

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1435

H.P. 1020

House of Representatives, April 27, 1995

**An Act to Enhance the Penalties for Repeat Offenders of the Laws
Governing Drinking and Driving.**

Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative OTT of York.
Cosponsored by Senator: LAWRENCE of York.

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

2
3 **Sec. 1. 29-A MRSA §2411, sub-§5, ¶¶A to D**, as enacted by PL
4 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to
5 read:

6
7 A. For a person having no previous OUI offenses within a
8 ~~6-year~~ 10-year period:

9 (1) A fine of not less than \$300;

10 (2) A court-ordered suspension of a driver's license
11 for a period of 90 days; and

12 ~~(2-A) A court-ordered 90-day period of time after the~~
13 ~~period of suspension during which the person convicted~~
14 ~~must display a decal identifying the person as an OUI~~
15 ~~offender on the registration plate of the motor vehicle~~
16 ~~owned and operated by that person; and~~

17 (3) A period of incarceration of not less than 48
18 hours, when the defendant:

19 (a) Was tested as having a blood-alcohol level of
20 0.15% or more;

21 (b) Was exceeding the speed limit by 30 miles per
22 hour or more;

23 (c) Eluded or attempted to elude an officer;

24 (d) Failed to submit to a test at the request of
25 a law enforcement officer; or

26 (e) Was operating with a passenger under 16 years
27 of age;

28 B. For a person having one previous OUI offense within a
29 ~~6-year~~ 10-year period:

30 (1) A fine of not less than \$500;

31 (2) A period of incarceration of not less than 7 days;

32 (3) A court-ordered suspension of a driver's license
33 for a period of one year; and

34 (4) In accordance with section 2416, a court-ordered
35 suspension of the person's right to register a motor
36 vehicle; and

2 (5) A court-ordered 90-day impoundment or
4 immobilization of the motor vehicle owned and operated
6 by the person convicted under subsection 1, unless the
8 court finds that there is a driver with a valid
10 operator's license within the family of the operator of
12 the vehicle and that the family has no other means of
14 transportation. The impoundment or immobilization may
16 not be concurrent with a sentence of imprisonment. If
18 the vehicle is leased, the period of impoundment or
20 immobilization may not extend beyond the expiration of
22 the lease agreement. An impoundment or immobilization
24 of a motor vehicle encumbered by a perfected security
 interest is subject to the interest of the secured
 party if the party did not have knowledge of the act on
 which the impoundment or immobilization is based. At
 the request of the State, the court may issue, ex
 parte, a preliminary order to seize or secure a motor
 vehicle subject to impoundment or immobilization and to
 provide for custody. That order may include an order
 to a financial institution or to any fiduciary or
 bailee to impound or immobilize the vehicle in its
 possession or control and to release the vehicle only
 on further notice of the court;

26 C. For a person having 2 previous OUI convictions within a
28 6-year 10-year period:

- 30 (1) A fine of not less than \$750;
- 32 (2) A period of incarceration of not less than 30 days;
- 34 (3) A court-ordered suspension of a driver's license
 for a period of 2 years; and
- 36 (4) In accordance with section 2416, a court-ordered
38 suspension of the person's right to register a motor
 vehicle;

40 D. For a person having 3 or more OUI convictions within a
42 6-year 10-year period the offense is a Class C crime. The
44 minimum penalties specified in paragraph C apply, but the
 minimum fine is \$1,000; and

46 **Sec. 2. 29-A MRSA §2411, sub-§5-A is enacted to read:**

48 **5-A. Ignition interlock devices.** In addition to any
50 mandatory penalties under subsection 5, after the period of
 license suspension, the court may order for a specified period of
 time the use of an ignition interlock device in the motor vehicle

2 of a person having 2 or more previous OUI convictions. For
3 purposes of this section, "ignition interlock device" means a
4 device that connects a breath analyzer to a motor vehicle's
5 ignition system. The analyzer monitors the concentration by
6 weight of alcohol in the breath of any person who attempts to
7 start the motor vehicle by using the ignition system. The
8 vehicle will not start unless the person provides a breath sample
9 whose concentration by weight of alcohol is below a preset level.

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STATEMENT OF FACT

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This bill increases the penalties for persons convicted of OUI as follows.

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18 1. For persons having no previous OUI offenses within a
19 10-year period, a decal identifying the person as an OUI offender
20 must be affixed to the registration plate of the vehicle owned
21 and operated by the offender for a 90-day period beginning after
22 the period of suspension.

22

24 2. For persons convicted of having one previous OUI offense
25 within a 10-year period, the court must order a 90-day period of
26 impoundment or immobilization of the vehicle owned and operated
27 by the offender.

28

30 3. For persons convicted of having 2 previous OUI offenses
31 within a 10-year period, the court may order that an ignition
32 interlock device be used for a specified period of time on the
33 motor vehicle of the offender after the offender's period of
34 suspension has elapsed.