

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 1527

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S.P. 496

In Senate, March 18, 1997

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**An Act to Authorize a Police Officer to Impound the Motor Vehicle of a Person Arrested for Operating Under the Influence or Driving with a Suspended or Revoked License.**

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Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator BUTLAND of Cumberland.

Cosponsored by Senators: BENNETT of Oxford, BENOIT of Franklin, HALL of Piscataquis, MITCHELL of Penobscot, Representatives: BRUNO of Raymond, KERR of Old Orchard Beach.

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

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4       **Sec. 1. 29-A MRSA §2422**, as enacted by PL 1995, c. 368, Pt. AAA, §14, is repealed and the following enacted in its place:

6       §2422. Impoundment and sale of motor vehicles for OUI or suspended or revoked license

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10       1. Impoundment. A motor vehicle that is used by a person arrested for a violation of section 2411 or section 2412-A may be seized and held in secure storage by the seizing agency or at the direction of the arresting law enforcement officer.

14       2. Declaration of nuisance. If the person arrested is a registered owner of the impounded vehicle, the prosecuting attorney or the court having jurisdiction over the violation for which the person was arrested may move to have the vehicle declared a nuisance. The court or the prosecuting attorney shall give notice of the motion and the hearing on the motion to the person arrested. The court shall declare the vehicle a nuisance if there is probable cause to believe that a violation occurred and that the person arrested committed it.

24       3. Sale of vehicle. If the person arrested is convicted of violating section 2411 or section 2412-A, the following apply for the 2nd and each subsequent conviction under either section.

28       A. The court, at the time of sentencing, shall order the sale of a vehicle declared to be a nuisance under this section.

32       B. Within 10 days of the order, the agency employing the arresting law enforcement officer shall notify by registered mail all registered owners of the vehicle of the following:

36               (1) That the vehicle was declared a nuisance;

38               (2) That the vehicle will be sold; and

40               (3) The approximate date and location of the sale.

42       C. Within 60 days of the order, the agency employing the arresting law enforcement officer shall sell the vehicle at public auction.

46       D. At least 10 days but less than 20 days before the sale, the agency employing the arresting law enforcement officer shall give public notice of the sale by advertising once in a newspaper that meets the requirements of Title 1, section 601 for the county in which the sale will occur. The notice must include:

- 2           (1) The year, make and model of the vehicle;  
4           (2) The vehicle identification number;  
6           (3) The registration number of the vehicle;  
8           (4) The engine number if the vehicle is a motorcycle;  
            and  
10          (5) The date, time and location of the sale.

12          E. Within 15 days of the sale, the person conducting the  
14          sale shall disburse the proceeds of the sale and provide a  
16          written accounting of the disposition to the court, the  
            agency employing the arresting law enforcement officer and  
            all persons entitled to or claiming a share of the proceeds.

18          F. The proceeds of the sale must be disbursed in the  
20          following priority:

22                 (1) To satisfy the costs of the sale, including the  
                  costs of taking and keeping the vehicle before the sale;

24                 (2) To the legal owner or owners to satisfy any  
26                 indebtedness owed to them as of the date of the sale,  
                  including accrued interest or finance and delinquency  
28                 charges;

30                 (3) To the holder of any subordinate lien or  
32                 encumbrance on the vehicle to satisfy the indebtedness  
34                 if the holder provides reasonable proof of the  
                  subordinate lien or encumbrance and notifies the person  
                  conducting the sale of the holder's demand for payment  
                  before distribution of the proceeds is completed;

36                 (4) To any other person who can establish an interest  
38                 in the vehicle, to the extent of the provable interest;  
                  and

40                 (5) To the general fund of the city or county in which  
42                 the violation occurred.

44          G. A vehicle may not be sold under this section if:

46                 (1) The vehicle was stolen, unless the identity of the  
48                 registered owners of the vehicle can not be reasonably  
                  ascertained; or

2           (2) Someone other than the person arrested has an  
3           ownership interest in the vehicle and it is the only  
4           vehicle available to the immediate family of the person  
5           arrested.

6           **4. Release of vehicle. The vehicle may be released:**

7           A. If the person arrested is not a registered owner of the  
8           vehicle, after at least 8 hours of impoundment and after any  
9           towing and storage fees are paid;

10           B. If the person arrested is a registered owner but the  
11           vehicle is not declared a nuisance, as soon as any towing  
12           and storage fees are paid; or

13           C. If the vehicle is declared a nuisance but the person  
14           arrested is not convicted or has not already been convicted  
15           at least once under either section 2411 or 2412-A, as soon  
16           as any towing and storage fees are paid.

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#### SUMMARY

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20           Currently, a motor vehicle used by a person arrested for  
21           operating under the influence may be impounded and held for at  
22           least 8 hours. This bill applies that authority to vehicles  
23           operated by persons arrested for driving with a suspended or  
24           revoked license as well. The bill also requires, subject to some  
25           limitations, the sale of an impounded vehicle if the person  
26           arrested is an owner of the vehicle, the vehicle is declared a  
27           nuisance, the person arrested is convicted of the underlying  
28           violation and the person has at least one prior conviction for  
29           operating under the influence or driving with a suspended or  
30           revoked license.

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