

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 694

H.P. 511

House of Representatives, February 14, 2003

An Act Regarding Criminal Liability in an OUI Case When the Passenger Is Also under the Influence of Alcohol or Drugs

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative GLYNN of South Portland.

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

2
4 **Sec. 1. 29-A MRSA §2411, sub-§6**, as amended by PL 2001, c.
332, §1, is further amended to read:

6 **6. Aggravated punishment category.** An operator commits a
8 Class C offense if the State pleads and proves that the operator,
while operating a motor vehicle in violation of this section:

10 A. In fact caused serious bodily injury as defined in Title
12 17-A, section 2, subsection 23 to another person or in fact
caused the death of another person; or

14 B. Has either a prior conviction for a Class C crime under
16 this section or a prior criminal homicide conviction
involving or resulting from the operation of a motor vehicle
18 while under the influence of intoxicating liquor or drugs or
with a blood-alcohol content of 0.08% or greater.

20 In any prosecution under this subsection, the State need not
22 prove that the defendant's condition of being under the influence
of intoxicants or having a blood-alcohol level of 0.08% or more
24 caused the serious bodily injury or death alleged. The State
must prove only that the defendant's operation caused the serious
26 bodily injury or death. The court shall apply the definition of
causation in Title 17-A, section 33.

28 In using a sentencing alternative involving a term of
30 imprisonment for a person convicted of violating this section
when the person who suffered serious bodily injury or death was a
32 passenger in the driver's motor vehicle, and the passenger was
also under the influence of intoxicating liquor or drugs and knew
34 or reasonably should have known that the driver was under the
influence of intoxicating liquor or drugs, a court shall assign
36 special weight to this fact in determining the basic term of
imprisonment as the first step in the sentencing process.

38 The sentence must include a period of incarceration of not less
40 than 6 months, a fine of not less than \$2,000 and a court-ordered
suspension of a driver's license for a period of 6 years. These
42 penalties may not be suspended.

44 **Sec. 2. 29-A MRSA §2411-A** is enacted to read:

46 **§2411-A. Criminal liability of passenger in aggravated OUI case**

48 **1. Violation; penalty.** A person commits a Class E crime if
that person:

2 A. Is a passenger in a motor vehicle that is involved in an
4 accident that causes serious bodily injury or death to
6 another human being;

8 B. Is under the influence of intoxicating liquor or drugs;

10 C. Knows or reasonably should know that the driver of that
12 motor vehicle is under the influence of intoxicating liquor
14 or drugs; and

16 D. Takes no action to prevent the driver from operating
18 that motor vehicle.

20 2. Application. This section applies only to persons 18
22 years of age or older.

24 SUMMARY

26 This bill requires a court, in determining the sentence of a
28 person convicted of aggravated OUI when another person suffered
serious bodily injury or death, to assign special weight to the
fact that there was a passenger in the driver's motor vehicle at
the time of the accident, and the passenger was also under the
influence of intoxicating liquor or drugs and knew or reasonably
should have known that the driver was under the influence of
intoxicating liquor or drugs.

30 This bill also creates a new Class E crime. A person
32 commits a Class E crime if the person is a passenger in a motor
34 vehicle, is under the influence of intoxicating liquor or drugs,
36 knows or reasonably should know that the driver of that motor
38 vehicle is under the influence of intoxicating liquor or drugs,
takes no action to prevent the driver from operating that motor
vehicle and that motor vehicle is involved in an accident that
causes serious bodily injury or death. The bill specifies that
only persons 18 years of age or older may be charged with the new
crime.