

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 1666

S.P. 548

In Senate, March 26, 1997

**An Act Concerning the Authority of the Secretary of State to Suspend  
and Revoke Licenses and Privileges to Operate in Maine.**

(AFTER DEADLINE)

(EMERGENCY)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Transportation 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 President LAWRENCE of York.  
Cosponsored by Representative DONNELLY of Presque Isle and  
Senators: AMERO of Cumberland, CASSIDY of Washington, O'GARA of Cumberland,  
Representatives: MITCHELL of Vassalboro, WHEELER of Eliot.

2           **Emergency preamble. Whereas,** Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

4  
6           **Whereas,** the Secretary of State has the authority to suspend  
and revoke the licenses and privileges of certain corporations  
and entities doing business in and operating under the State's  
8 motor vehicle laws when these entities are found in violation of  
state law; and

10  
12           **Whereas,** the Secretary of State may not suspend or revoke  
licenses and privileges of corporations or entities that are  
newly formed from corporations and entities for which the  
14 licenses and operation privileges have been suspended by the  
Secretary of State for violations of state law as a means to  
16 circumvent the suspension or revocation; and

18           **Whereas,** the public health, safety and welfare is placed at  
risk when these corporations and entities continue to do business  
20 or operate in the State under the guise of a new corporation or  
entity; and

22           **Whereas,** in the judgment of the Legislature, these facts  
24 create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
26 necessary for the preservation of the public peace, health and  
safety; now, therefore,

28  
30           **Be it enacted by the People of the State of Maine as follows:**

32           **Sec. 1. 29-A MRSA §2458, sub-§5,** as amended by PL 1995, c.  
482, Pt. A, §27, is further amended to read:

34           **5. Penalty.** A person commits a Class E crime if that  
36 person recklessly or with criminal negligence fails upon request  
to disclose to the Secretary of State information required under  
38 subsection 6 or, after notice of suspension, revocation, or  
cancellation fails to obey an order of the Secretary of State  
40 under this section or fails to surrender to the Secretary of  
State on demand a license, certificate of title, certificate of  
42 registration or fuel use decal that has been suspended, revoked  
or cancelled by proper authority.

44           **Sec. 2. 29-A MRSA §2458, sub-6** is enacted to read:

46           **6. Suspension and revocation of related entities.** The  
48 following provisions apply to the suspension of authority of  
related entities.

2 A. For purpose of this subsection, unless the context  
3 otherwise indicates, the following terms have the following  
4 meanings.

5 (1) "Authority" means a certificate of title,  
6 certificate of registration, license, fuel use decal or  
7 operating authority license.

8 (2) "Deauthorized person" means a person whose  
9 authority has been suspended or revoked under this  
10 section.

11 (3) "Related entity" means:

12 (a) A person owned, operated or controlled by the  
13 deauthorized person, by any person who is an  
14 officer or director of the deauthorized person or  
15 by a shareholder of the deauthorized person;

16 (b) A person that has the deauthorized person as  
17 an officer or director or a person with officers,  
18 directors or partners in common with the  
19 deauthorized person; or

20 (c) A person of which at least 25% of the  
21 outstanding shares are owned or controlled by the  
22 deauthorized person or by persons who together own  
23 at least 25% of the outstanding shares of the  
24 deauthorized person.

25 B. If the Secretary of State has suspended or revoked an  
26 authority under this section and a deauthorized person is  
27 involved in a business or commercial activity, the  
28 suspension or revocation includes related entities.

29 C. Notwithstanding paragraph B, if the related entity can  
30 satisfy the Secretary of State by a preponderance of the  
31 evidence that the related entity is not in fact controlled  
32 by the deauthorized person or its officers, shareholders or  
33 partners, or that the actual operation of the related entity  
34 does not pose a risk to public safety, the Secretary of  
35 State shall exclude the related entity from the suspension  
36 or revocation.

37 D. The Secretary of State may require persons subject to  
38 suspension or revocation and the officers, directors and  
39 partners of those persons to disclose, under oath, the  
40 relationships between the person, its officers, directors,  
41 partners and shareholders and those of other persons.  
42

2 E. The authority of a person that would have been suspended  
4 as a related entity but for the failure or refusal of the  
6 deauthorized person or its officers, directors or partners  
8 to disclose the required information is suspended and that  
10 person is subject to the same penalties and sanctions as the  
12 deauthorized person for violation of the suspension.

14 **Sec. 3. Application.** This Act applies to suspensions or  
16 revocations in effect on or after the effective date of this Act.

18 **Emergency clause.** In view of the emergency cited in the  
20 preamble, this Act takes effect when approved.  
22

### SUMMARY

18 This bill authorizes the Secretary of State to suspend or  
20 revoke the licenses, certificates, decals or authority of  
22 separate legal entities, which are related as a result of common  
ownership or control, when one entity is issued a suspension or  
revocation.