

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1992

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Legislative Document

No. 2438

H.P. 1749

House of Representatives, March 23, 1992

Reported by Representative ERWIN for the Joint Standing Committee on Audit and Program Review pursuant to the Maine Revised Statutes, Title 3, chapter 33.

Reference to the Joint Standing Committee on Audit and Program Review suggested and printing ordered under Joint Rule 18.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

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STATE OF MAINE

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

---

**An Act to Improve the Effectiveness of the Driver Education and  
Evaluation Programs.**

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

2  
3           **Sec. 1. 5 MRSA §12004-G, sub-§15-A**, as amended by PL 1991, c.  
4 622, Pt. Y, §1, is further amended to read:

6           **15-A.**       **Safety-Training**   \$75/Day           5 MRSA  
7           Substance    **Operating-under-**           §20078  
8           Abuse           **the-influence**  
9                        **Programs-Appeals**  
10                       **Board**  
11                        **Driver Edu-**  
12                        **cation and Eval-**  
13                        **uation Programs**  
14                        **Appeals Board**

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

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

22           **Sec. 3. 5 MRSA §20005, sub-§6, ¶B**, as amended by PL 1991, c.  
23           557, §1 and c. 601, §6, is repealed and the following enacted in  
24           its place:

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

31           **Sec. 4. 5 MRSA §20024, first ¶**, as amended by PL 1991, c. 601,  
32           §18, is further amended to read:

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

41           **Sec. 5. 5 MRSA §20071, sub-§4-B**, as enacted by PL 1991, c.  
42           622, Pt. Y, §2, is amended to read:

2           4-B. First offender with an aggravated offense. "First  
3 offender with an aggravated ~~operating-under-the-influence~~  
4 offense" means a ~~client~~ first offender pursuant to subsection 4-A  
5 who has an ~~operating-under-the-influence~~ offense aggravated by  
6 any of the following factors. The ~~client~~ offender:

8           A. ~~Was tested as having a blood alcohol level of 0.15% or~~  
9 ~~more;~~

10           B. Was driving in excess of the speed limit by 30 miles an  
11 hour or more during the operation that resulted in the  
12 prosecution for operating under the influence or with a  
13 blood-alcohol level of 0.08% or more;

14           C. Eluded or attempted to elude an officer, as defined in  
15 Title 29, section 2501-A, subsection 3, during the operation  
16 that resulted in prosecution for operating under the  
17 influence or with a blood-alcohol level of 0.08% or more; ~~or~~

18           D. Failed to submit to a chemical test for the  
19 determination of that person's blood-alcohol level, at the  
20 request of a law enforcement officer on the occasion that  
21 resulted in the conviction; or

22           E. Received a score on the substance abuse and life  
23 circumstance evaluation assessment instrument administered  
24 by the Driver Education and Evaluation Programs that  
25 definitively indicates a need for further substance abuse  
26 evaluation.

27           Sec. 6. 5 MRSA §20072, as amended by PL 1991, c. 622, Pt. Y,  
28 §3, is further amended to read:

29           **§20072. Driver Education and Evaluation Programs**

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

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

39           2. **Completion of treatment other than Driver Education and**  
40 **Evaluation Programs.** Those individuals who have satisfied the  
41 requirement for completion of treatment as defined in section  
42

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**

~~A safety--training--operating under the influence--programs~~ Driver Education and Evaluation Programs private practitioner or a counselor employed by a substance abuse facility approved or licensed by the office providing services under this subchapter may not provide both treatment services and evaluation services for the same individual participating in programs under this subchapter unless a waiver is granted on a case-by-case basis by the Driver Education and Evaluation Programs. The practitioner

2 or counselor providing evaluation services shall give a client  
the name of 3 practitioners or counselors who can provide  
4 treatment services, at least one of whom may not be employed by  
the same agency as the practitioner or counselor conducting the  
evaluation.

6  
8 **Sec. 10. 5 MRSA §20075**, as enacted by PL 1991, c. 601, §28,  
is amended to read:

10 **§20075. Certification; recertification**

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

20 **Sec. 11. 5 MRSA §20076-A, sub-§3**, as enacted by PL 1991, c.  
622, Pt. Y, §8, is amended to read:

22  
24 **3. Weekend Intervention Program.** This subsection applies  
to multiple offenders and first offenders who participate in the  
~~multiple--offender--residential--intervention--program~~ Weekend  
26 Intervention Program in accordance with this subchapter. The  
fees and costs for the ~~multiple--offender--program~~ Weekend  
28 Intervention Program are as follows.

30 A. The office may charge a registration fee, ~~not to exceed~~  
~~\$425--to--clients--for--the--program~~ in accordance with this  
32 paragraph. This fee must be transferred to the General  
Fund. The office may waive all or part of the fee for  
34 clients who provide sufficient evidence of inability to pay.

36 (1) For a multiple offender or a first offender with  
an aggravated offense pursuant to section 20071,  
38 subsection 4-B, paragraph B, C or D, the fee may not  
exceed \$425.

40 (2) For a first offender with an aggravated offense  
42 pursuant to section 20071, subsection 4-B, paragraph E,  
the fee may not exceed \$320.

44  
46 B. The client is responsible for any costs associated with  
2nd and subsequent evaluations or treatments.

48 **Sec. 12. 5 MRSA §20078, first ¶**, as amended by PL 1991, c. 622,  
Pt. Y, §9, is further amended to read:

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

6           **Sec. 13. 5 MRSA §20078, sub-§§1, 6 and 7**, as amended by PL 1991,  
8           c. 622, Pt. Y, §10, are further amended to read:

10           **1. Qualifications.** Each member of the board must have  
12           training, education, experience and demonstrated ability in  
          successfully treating clients with substance abuse problems.  
14           Board members may not hold a current certificate to provide  
          ~~safety--training--operating-under-the-influence~~ Driver Education  
          and Evaluation Programs services during their terms of  
16           appointment.

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

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

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

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

44           **Sec. 14. 5 MRSA §20078, sub-§8**, as enacted by PL 1991, c. 601,  
          §28, is amended to read:

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

4           **Sec. 15. 5 MRSA §20078, sub-§9** is enacted to read:

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

10           **Sec. 16. 29 MRSA §1312-B, sub-§2, ¶D-1,** as amended by PL 1991,  
11 c. 622, Pt. Y, §11, is further amended to read:

12           D-1. In addition to the penalties provided under paragraphs  
13 B, C and D, the court shall order the defendant to  
14 participate in the ~~alcohol and other drug safety training~~  
15 ~~operating under the influence program for first offenders~~  
16 ~~with an aggravated operating under the influence offense and~~  
17 ~~multiple offenders~~ Weekend Intervention Program administered  
18 by the Office of Substance Abuse, as defined in Title 5,  
19 chapter 521. The court may waive the ~~first offender with an~~  
20 ~~aggravated operating under the influence or multiple~~  
21 ~~offender intervention program~~ Weekend Intervention Program  
22 under Title 5, section 20073-A, subsection 3, if the court  
23 finds that the defendant has completed a residential  
24 treatment program, or its equivalent, subsequent to the date  
25 of the offense.

26           **Sec. 17. 29 MRSA §1312-D, sub-§2-A,** as amended by PL 1991, c.  
27 622, Pt. Y, §12, is further amended to read:

28           **2-A. Special licenses for Driver Education and Evaluation**  
29 **Programs participants.** Following the expiration of the total  
30 period of suspension imposed on a ~~first-time~~ first-time offender  
31 pursuant to Title 15, section 3314 or section 1312-B, the  
32 Secretary of State shall issue a special license or permit to the  
33 person if the Secretary of State receives written notice that the  
34 person has completed the assessment components of the alcohol and  
35 other drug program as set out in Title 5, section 20073-A. First  
36 offenders with an aggravated ~~operating under the influence~~  
37 ~~offense as defined in Title 5, section 20071, subsection 4-B~~ are  
38 entitled to received a special license after completion of the  
39 evaluation provided by the Office of Substance Abuse. A special  
40 license or permit may not be issued under this section to 2nd and  
41 subsequent offenders.

42           **Sec. 18. Appropriation.** The following funds are appropriated  
43 from the General Fund to carry out the purposes of this Act.



2

1992-93

4

**EXECUTIVE DEPARTMENT**

6

**Driver Education and Evaluation  
Programs - Substance Abuse**

8

Positions	(3.0)
Personal Services	\$80,247
All Other	114,928

10

12

14

16

18

Provides funds for 2 Alcohol Rehabilitation Counselor II positions and one Clerk Typist III position and the operating expenses necessary for the increased number of Weekend Intervention Program sessions.

20

**EXECUTIVE DEPARTMENT  
TOTAL**

\$195,175

22

24

**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.

26

**FISCAL NOTE**

28

1992-93

30

**APPROPRIATIONS/ALLOCATIONS**

32

General Fund	\$195,175
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34

**REVENUES**

36

General Fund	\$195,175
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The 740 additional clients for the Weekend Intervention Program will increase General Fund revenue by \$195,175 from additional fees. This increase in revenue is equal to the total General Fund appropriation to the Driver Education and Evaluation Programs within the Office of Substance Abuse for staff and operating expenses. The net impact to the General Fund is neutral.

46

**STATEMENT OF FACT**

48

50

Sections 1, 12 and 13 change the name of the Safety Training Operating-under-the-influence Programs Appeals Board back to its

2 original title of Driver Education and Evaluation Programs  
3 Appeals Board.

4 Section 2 updates a statutory reference.

6 Section 3 resolves a previous statutory conflict and  
7 reiterates the responsibility of the Office of Substance Abuse to  
8 approve Driver Education and Evaluation Programs service  
9 providers.

10 Section 4 clarifies the Office of Substance Abuse's  
11 responsibilities to link the approval of a treatment facility or  
12 program with approval as a Driver Education and Evaluation  
13 Programs service provider.

14 Section 5 repeals the provision that establishes a  
15 blood-alcohol level of 0.15% or more as a factor by which a first  
16 offender can be identified as having an aggravated offense. The  
17 0.15% blood-alcohol level factor is replaced by a score on the  
18 substance abuse and life circumstance evaluation assessment  
19 instrument that definitively indicates the need for further  
20 substance abuse evaluation.

21 Section 6 changes the name of the Safety Training  
22 Operating-under-the-Influence Programs back to the original name  
23 of Driver Education and Evaluation Programs.

24 Section 7 establishes "Weekend Intervention Program" as the  
25 formal title for the former multiple offenders program.

26 Section 8 restores an inadvertently repealed provision that  
27 required multiple operating-under-the-influence offenders under  
28 21 years of age to attend the Weekend Intervention Program.

29 Section 9 authorizes Driver Education and Evaluation  
30 Programs to issue waivers on a case-by-case basis, which allows  
31 clients to receive treatment from their evaluators.

32 Section 10 clarifies the Office of Substance Abuse's  
33 responsibilities to link the approval of a treatment facility or  
34 program with approval as a Driver Education and Evaluation  
35 Programs service provider and increases the certification period  
36 from 2 to 3 years for agencies.

37 Section 11 establishes that those persons who have been  
38 identified as first offenders with an aggravated offense as a  
39 result of the substance abuse and life circumstance evaluation  
40 assessment instrument score, after having paid the \$105 substance  
41 abuse and life circumstance evaluation assessment fee, are  
42 required to pay a fee of \$320 to attend the Weekend Intervention  
43 Program.

2           Section 14 delays the repeal of the Driver Education and  
Evaluation Programs Appeals Board by one year.

4  
6           Section 15 requires the Driver Education and Evaluation  
Programs Appeals Board to report on its activities to the  
Legislature.

8  
10          Sections 16 and 17 correct various references to Driver  
Education and Evaluation Programs and the Weekend Intervention  
Program.

12  
14          Section 18 authorizes 3 new positions for Driver Education  
and Evaluation Programs and appropriates a total of \$195,175 for  
personal services and all other program costs.

16  
18          Section 19 is a retroactivity clause that insures that the  
Driver Education and Evaluation Programs Appeals Board is not  
repealed on July 1, 1992 if the bill has not yet taken effect by  
20 that date.