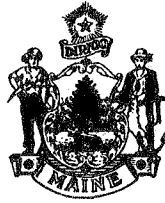


MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1481

S.P. 479

In Senate, March 11, 1997

**An Act to Impose License Suspension and Other Sanctions on Those
Who Fail to Pay Fines and Other Penalties.**

Reference to the Committee on Judiciary 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 MILLS of Somerset.

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

4 **Sec. 1. 4 MRSA §807, sub-§3, ¶I**, as amended by PL 1995, c. 599,
§2 and c. 694, Pt. D, §4 and affected by Pt. E, §2, is repealed
6 and the following enacted in its place:

8 I. A person who is not an attorney, but is representing the
Department of Human Services in a child support enforcement
10 matter as provided by Title 14, section 3128-A, subsection
7, Title 19, section 504-C, subsection 10 or Title 19-A,
12 section 2361, subsection 10. This paragraph is repealed
October 1, 1998;

14 **Sec. 2. 4 MRSA §807, sub-§3, ¶J**, as enacted by PL 1995, c. 599,
16 §3, is amended to read:

18 J. For the purposes of defending a civil action filed
against a corporation, an officer of the corporation if the
20 corporation is organized in this State and has 2 or fewer
shareholders; or

22 **Sec. 3. 4 MRSA §807, sub-§3, ¶K** is enacted to read:

24 K. For the purposes of prosecuting a traffic infraction, a
law enforcement officer as authorized under Title 30-A,
26 section 282, subsection 2.

28 **Sec. 4. 8 MRSA §229**, as amended by PL 1995, c. 528, §2, is
30 further amended to read:

32 **§229. Violations**

34 **1. Criminal penalties.** A person who violates section 222,
if the value of the fireworks possessed exceeds \$100, or section
224 ~~or~~ 225 commits a Class E crime. A person who violates
36 section 227 by failing to obtain a permit for display commits a
Class D crime. Any person who violates section 227 by conducting
38 the display in violation of the permit commits a Class E crime.

40 **2. Civil violation.** Any person who violates section 222
where the value of the fireworks possessed does not exceed \$100
42 commits a civil violation for which a forfeiture not to exceed
\$50 may be adjudged. A person who violates section 225 commits a
44 civil violation for which a forfeiture not to exceed \$50 may be
adjudged.

46 **Sec. 5. 9-A MRSA §8-303, sub-§2**, as enacted by PL 1981, c.
48 243, §25, is amended to read:

2 2. No Except as provided in subsection 8, no seller in any
sales transaction may impose a surcharge on a cardholder who
elects to use a credit card in lieu of payment by cash, check or
4 similar means.

6 **Sec. 6. 9-A MRSA §8-303, sub-§8** is enacted to read:

8 8. A governmental department or agency of the State may
charge a reasonable fee to a cardholder who elects to use a
10 credit card to pay a fine, forfeiture or any other fee. The
reasonable fee must be established by rule. Rules adopted under
12 this subsection are routine technical rules for the purposes of
Title 5, chapter 375, subchapter II-A.

14 **Sec. 7. 12 MRSA §6308**, as enacted by PL 1993, c. 410, Pt. V,
16 §2 and amended by PL 1995, c. 694, Pt. D, §9 and affected by Pt.
E, §2, is repealed and the following enacted in its place:

18 **§6308. Compliance with support orders; license qualifications and**
20 **conditions**

22 In addition to other qualifications for licensure or
registration and conditions for continuing eligibility to hold a
24 license as prescribed by the various acts of the department,
applicants for licensure or registration, licensees renewing
26 their licenses and existing licensees must also comply with the
requirements of Title 19, section 305 or Title 19-A, section 2201.

28 **Sec. 8. 12 MRSA §6309, sub-§2**, as enacted by PL 1993, c. 410,
30 Pt. V, §2 and amended by PL 1995, c. 694, Pt. D, §10 and affected
by Pt. E, §2, is repealed and the following enacted in its place:

32 2. **Noncompliance with a court order of support.** An
34 applicant for the issuance or renewal of a license or an existing
licensee regulated by the department under this subpart who is
36 not in compliance with a court order of support is subject to the
requirements of Title 19, section 305 or Title 19-A, section 2201.

38 **Sec. 9. 12 MRSA §6408** is enacted to read:

40 **§6408. Suspension of license for failure to appear, answer or pay**

42 In a civil or criminal violation proceeding, if a person
44 fails to answer by the date specified in the Uniform Summons and
Complaint, fails to appear for trial or fails to pay a fine
46 assessed in any civil or criminal violation proceeding, the clerk
shall suspend the person's marine resources license. The
48 suspension remains in effect until the person answers or appears,
either in person or by counsel, or pays the fine. On answer,

2 appearance or payment of the fine, whichever was the basis for
3 the suspension, and on condition of payment of a \$25
4 reinstatement fee to the department, the clerk of the court in
5 which the suspension was ordered shall rescind the suspension and
6 notify the department, which, upon receipt of the \$25
7 reinstatement fee, shall delete any record of the suspension from
8 that person's record. For the purposes of this section, "fine"
9 has the same meaning as provided in Title 14, section 3141,
10 subsection 1.

11 **Sec. 10. 12 MRSA §7077, sub-§1-C** is enacted to read:

12 **1-C. Suspension of licenses and registrations.** In a civil
13 or criminal violation proceeding, if a person fails to answer by
14 the date specified in the Uniform Summons and Complaint, fails to
15 appear for trial or fails to pay a fine assessed in any civil or
16 criminal violation proceeding, the clerk shall suspend the
17 person's license issued under this Part and any registration
18 issued under chapter 715. The suspension remains in effect until
19 the person answers or appears, either in person or by counsel, or
20 pays the fine. On answer, appearance or payment of the fine,
21 whichever was the basis for the suspension, and on condition of
22 payment of a \$25 reinstatement fee to the department, the clerk
23 of the court in which the suspension was ordered shall rescind
24 the suspension and notify the department, which, upon receipt of
25 the \$25 reinstatement fee, shall delete any record of the
26 suspension from that person's record. For the purposes of this
27 section, "fine" has the same meaning as provided in Title 14,
28 section 3141, subsection 1.

29 **Sec. 11. 12 MRSA §7079-A**, as enacted by PL 1993, c. 410, Pt.
30 V, §3 and amended by PL 1995, c. 694, Pt. D, §11 and affected by
31 Pt. E, §2, is repealed and the following enacted in its place:

32 **§7079-A. Compliance with support orders; license qualifications**
33 **and conditions**

34 In addition to other qualifications for licensure or
35 registration and conditions for continuing eligibility to hold a
36 license as prescribed by the various acts of the department,
37 applicants for licensure or registration, licensees renewing
38 their licenses and existing licensees must also comply with the
39 requirements of Title 19, section 305 or Title 19-A, section 2201.

40 **Sec. 12. 12 MRSA §7079-B, sub-§2**, as enacted by PL 1993, c.
41 410, Pt. V, §3 and amended by PL 1995, c. 694, Pt. D, §12 and
42 affected by Pt. E, §2, is repealed and the following enacted in
43 its place:
44

2 **2. Noncompliance with a court order of support.** An
3 applicant for the issuance or renewal of a license or an existing
4 licensee who is not in compliance with a court order of support
5 is subject to the requirements of Title 19, section 305 or Title
6 19-A, section 2201.

7 **Sec. 13. 14 MRSA §3141, sub-§1,** as amended by PL 1991, c. 806,
8 §4, is further amended to read:

10 **1. Applicability.** The procedures established by this
11 chapter apply to all monetary fines, however designated, imposed
12 by a court in a civil violation or traffic infraction proceeding
13 and must be utilized, to the maximum extent possible, to obtain
14 prompt and full payment of all such fines. The procedures
15 established by this chapter may be used to collect any fine,
16 surcharge or assessment imposed as part of a sentence for a
17 criminal conviction. The procedures established by this chapter
18 are in addition to, and not in lieu of, those otherwise
19 authorized by law. As used in this chapter, "fine" includes any
20 surcharge or assessment required by law to be imposed as all or
21 part of a sentence for a criminal conviction and any other costs
22 or other fees the court assesses or imposes against a defendant
23 in any civil or criminal adjudication, including appointed
24 counsel fees and restitution.

26 **Sec. 14. 14 MRSA §3141, sub-§3,** as amended by PL 1995, c. 65,
27 Pt. A, §39 and affected by §153 and Pt. C, §15, is further
28 amended to read:

30 **3. Immediate payment.** When a court has imposed a fine, as
31 described in subsection 1, the imposition of such a fine
32 constitutes an order to pay the full amount of the fine in
33 accordance with this chapter. Following imposition of the fine,
34 the court shall inform the defendant that full payment of the
35 fine is due immediately and shall inquire of the defendant what
36 arrangements the defendant has made to comply with the court's
37 order to pay the fine. Without utilizing the provisions of
38 subsection 4, the court may allow the defendant a period of time,
39 not to extend beyond the time of the close of the clerk's office
40 on that day, within which to return to the court and tender
41 payment of the fine. If the defendant fails to appear as
42 directed, the court shall issue a civil order of arrest. The
43 arrest order must be carried out by the sheriff as a civil order
44 of arrest is carried out under section 3135. ~~If the underlying~~
45 ~~offense involves any violation of Title 23, section 1980, Title~~
46 ~~28-A, section 2052, or Title 29-A, the~~ The court shall also, upon
47 the defendant's failure to appear, suspend the defendant's
48 license or permit to operate motor vehicles in this State and the
49 right to apply for or obtain a license or permit to operate a
50 motor vehicle in this State.

2 If the defendant claims an inability to pay the fine, the court
4 shall inquire into the defendant's ability to pay and shall make
6 a determination of the defendant's financial ability to pay the
8 fine. If the court finds that the defendant has the financial
10 ability to make immediate payment of the fine in full, the court
shall order the defendant to pay the fine. Failure or refusal to
pay as ordered by the court subjects the defendant to the
contempt procedures provided in section 3142.

12 **Sec. 15. 14 MRSA §3141, sub-§7,** as amended by PL 1995, c. 65,
Pt. A, §40 and affected by §153 and Pt. C, §15, is repealed and
14 the following enacted in its place:

16 7. Remedies. Failure to pay by the date fixed by the
court's order or an amended order subjects the defendant to:

18 A. The contempt procedures provided in section 3142;

20 B. The suspension of any license, certification,
22 registration, permit, approval or other similar document
evidencing admission to or granting authority to hunt, fish
24 or trap or to engage in a profession, occupation, business
or industry, not including a registration, permit, approval
26 or similar document evidencing the granting of authority to
engage in the business of banking pursuant to Title 9-B.
Licenses and registration subject to suspension include, but
28 are not limited to:

30 (1) Licenses issued by the Commissioner of Marine
Resources, as provided in Title 12, section 6408;

32 (2) Licenses issued by the Commissioner of Inland
34 Fisheries and Wildlife, as provided in Title 12,
section 7077, subsection 1-C;

36 (3) Watercraft, snowmobile and all-terrain vehicle
38 registrations, as provided in Title 12, section 7707,
subsection 1-C;

40 (4) Motor vehicle licenses or permits, the right to
42 operate a motor vehicle in this State and the right to
apply for or obtain a license or permit, as provided in
44 Title 29-A, section 2605; and

46 C. All procedures for collections provided for in sections
48 3127-A, 3127-B and 3131 to 3136.

50 An installment agreement under this section must be considered an
agreement under section 3125 and a court order to pay under

2 section 3127. In addition to other penalties provided by law,
3 the court may impose on the defendant reasonable costs for any
4 failure to appear.

6 **Sec. 16. 19 MRSA §305, sub-§1, ¶¶A, F and G,** as enacted by PL
7 1993, c. 410, Pt. V, §4, are amended to read:

8 A. "Board" means any bureau, board or commission listed in
9 Title 10, section 8001 or 8001-A, other licensor that is
10 affiliated with or is a part of the Department of
11 Professional and Financial Regulation, the Board of
12 Overseers of the Bar and any other state agency or
13 municipality that issues a license authorizing a person to
14 hunt, fish or trap or to engage in a business, occupation,
15 profession or industry.

16 F. "License" means a license, certification, registration,
17 permit, approval or other similar document evidencing
18 admission to or granting authority to hunt, fish or trap or
19 to engage in a profession, occupation, business or industry,
20 but and the registration of watercraft, snowmobiles and
21 all-terrain vehicles under Title 12, chapter 715. "License"
22 does not mean a registration, permit, approval or similar
23 document evidencing the granting of authority to engage in
24 the business of banking pursuant to Title 9-B.

26 G. "Licensee" means any individual holding a license,
27 certification, registration, permit, approval or other
28 similar document evidencing admission to or granting
29 authority to hunt, fish or trap or to engage in a
30 profession, occupation, business or industry except or the
31 registration of a watercraft, snowmobile or all-terrain
32 vehicle. "Licensee" does not include an individual holding
33 a registration, permit, approval or similar document
34 evidencing the granting of authority to engage in the
35 business of banking pursuant to Title 9-B.

38 **Sec. 17. 19 MRSA §305, sub-§2, ¶E,** as amended by PL 1993, c.
39 660, §1, is further amended to read:

40 E. If the department certifies the obligor to a board for
41 noncompliance with a court order of support, the board must
42 revoke the obligor's license and refuse to issue or reissue
43 a license until the obligor provides the board with a
44 release from the department that states the obligor is in
45 compliance with the obligor's support order. A revocation
46 by an-agency a board or a refusal by an-agency a board
47 to reissue, renew or otherwise extend the license or
48 certificate of authority is deemed a final determination
49 within the meaning of Title 5, section 10002;
50

2 **Sec. 18. 19 MRSA §306, sub-§3, ¶E,** as enacted by PL 1993, c.
410, Pt. V, §4, is amended to read:

4
6 E. If the commissioner certifies the obligor to the
Secretary of State, the Secretary of State must suspend any
8 motor vehicle operator's licenses that the obligor holds and
the obligor's right to apply for or obtain a motor vehicle
10 operator's license and any motor vehicle registrations on
which the obligor's name appears;

12 **Sec. 19. 19-A MRSA §2101, sub-§§1, 7 and 8,** as enacted by PL
1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to
14 read:

16 **1. Board.** "Board" means a bureau, board or commission
18 listed in Title 10, section 8001 or 8001-A, other licensor that
is affiliated with or is a part of the Department of Professional
and Financial Regulation, the Board of Overseers of the Bar or
20 any other state agency or municipality that issues a license
authorizing a person to hunt, fish or trap or to engage in a
22 business, occupation, profession or industry.

24 **7. License.** "License" means a license, certification,
26 registration, permit, approval or other similar document
evidencing admission to or granting authority to hunt, fish or
28 trap or to engage in a profession, occupation, business or
industry,--but and the registration of watercraft, snowmobiles and
30 all-terrain vehicles under Title 12, chapter 715. "License" does
not mean a registration, permit, approval or similar document
32 evidencing the granting of authority to engage in the business of
banking pursuant to Title 9-B.

34 **8. Licensee.** "Licensee" means an individual holding a
36 license, certification, registration, permit, approval or other
similar document evidencing admission to or granting authority to
38 hunt, fish or trap or to engage in a profession, occupation,
business or industry except or the registration of a watercraft,
40 snowmobile or all-terrain vehicle. "Licenses" does not include
an individual holding a registration, permit, approval or similar
42 document evidencing the granting of authority to engage in the
business of banking pursuant to Title 9-B.

44 **Sec. 20. 19-A MRSA §2202, sub-§2, ¶E,** as enacted by PL 1995,
c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

46
48 E. If the commissioner certifies the obligor to the
Secretary of State, the Secretary of State must suspend any
motor vehicle operator's licenses that the obligor holds and

2 the obligor's right to apply for or obtain a motor vehicle
operator's license and any motor vehicle registrations on
4 which the obligor's name appears;

6 **Sec. 21. 29-A MRSA §2605, sub-§§1 and 2**, as enacted by PL 1993,
c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

8 **1. Suspension by clerk.** If a person fails to answer or
9 fails to appear in court on the date and time specified in
10 response to a Uniform Summons and Complaint, a summons, a
11 condition of bail or order of court for any civil or criminal
12 ~~violation of Title 23, section 1980; a civil violation under~~
13 ~~Title 28-A, section 2052; or any criminal provision of this~~
14 ~~Title,~~ or for any further appearance ordered by the court,
15 including one for the payment of a fine, either in person or by
16 counsel, or fails to pay a fine imposed for a civil or criminal
17 ~~traffic offense violation~~, the clerk shall suspend the person's
18 license or permit, the right to operate a motor vehicle in this
19 State and the right to apply for or obtain a license or permit,
20 and the clerk shall suspend the person's motor vehicle
21 registration. For purposes of this section, "criminal violation"
22 includes a criminal traffic offense.

24 If a person who is not an individual fails to appear or pay a
25 fine in a civil or criminal ~~traffic offense~~ violation, the clerk
26 shall suspend the registration of the motor vehicle involved in
27 the offense or that person's right to operate that vehicle in the
28 State.

30 **2. Notification by Secretary of State.** On receipt of a
31 copy of an order of any such suspension in a civil or criminal
32 ~~traffic offense or in a civil violation under Title 28-A, section~~
33 ~~2052 violation~~, the Secretary of State shall immediately notify
34 that person of the suspension by regular mail or personal service.

36 **Sec. 22. 29-A MRSA §2605, sub-§5** is enacted to read:

38 **5. Fine.** The term "fine" as used in this section has the
39 same meaning as provided in Title 14, section 3141, subsection 1.

40 **Sec. 23. 30-A MRSA §282, sub-§2**, as amended by PL 1989, c.
41 104, Pt. C, §§8 and 10, is further amended to read:

44 **2. Traffic infractions.** The district attorney, ~~or~~ someone
45 acting under the district attorney's direction, or, in the
46 discretion of the district attorney, the summoning or
47 investigating law enforcement officer shall prosecute all traffic
48 infraction cases and shall be present at the trial of any such
case.

2

SUMMARY

4

6 This bill authorizes the court to impose sanctions upon
persons who refuse to pay the fines and forfeitures assessed
8 against them for committing crimes and civil violations. It also
makes other changes to encourage and facilitate the enforcement
of laws.

10

12 This bill authorizes the court to suspend a person's motor
vehicle, hunting, fishing and trapping licenses and registrations
14 of motor vehicles, watercraft, snowmobiles and all-terrain
vehicles when the person does not pay the fine, forfeiture or
16 other monetary amount assessed against the person for any civil
or criminal violation. The sanctions apply for nonpayment of
court-appointed counsel fees and restitution, as well as any
18 other fee or assessment that the court orders the person to pay
in conjunction with a criminal or civil adjudication.

20

22 The bill allows law enforcement officers to prosecute
traffic infractions if the officer is authorized to do so by the
district attorney for that prosecutorial district. It
24 decriminalizes certain violations concerning the transportation
of fireworks. It expands the scope of licenses that may be
26 suspended for nonpayment of child support to include all hunting,
fishing and trapping licenses and registrations for motor
28 vehicles, watercraft, snowmobiles and all-terrain vehicles.

30

The bill authorizes state agencies and departments to charge
a fee for administrative costs when accepting payment for fines,
32 forfeitures and other fees, such as licensing fees, by credit
card.