

MAINE STATE LEGISLATURE

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R. of S.

L.D. 1697

DATE: 3/22/94

(Filing No. H- 886)

TRANSPORTATION

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1270, L.D. 1697, Bill, "An Act to Amend Certain Motor Vehicle Laws"

Amend the bill by inserting after the title and before the enacting clause the following:

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

Whereas, the provisions of this Act promote fairness in the motor vehicle laws of this State and efficiencies in the administration of these laws; 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,

Further amend the bill by inserting after the enacting clause and before section 1 the following:

Sec. 1. 5 MRSA §88-A, sub-§1, as amended by PL 1991, c. 595, §1, is further amended to read:

1. Application. Any person 18 years of age or over who is a Maine resident or a nonresident temporarily domiciled in the State with a mailing address in the State may apply for an official state nondriver identification card. The application must be on a form provided by the Secretary of State and include

COMMITTEE AMENDMENT

R.S.

2 any supporting documents and information required by the
Secretary of State.

4 A. The application form must include, directly above the
signature line, the following notice to the applicant: "I
6 understand that knowingly supplying false information on
this form is a Class D crime under Title 17-A, punishable by
8 confinement of up to 364 days or by monetary fine of up to
\$1,000, or both."

10 **Sec. 2. 15 MRSA §3314, sub-§3, ¶A**, as amended by PL 1991, c.
12 776, §2, is further amended to read:

14 A. For an adjudication under section 3103, subsection 1,
paragraph F, the juvenile's license or permit to operate a
16 motor vehicle, right to operate a motor vehicle or right to
apply for or obtain a license must be suspended by the court
18 for a period of 180 days. The period of suspension may not
be suspended by the court. The court shall give notice of
20 the suspension and take physical custody of an operator's
license or permit as provided in Title 29, section 2241-H.
22 The court shall immediately transmit a certified abstract of
the suspension to the Secretary of State. A further
24 suspension may be imposed by the Secretary of State pursuant
to Title 29, section 1312-D, subsection 1-A 1-B.

26 **Sec. 3. 29 MRSA §8** is enacted to read:

28 **§8. Asset forfeiture**

30 Funds or assets forfeited pursuant to Title 15, chapter 517
32 may be awarded to the Department of the Secretary of State,
Bureau of Motor Vehicles. Funds or assets received in accordance
34 with this section must be used for law enforcement training or
for law enforcement equipment.

36 **Sec. 4. 29 MRSA §57-A**, as amended by PL 1981, c. 492, Pt. E,
38 §1, is further amended to read:

40 **§57-A. Reports of records**

42 Reports of records pertaining to convictions, adjudications,
accidents, suspensions, revocations and other information
44 required by commercial users shall--be are furnished by the
Secretary of State at a fee of \$4 for each request upon receipt
46 of such a request from an individual, insurance company or other
party requiring such that information. This section shall does
48 not apply to other motor vehicle departments, state, county and
federal agencies and law enforcement agencies. Certified-copies
50 shall-be-\$1-additional An additional \$1 fee is charged for a

R & S.

certified copy. A person receiving a report by electronic transmittal must pay the fee associated with that transmittal.

Further amend the bill in section 1 in paragraph G in the 6th line (page 1, line 11 in L.D.) by striking out the following: "shall" and inserting in its place the following: 'shall may'

Further amend the bill in section 1 in paragraph G in the 12th and 13th lines (page 1, lines 17 and 18 in L.D.) by striking out the following: "shall be" and inserting in its place the following: 'shall-be is'

Further amend the bill in section 1 in paragraph G in the 15th line (page 1, line 20 in L.D.) by striking out the following: "shall be" and inserting in its place the following: 'shall-be is'

Further amend the bill in section 1 in paragraph G in the 18th line (page 1, line 23 in L.D.) by striking out the following: "shall be" and inserting in its place the following: 'shall-be are'

Further amend the bill in section 1 in paragraph G in the 20th line (page 1, line 25 in L.D.) by striking out the following: "shall be" and inserting in its place the following: 'shall-be are'

Further amend the bill in section 2 in paragraph C in the 2nd line (page 2, line 14 in L.D.) by striking out the following: "are" and inserting in its place the following: 'are is'

Further amend the bill in section 2 by striking out all of paragraph E and inserting in its place the following:

'E. Except for camp trailers as defined in section 1, trailer registrations under this section may be issued for 2 years for a fee twice that of the annual registration fee.'

Further amend the bill by inserting after section 3 and before section 4 the following:

'Sec. 4. 29 MRSA §246, 10th and 11th ¶¶, as enacted by PL 1993, c. 297, Pt. A, §9 and affected by §39, are amended to read:

Temporary registered gross weight increases must be issued for at least 2 months and may not exceed 8 months, except that temporary registered gross weight increases may be issued for one month for registered farm vehicles. A temporary registered gross weight increase may not extend beyond the expiration of the regular registration.

COMMITTEE AMENDMENT

RCS

COMMITTEE AMENDMENT "A" to H.P. 1270, L.D. 1697

2 The fee for a temporary registered gross weight increase is
4 the difference between the annual fee for the original
6 registration and the annual fee for the desired temporary
registered gross weight, multiplied by the percentage in the
following table:

8	<u>1-month increase (registered farm vehicles) ..</u>	20%
10	2-month increase	30%
12	3-month increase	40%
14	4-month increase	50%
16	5-month increase	60%
18	6-month increase	70%
20	7-month increase	75%
22	8-month increase	80%

24 **Sec. 5. 29 MRSA §246-D**, as amended by PL 1991, c. 499, §§4 to
26 6, is repealed.'

28 Further amend the bill in section 7 in the first paragraph
in the first line (page 4, line 18 in L.D.) by inserting after
the following: "Unless" the following: 'continuation is'

30 Further amend the bill in section 7 in the first paragraph
32 in the 2nd line (page 4, line 19 in L.D.) by striking out the
following: "complete" and inserting in its place the following:
34 'driving'

36 Further amend the bill by inserting after section 8 and
before section 9 the following:

38 '**Sec. 9. 29 MRSA §583-A, first ¶**, as amended by PL 1991, c.
40 800, §2, is further amended to read:

42 Notwithstanding any other provisions of law, no motorcycle
44 or motor driven cycle learner's permit or permission or
restriction to operate a motorcycle or motor driven cycle may be
46 issued to any person, unless that person presents a certificate
of successful completion of a prescribed motorcycle driver
48 education program and examination approved by the Secretary of
State and given by a certified instructor except as provided in
this paragraph. If a person is hearing-impaired and a course is
50 not readily available to that person, the Secretary of State may

1
2 arrange for that person to complete a motorcycle drive education
3 program using an electronic communications system. The program
4 must meet the requirements of section 583-B.

5 **Sec. 10. 29 MRSA §1311-A, sub-§5, ¶C**, as amended by PL 1989,
6 c. 502, Pt. B, §34, is further amended to read:

7 C. When a person's license is suspended under this section
8 and is also suspended after having been adjudicated or
9 convicted on charges arising out of the same occurrence for
10 a violation of section 1312-B or Title 15, section 3103,
11 subsection 1, paragraph F, the period of time the license
12 has been suspended under this section prior to the
13 adjudication or conviction shall must be deducted from the
14 period of time of any court-imposed suspension ordered
15 pursuant to section 1312-B or Title 15, section 3103,
16 subsection 1, paragraph F. The periods of suspension are
17 intended to be minimum periods of suspension and the
18 Secretary of State may suspend the license for the
19 additional periods as provided in section 1312-D, subsection
20 1-A 1-B.

21 **Sec. 11. 29 MRSA §1312-B, sub-§2, ¶E**, as enacted by PL 1985,
22 c. 412, §4, is amended to read:

23 E. The penalties provided under paragraphs A, B, C and D
24 shall may not be suspended by the court. The court shall
25 give notice of the suspension and take physical custody of
26 the operator's license as provided in section 2241-H. The
27 Secretary of State may impose an additional period of
28 suspension as provided in section 1312-D, subsection 1-A
29 1-B, or may extend any period of suspension until
30 satisfaction of any conditions imposed pursuant to section
31 1312-D, subsection 3.'

32 Further amend the bill in section 10 in subsection 1-B in
33 the 2nd line (page 4, line 35 in L.D.) by inserting after the
34 following: "law" the following: 'and imposed'

35 Further amend the bill by inserting after section 10 and
36 before section 11 the following:

37 **'Sec. 11. 29 MRSA §1312-D, sub-§§2 and 3**, as amended by PL
38 1987, c. 773, §11, are further amended to read:

39 **2. Education and treatment programs.** Following the
40 expiration of 2/3 of the total period of suspension imposed on a
41 first time offender pursuant to subsections 1 and 1-A 1-B,
42 section 1312-B, former section 1312-B, subsection 2, or Title 15,
43 section 3314, the Secretary of State may issue a license or
44

2 permit to the person if he the Secretary of State receives
written notice that the person has satisfactorily completed the
4 alcohol and other drug education, evaluation and treatment
program administered by the Department of Human Services, as
6 defined in Title 22, chapter 1602. A license or permit may not
be issued under this subsection to 2nd and subsequent offenders.

8 **3. Restricted licenses.** After certification under
subsection 2, the Secretary of State may issue the license or
10 permit to a first time offender with whatever conditions,
restrictions or terms he deems the Secretary of State determines
12 advisable, having in mind the safety of the public and the
welfare of the petitioner. Following the expiration of the total
14 period of suspension imposed pursuant to subsections 1 and 1-A
1-B, section 1312-B or Title 15, section 3314, the Secretary of
16 State may issue a license or permit, subject to the conditions,
restrictions or terms he deems the Secretary of State determines
18 advisable, to the person if the Secretary of State has received
or when he the Secretary of State receives written notice that
20 the person has satisfactorily completed the alcohol and other
drug education, evaluation and treatment program administered by
22 the Department of Human Services, as defined in Title 22, chapter
1602. The license or permit may contain the condition that the
24 person abstain from the use of intoxicating liquor or drugs. Any
license or permit issued under subsection 2 or under this
26 subsection shall must be restricted to use for travel to an
alcohol and other drug education or treatment program or to
28 employment if the amount of the total period of suspension which
that has expired is less than 90 days. Any such license or
30 permit issued shall must remain restricted until the amount of
time the license or permit was actually suspended plus the amount
32 of time the restricted license or permit has been issued equals a
minimum of 90 days.

34 **Sec. 12. 29 MRSA §2184, sub-§1-A, as amended by PL 1989, c.**
36 **891, Pt. A, §11, is further amended to read:**

38 **1-A. Minimum mandatory sentences for certain suspensions.**
In the event the suspension was for a conviction for a violation
40 of former section 1312, subsection 10 or section 1312-B or an
adjudication for a violation of section 1312-C or for a failure
42 to comply with the duty to submit for a blood-alcohol test under
section 1312, subsection 2, the court shall impose a minimum fine
44 of \$350, which may not be suspended; a term of imprisonment which
that may be for not less than 7 consecutive days and may not be
46 suspended; and a mandatory suspension of license or permit or
right to operate a motor vehicle, or right to apply for or obtain
48 a license, for not less than one year nor more than 3 years
consecutive to the original suspension, which may not be
50 suspended. For all other suspensions, if the person has one or
more prior convictions for violating this section within a 6-year

period, the minimum fine is \$200 and may not be suspended. The requirements of Title 15, section 757, of a separate reading of the allegation and a separate trial do not apply to a proceeding under this subsection. The court shall give notice of the suspension and shall take physical custody of an operator's license or permit as provided in section 2241-H.

If the court fails to impose a suspension as provided in this subsection, the Secretary of State shall impose the minimum one-year suspension and may impose up to 3 years of suspension and give notice as provided in section 1312-D, subsection 1.

The minimum mandatory sentences of this subsection ~~applies~~ apply only to the original period of suspension imposed by the court or by the Secretary of State, or as extended by the Secretary of State pursuant to section 1312-D, subsection 1-A 1-B. The minimum mandatory sentences of this subsection do not apply to any extension of the original suspension, including an extension pursuant to section 1312-B, subsection 2, paragraph C, or section 1312-C, subsection 4, imposed for the purpose of compelling compliance with conditions for the restoration of a license or right to operate, or to an extension pursuant to section 2241-D for failure to pay a reinstatement fee.

For the purposes of this subsection, a prior conviction has occurred within a 6-year period if the date of the docket entry by the clerk of a judgment of conviction is 6 years or less from the date of the new conduct that is penalized or for which the penalty is or may be enhanced.'

Further amend the bill in section 14 in subsection 1 in the 3rd line (page 5, line 35 in L.D.) by striking out the following: "shall" and inserting in its place the following: '~~shall~~ do'

Further amend the bill in section 14 in subsection 1 in the 9th line (page 5, line 41 in L.D.) by striking out the following: "shall" and inserting in its place the following: '~~shall~~ must'

Further amend the bill in section 14 in subsection 1 in the first blocked paragraph in the 2nd line (page 5, line 45 in L.D.) by striking out the following: "shall be" and inserting in its place the following: '~~shall-be~~ is'

Further amend the bill by inserting after section 16 and before section 17 the following:

'Sec. 17. 29 MRSA §2243-C, as amended by PL 1985, c. 785, Pt. A, §105, is repealed.'

2 **Sec. 18. 29 MRSA §2352, sub-§4** is enacted to read:

4 **4. Immediate issuance of title.** An applicant requesting
6 the immediate issuance of a document described in subsection 1,
8 paragraph C must pay an additional fee of \$10 and state the
 reason for the request. The Secretary of State shall determine
 whether an immediate issuance is warranted and process the
 request accordingly.

10 **Sec. 19. 29 MRSA §2372, sub-§1**, as amended by PL 1993, c. 297,
12 Pt. A, §35 and affected by §39, is further amended to read:

14 **1. Transfer; owner.** If an owner transfers interest in a
16 vehicle, other than by the creation of a security interest, the
18 owner shall execute, at the time of delivery of the vehicle, an
20 assignment and warranty of title to the transferee in the space
22 provided on the certificate or as the Secretary of State
24 prescribes, including the odometer information required by
26 section 364-A, and cause the certificate and assignment to be
28 mailed or delivered to the transferee or to the Secretary of
 State. Except as provided in section 2373, an owner must provide
 the transferee with a properly released certificate of lien if a
 certificate was issued to any lienholder listed on the owner's
 title or salvage certificate. A transferee other than a dealer
 licensed under chapter 5, subchapter III-A shall obtain a title
 in the transferee's name before transferring the vehicle to
 another person. The Secretary of State may accept an application
30 in lieu of a title when the application is accompanied by a prior
 title.'

32 Further amend the bill by striking out all of section 17 and
34 inserting in its place the following:

36 **Sec. 17. 29 MRSA §2703, first ¶**, as repealed and replaced by
 PL 1987, c. 781, §§5 and 15, is amended to read:

38 In order that there may be proper supervision and control of
40 the use of the highways of this State, every person, firm or
42 corporation transporting freight, merchandise, household goods or
44 passengers by motor vehicle for hire upon the public highways of
46 this State between points within this State, between points
 without the State but passing through this State or between
 points within and points without the State, is required to obtain
 a permit for that operation from the Secretary of State. A
 person, firm or corporation advertising the transportation of
48 passengers by a limousine upon the public highways of this State
 must obtain a permit for that operation from the Secretary of
 State. Application for these permits shall must be made in the
50 manner and form to be prescribed by the Secretary of State.

R.S.

COMMITTEE AMENDMENT "A" to H.P. 1270, L.D. 1697

2 These permits shall-be are issued upon compliance with these
4 a an intrastate exempt permit or a permit exempted by the
6 Interstate Commerce Commission shall must be accompanied by a fee
8 of \$25. No permit issued under this section may be transferred,
10 except that, where the holder of a permit has become
12 incorporated, the holder may transfer his that permit to the
14 corporation upon the payment of any transfer fee and the filing
of written notice of intent to transfer with the Secretary of
State. Every person, firm or corporation transporting passengers
for hire shall-be is assessed an annual permit renewal fee of
\$15. A motor vehicle licensed only to transport intrastate
passengers for hire is not required to obtain a separate license
as a freight and merchandise carrier.'

16 Further amend the bill in section 18 in that part designated
18 "§2704" in the first indented paragraph in the 5th line (page 7,
line 13 in L.D.) by striking out the following: "shall" and
inserting in its place the following: 'shall must'

20 Further amend the bill in section 18 in that part designated
22 "§2704" in the first indented paragraph in the 9th and 10th lines
(page 7, lines 17 and 18 in L.D.) by striking out the following:
24 "shall be" and inserting in its place the following: 'shall-be
is'

26 Further amend the bill in section 19 in that part designated
28 "§2705" in the first indented paragraph in the last 2 lines (page
8, lines 1 and 2 in L.D.) by striking out the following: "shall
30 lapse and become" and inserting in its place the following:
'shall-lapse lapses and become becomes'

32 Further amend the bill in section 22 in subsection 2 in
34 paragraph A in the first line (page 8, line 33 in L.D.) by
striking out the following: "There" and inserting in its place
36 the following: 'There Except as provided in paragraph E, there'

38 Further amend the bill by adding after section 22 and
before section 23 the following:

- 40 'Sec. 23. 29 MRSA §2708-A, sub-§2, ¶E is enacted to read:
- 42
- 44 E. For rental trucks with a registered gross weight of
26,000 pounds or less rented or leased for fewer than 30
days:
- 46
- 48 (1) One hundred and twenty-five thousand dollars
combined single limit; or
- 50 (2) Split limits consisting of \$50,000 per person or

COMMITTEE AMENDMENT

1088

2 \$100,000 per occurrence for bodily injury liability and
3 \$25,000 for property damage liability.'

4 Further amend the bill in section 25 in the first indented
5 paragraph in the 8th line (page 10, line 43 in L.D.) by striking
6 out the following: "shall" and inserting in its place the
7 following: '~~shall~~ must'

8 Further amend the bill in section 25 in the first indented
9 paragraph in the 9th line (page 10, line 44 in L.D.) by striking
10 out the following: "shall be" and inserting in its place the
11 following: '~~shall-be~~ is'

12 Further amend the bill by inserting after section 29 the
13 following:

14 **Sec. 24. Allocation.** The following funds are allocated from
15 the Highway Fund to carry out the purposes of this Act.

16 1994-95

17 **SECRETARY OF STATE, DEPARTMENT OF**

18 **Administration - Motor Vehicles**

19 Positions - Legislative Count (2.0)
20 Personal Services \$65,214

21 Provides for the allocation of funds for two
22 Clerk Typist II positions necessary to
23 handle the increased workload associated
24 with the immediate issuance of titles.

25 **Emergency clause.** In view of the emergency cited in the
26 preamble, this Act takes effect when approved.'

27 Further amended the bill by renumbering the sections to read
28 consecutively.

29 Further amend the bill by inserting at the end before the
30 statement of the following:

31 **FISCAL NOTE**

32 1994-95

33 **APPROPRIATIONS/ALLOCATIONS**

34 Highway Fund \$65,214

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REVENUES

Highway Fund \$478,000

Increasing the photographic license fee by \$1.00 will increase Highway Fund revenue by \$258,000 in fiscal year 1994-95.

Allowing the Secretary of State to charge an additional \$10 for the immediate issuance of a title or certificate of salvage will increase Highway Fund revenue by \$220,000 in fiscal year 1994-95.

The Bureau of Motor Vehicles will require a Highway Fund allocation of \$65,214 in fiscal year 1994-95 to provide funds for 2 Clerk Typist II positions necessary to handle the increased workload associated with the immediate issuance of titles.

Allowing the Secretary of State to receive funds and assets in accordance with criminal court procedures may result in additional collections of dedicated revenue. The exact amount can not be determined at this time.'

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STATEMENT OF FACT

This amendment does the following.

1. It allows the Secretary of State to receive funds and assets forfeited in accordance with criminal court procedures and requires funds and assets received to be used for law enforcement training or law enforcement equipment.

2. It requires a person receiving records by electronic transmittal to pay a fee associated with the cost of the transmittal.

3. It allows all trailers except camp trailers to register for a 2-year period.

4. It allows registered farm vehicles to obtain temporary weight increases for a period of one month.

5. It repeals hazardous materials transport provisions that have been found to be unconstitutional.

6. It allows a hearing-impaired person to complete a motorcycle driver education program using an electronic communications system.

2 7. It clarifies language in the original bill regarding
continuation of an instruction permit.

4
6 8. It repeals the retaliatory tax laws that were found to
be unconstitutional.

8 9. It allows the Secretary of State to accept an
application in place of a title when the application is
10 accompanied by a prior title.

12 10. It reduces the minimum insurance requirements on certain
rental vehicles.

14
16 11. It amends the bill to clarify that persons advertising a
limousine service are required to obtain a permit.

18 12. It restricts applications for state identification cards
to residents of Maine and nonresidents who are living in Maine
20 temporarily and have a mailing address in the State.

22 13. It allows the Secretary of State to charge an
additional \$10 for the immediate issuance of a title or
24 certificate of salvage.

26 This amendment also corrects cross-references. It adds an
emergency preamble, an allocation section and a fiscal note to
28 the bill. This amendment also conforms existing law to current
drafting standards.