

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

No. 1837

S.P. 669

In Senate, February 8, 1994

**An Act to Subject Motorists with Prior Out-of-state
Operating-under-the-influence Convictions to the Sentencing Provisions
of the State's Operating-under-the-influence Laws.**

Submitted by the Department of the Attorney General pursuant to Joint Rule 24.
Reference to the Committee on Legal Affairs 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 HANDY of Androscoggin.
Cosponsored by Senator: LAWRENCE of York, Representatives: OTT of York, SWAZEY of
Bucksport.

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

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Sec. 1. 29 MRSA §1312-B, sub-§2, ¶A, as amended by PL 1989, c. 784, §5, is further amended to read:

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Sec. 2. 29 MRSA §1312-B, sub-§2, ¶B, as repealed and replaced by PL 1991, c. 377, §18, is amended to read:

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B. In the case of a person having no previous convictions of ~~a violation of former section 1312, subsection 10, former section 1312-B or this section~~ operating under the influence of intoxicating liquor or drugs, or a combination of liquor or drugs, or with an excessive blood-alcohol level and having no previous suspension of license or privilege to operate for failure to comply with the duty to submit to and complete chemical testing under section 1312 within a 6-year period, the fine may not be less than \$300, 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:

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

(2) Was driving in excess of the speed limit by 30 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;

(3) Eluded or attempted to elude an officer, as defined in section 2501-A, subsection 3, during the operation that resulted in prosecution for operating

2 under the influence or with a blood-alcohol level of
0.08% or more;

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

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

14 **Sec. 3. 29 MRSA §1312-B, sub-§2, ¶C**, as amended by PL 1989, c.
16 784, §7, is further amended to read:

18 C. In the case of a person having one previous conviction
20 of ~~a violation of former section 1312, subsection 10, former~~
~~section 1312-B or this section~~ operating under the influence
22 of intoxicating liquor or drugs, or a combination of liquor
24 or drugs, or with an excessive blood-alcohol level or having
at least one previous suspension for failure to comply with
the duty to submit to and complete chemical testing to
determine the level of blood-alcohol or drug concentration
under section 1312 within a 6-year period, the fine may not
be less than \$500, the sentence shall include a period of
incarceration of not less than 7 days 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 one year, which penalties may not
be suspended.

32 **Sec. 4. 29 MRSA §1312-B, sub-§2, ¶D**, as repealed and replaced
34 by PL 1985, c. 412, §4, is amended to read:

36 D. In the case of a person having 2 or more previous
38 convictions of ~~violations of former section 1312, subsection~~
~~10, former section 1312-B or this section~~ operating under
40 the influence of intoxicating liquor or drugs, or a
42 combination of liquor or drugs, or with an excessive
blood-alcohol level within a 6-year period, the fine shall
not be less than \$750, the sentence shall include a period
of incarceration of not less than 30 days 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 2 years, which penalties
may not be suspended.

48 **Sec. 5. 29 MRSA §1312-B, sub-§2, ¶H** is enacted to read:
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2 H. For the purposes of this section, a conviction of
operating under the influence of intoxicating liquor or
4 drugs, or a combination of liquor or drugs, or with an
excessive blood-alcohol level includes:

6 (1) A conviction of a violation of former section
8 1312, subsection 10 or of this section;

10 (2) A conviction, in any jurisdiction that is or
becomes a party to the driver license compact in
12 chapter 7, subchapter III, of any offense described in
the compact under section 634, subsection 1, paragraph
14 B or of an offense that is similar to the offense
provided in section 634, subsection 3;

16 (3) An adjudication or other determination made under
the juvenile laws of this State or of another
18 jurisdiction for conduct that, if committed by an
adult, would have been a conviction included in this
20 subsection, including the conduct under Title 15,
section 3103, subsection 1, paragraph F; and

22 (4) A conviction in a court of the United States or a
24 court of a state that is not a party to the driver
license compact in chapter 7, subchapter III, provided
26 that the punishment for the offense includes the
possibility of incarceration, whether or not actually
28 imposed on that occasion, and the elements of the
offense as provided in the law of that jurisdiction
30 include operation or attempted operation of a motor
vehicle while intoxicated, impaired or under the
32 influence of intoxicating liquor or drugs, or a
combination of liquor or drugs, or with a blood-alcohol
34 level sufficient for conviction under the laws of that
jurisdiction.

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40 **STATEMENT OF FACT**

42 This bill subjects motorists with prior out-of-state
44 operating-under-the-influence convictions to the sentencing
provisions of the State's operating-under-the-influence laws.

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48 This document has not yet been reviewed to determine the
50 need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.