

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

No. 1868

H.P. 1381

House of Representatives, February 14, 1994

An Act to Clarify and Expand the Driver Education and Evaluation Programs in the State.

Submitted by the Office of Substance Abuse pursuant to Joint Rule 24.
Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative PENDEXTER of Scarborough.
Cosponsored by Representatives: BRUNO of Raymond, PLOWMAN of Hampden, Senators:
BUSTIN of Kennebec, FOSTER of Hancock.

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

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3 **Sec. 1. 5 MRSA §12004-G, sub-§15-A**, as repealed by T. 5,
4 §20078, sub-§8, is reenacted to read:

6 **15-A.** Driver Edu- \$75/Day 5 MRSA
7 Substance cation and §20078-A
8 Abuse Evaluation
9 Programs
10 Appeals Board

12 **Sec. 2. 5 MRSA §20071, sub-§1**, as enacted by PL 1991, c. 601,
13 §28, is amended to read:

14 **1. Alcohol-related or other drug-related motor vehicle**
15 **incident.** "Alcohol-related or other drug-related motor vehicle
16 incident" means a conviction or administrative action resulting
17 in the suspension of a motor vehicle operator's license for a
18 violation under Title 29, section 1311-A; Title 29, former
19 section 1312, subsection 10-A; Title 29, former section 1312-B;
20 Title 29, former section 1312-C; Title 29, section 1312-B; ~~or~~
21 Title 29, section 1313-B; Title 29, section 2241, subsection 1,
22 ~~N~~; Title 29, section 2241-G, subsection 2, paragraph B,
23 subparagraph (2) or Title 29, section 2241-J.

24 **Sec. 3. 5 MRSA §20071, sub-§4-B, ¶¶C and D**, as enacted by PL
25 1991, c. 622, Pt. Y, §2, are amended to read:

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

30 D. Failed to submit to a chemical test for the
31 determination of that person's blood-alcohol level, at the
32 request of a law enforcement officer on the occasion that
33 resulted in the conviction; ~~or~~

34 **Sec. 4. 5 MRSA §20071, sub-§4-B, ¶E** is enacted to read:

35 E. Had a blood or urine test that indicated the presence of
36 a drug defined in Title 17-A, section 1101.

37 **Sec. 5. 5 MRSA §20073-A, sub-§1**, as enacted by PL 1991, c.
38 622, Pt. Y, §5, is amended to read:

39 **1. First offenders; adult.** The Office of Substance Abuse
40 program required for clients without a previous alcohol-related
41 or drug-related motor vehicle offense and without an offense with
42 aggravating factors as defined in section 20071, subsection 4-B,
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2 consists of a 1/2-to one-hour educational session on the effects
of alcohol and other drugs and an alcohol and other drug
4 assessment. The evaluation and treatment components may be
recommended.

6 Sec. 6. 5 MRSA §20073-A, sub-§2-A is enacted to read:

8 2-A. First offenders under 21 years of age who have reached
23 years of age. If a person was a first offender under 21 years
10 of age but has reached 23 years of age at the time of
registration for the Driver Education and Evaluation Programs,
12 that person's preliminary assessment must be through the first
offender adult program. That person may be referred for further
14 evaluation as a result of the preliminary assessment and may be
referred to treatment as a result of that evaluation. The fee
16 for the preliminary assessment is the same as the fee for the
first offender adult as set in section 20076-A, subsection 1.
18 The cost of evaluation and the treatment, if necessary, is the
responsibility of the client.

20 Sec. 7. 5 MRSA §20078-A is enacted to read:

22 §20078-A. Board of appeals

24 The Driver Education and Evaluation Programs Appeals Board,
26 established in section 12004-G, subsection 15-A, is referred to
as the "board" in this subchapter and is governed by this section.

28 1. Qualifications. Each member of the board must have
30 training, education, experience and demonstrated ability in
successfully treating clients who have substance abuse problems.
32 Board members may not hold a current certificate to provide
driver education, evaluation and treatment services during their
34 terms of appointment.

36 2. Appointment; term; removal. The board consists of 3
members appointed by the Governor for 2-year terms; initially,
38 however, 2 members are appointed for 2-year terms and one member
for a one-year term. A vacancy occurring prior to the expiration
40 of a term must be filled by appointment for the unexpired term.
Members may be removed by the Governor for cause.

42 3. Facilities; staff. The director shall provide staff
44 support and adequate facilities for the board.

46 4. Chair; rules. The board shall elect annually a chair
from its members. The director shall adopt rules to carry out
48 the purposes of this section.

2 5. Compensation. Each member of the board is entitled to
3 compensation in accordance with chapter 379.

4 6. Appeal from decision. A client of Driver Education and
5 Evaluation Programs may appeal to the board as follows.

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

8 B. The client may appeal an evaluation decision referring
9 the client to treatment or a completion of treatment
10 decision pursuant to section 20073-A. A client may appeal
11 under this paragraph only after the client has sought a 2nd
12 opinion of the need for treatment or of satisfactory
13 completion of treatment.

14 7. Appeal procedure and action. An appeal is heard and
15 decided by one board member. The board may affirm or reverse the
16 decision of the treatment provider or agency, require further
17 evaluation, make a finding of completion of treatment or make an
18 alternate recommendation. The board, after due consideration,
19 shall make a written decision and transmit that decision to the
20 Driver Education and Evaluation Programs and the client who
21 appealed the case. The decision of the board is final agency
22 action for purposes of judicial review pursuant to chapter 375,
23 subchapter VII.

24 Sec. 8. 29 MRSA §1312-D, sub-§2-A, as corrected by RR 1991, c.
25 2, §110, is amended to read:

26 2-A. Special licenses for Driver Education and Evaluation
27 Programs participants. Following the expiration of the total
28 period of suspension imposed on a first-time offender pursuant to
29 Title 15, section 3314 or section 1312-B, the Secretary of State
30 shall issue a special license or permit to the person if the
31 Secretary of State receives written notice that the person has
32 completed the assessment components of the alcohol and other drug
33 program as set out in Title 5, section 20073-A. First offenders
34 with an aggravated offense as defined in Title 5, section 20071,
35 subsection 4-B are entitled to receive a special license after
36 completion of the evaluation provided by the Office of Substance
37 Abuse. First offenders who have registered for the completion of
38 treatment programs as described in Title 5, section 20072,
39 subsection 2 are entitled to receive a special license after
40 completion of a minimum of 3 treatment sessions provided by a
41 counselor or agency approved by the Office of Substance Abuse. A
42 special license or permit may not be issued under this section to
43 2nd and subsequent offenders.

STATEMENT OF FACT

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The purpose of this bill is to clarify and add specificity to the Driver Education and Evaluation Programs within the Office of Substance Abuse.

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The bill authorizes a 1/2-to one-hour educational session for the first offender adult without aggravating factors. The bill requires a registrant who is 23 years of age who was under 21 years of age at the time of the offense, as a first offender, to attend the adult offender program.

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The bill identifies operating under the influence of other drugs as defined in the Maine Revised Statutes, Title 17-A, section 1101 as an aggravating factor and requires the offender to participate in the Weekend Intervention Program for the purpose of an evaluation to determine whether treatment is necessary.

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The bill allows for the continuation of the Driver Education and Evaluation Programs Board of Appeals within the Office of Substance Abuse.

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The bill clarifies the Driver Education and Evaluation Programs definition of "alcohol-related or drug-related motor vehicle incident."

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The bill allows first offenders who have enrolled in Driver Education and Evaluation Programs to be eligible for a special license after expiration of the total period of suspension if they have attended 3 treatment counseling sessions from a counselor or agency approved by the Office of Substance Abuse.

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

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