Sec. 15. 29 MRSA §1312-B, sub-§2, ¶D-1,** as amended by PL 1991,  
38 c. 622, Pt. Y, §11, is further amended to read:

40 D-1. In addition to the penalties provided under paragraphs  
42 B, C and D, the court shall order the defendant to  
participate in the ~~alcohol--and--other--drug--safety--training~~  
~~operating--under--the--influence--program--for--first--offenders~~  
44 ~~with--an--aggravated--operating--under--the--influence--offense--and~~  
~~multiple--offenders~~ Weekend Intervention Program administered  
46 by the Office of Substance Abuse, as defined in Title 5,  
chapter 521. The court may waive the ~~first--offender--with--an~~  
~~aggravated--operating--under--the--influence--or--multiple~~  
48 ~~offender--intervention--program~~ Weekend Intervention Program  
50 under Title 5, section 20073-A, subsection 3, if the court  
finds that the defendant has completed a residential

treatment program, or its equivalent, subsequent to the date of the offense.

**Sec. 16. 29 MRSA §1312-D, sub-§2-A,** as amended by PL 1991, c. 622, Pt. Y, §12, is further amended to read:

**2-A. Special licenses for Driver Education and Evaluation Programs participants.** Following the expiration of the total period of suspension imposed on a ~~first-time~~ first-time offender pursuant to Title 15, section 3314 or section 1312-B, the Secretary of State shall issue a special license or permit to the person if the Secretary of State receives written notice that the person has completed the assessment components of the alcohol and other drug program as set out in Title 5, section 20073-A. First offenders with an aggravated ~~operating-under-the-influence~~ offense as defined in Title 5, section 20071, subsection 4-B are entitled to received a special license after completion of the evaluation provided by the Office of Substance Abuse. A special license or permit may not be issued under this section to 2nd and subsequent offenders.

**Sec. 17. Special purpose audit.** The State Auditor shall issue a separate special purpose audit report based on agreed upon procedures of the Office of Substance Abuse and the Driver Education and Evaluation Programs, including a review of the programs' participation in federal maintenance of effort requirements for substance abuse programs. The State Auditor shall submit findings to the joint standing committees of the Legislature having jurisdiction over audit and program review, human resources and appropriations and financial affair matters by July 1, 1992.

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

**Sec. 19. Retroactivity.** That section of this Act that amends the Maine Revised Statutes, Title 5, section 20078, subsection 8 applies retroactively to July 1, 1992.

#### FISCAL NOTE

The Office of Substance Abuse will incur some minor additional administrative costs to change the name of the safety training and ~~operating-under-the-influence~~ programs to Driver

Education and Evaluation Programs. These costs can be absorbed within the office's existing budgeted resources.

### STATEMENT OF FACT

This amendment accomplishes the following:

1. Adds a provision that requires the Office of Substance Abuse to prepare budgets for the Driver Education and Evaluation Programs with the advice, consultation and full participation of the Driver Education and Evaluation Programs;

2. Deletes the provision that repeals and replaces the laws establishing a blood-alcohol level of 0.15% or more as a factor by which a first-time offender is identified as having an aggravated offense;

3. Deletes the provision that sets up a dual fee schedule for the Weekend Intervention Program;

4. Removes the appropriation section from the bill; and

5. Adds provisions requiring:

A. The State Auditor to conduct a special purpose audit of the Driver Education and Evaluation Programs as well as the Office of Substance Abuse;

B. That funds appropriated to the Office of Substance Abuse may not be less than the revenue generated by the Driver Education and Evaluation Programs; and

C. That the Driver Education and Evaluation Programs must be funded at the level needed to provide required services to all clients in a timely manner.

(Senator BUSTIN)  
SPONSORED BY: *Benedy Bustin*

COUNTY: Kennebec

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(3/30/92)

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