

# MAINE STATE LEGISLATURE

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**TRANSPORTATION**

Reported by: Senator Jenkins

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**STATE OF MAINE  
SENATE  
118TH LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to S.P. 548, L.D. 1666, Bill, "An Act Concerning the Authority of the Secretary of State to Suspend and Revoke Licenses and Privileges to Operate in Maine"

Amend the bill in section 2 by striking out all of subsection 6 (page 1, lines 46 to 48, page 2, lines 1 to 50 and page 3, lines 2 to 7 in L.D.) and inserting in its place the following:

'6. Suspension and revocation of related entities. If the license or authority to engage in a business or commercial activity is suspended, the suspension applies to any related individual or related entity unless the requirements of paragraph C are met.

A. For the purposes of this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Entity" means a corporation, firm, partnership, sole proprietorship, joint venture, association, fiduciary, trust, estate or any other legal or commercial entity.

(2) "Related entity" includes:

(a) All entities owned, operated or controlled by the person or named entity, by related individuals, by any person who is an officer or director of the named entity or by shareholders of the named entity;

A. of S.

COMMITTEE AMENDMENT "A" to S.P. 548, L.D. 1666

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(b) Any entity that has as an officer, director or partner an individual whose license or authority to engage in the business or commercial activity has been suspended;

(c) Any entity that has an officer, partner or 25% of its directors in common with the named entity; and

(d) Any entity in which 25% of the outstanding shares are owned or controlled by the suspended person or by an individual, related individual or entity who, taken together, also owned 25% or more of the outstanding shares of the named entity.

(3) "Related individual" means a spouse, parent, grandparent, sibling, child or grandchild, whether by blood or marriage, of a person whose license or authority to engage in the business or commercial activity has been suspended.

(4) "Suspension" means a suspension or revocation.

B. When the Secretary of State's suspension is based on a recommendation of the Motor Carrier Review Board, the board also shall make a recommendation on suspension of related entities.

C. If the related entity is able to satisfy the Secretary of State, by a preponderance of the evidence, that it is not, in fact, controlled by the suspended person, by related individuals, or by the named entity or its officers, partners or shareholders or that the actual operation of the related entity does not pose a risk to public safety, the Secretary of State shall exclude the related entity from the suspension.

D. The Secretary of State may require individuals and entities subject to suspension and the officers, directors and partners of those entities to disclose, under oath, the relationships between the individual or the entity, its officers, directors, partners and shareholders and those of other entities.

E. Any entity that would have been suspended as a related entity but for the failure or refusal of the suspended person or named entity or its officers, directors or partners to disclose the required information is nevertheless suspended and subject to the same penalties and sanctions as the suspended person or the named entity for violation of the suspension. If an entity becomes a related

# COMMITTEE AMENDMENT

2 entity or is created after the Secretary of State has made  
3 the decision to suspend or after the Motor Carrier Review  
4 Board makes its recommendation to suspend, the Secretary of  
5 State may immediately suspend the related entity.'

6 Further amend the bill by inserting at the end before the  
7 summary the following:

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9 **FISCAL NOTE**

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11 This bill may increase prosecutions for Class E crimes. If  
12 a jail sentence is imposed, the additional costs to the counties  
13 are estimated to be \$83.78 per day per prisoner. These costs are  
14 not reimbursed by the State. The number of prosecutions that may  
15 result in a jail sentence and the resulting costs to the county  
16 jail system are expected to be insignificant.

17 The additional workload and administrative costs associated  
18 with the minimal number of new cases filed in the court system  
19 can be absorbed within the budgeted resources of the Judicial  
20 Department. The collection of additional fines may increase  
21 General Fund revenue by minor amounts.'

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23 **SUMMARY**

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25 This amendment changes the definition of related entities  
26 from the bill to include certain entities in which related  
27 individuals have a role in ownership, operation or control. The  
28 amendment also requires that, when the Secretary of State's  
29 suspension or revocation of an entity is based on a  
30 recommendation of the Motor Carrier Review Board, the board must  
31 also make a recommendation on the suspension or revocation of  
32 related entities. The amendment also clarifies that if an entity  
33 becomes a related entity or is created after the Secretary of  
34 State has made the decision to suspend or after the Motor Carrier  
35 Review Board makes its recommendation to suspend, the Secretary  
36 of State may immediately suspend the related entity.  
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