

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 1114

H.P. 767

House of Representatives, March 1, 2005

### An Act To Strengthen the OUI Laws

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative NASS of Acton.  
Cosponsored by Senator DAVIS of Piscataquis and  
Representatives: BROWN of South Berwick, CARR of Lincoln, DAVIS of Augusta,  
MARLEY of Portland, PINEAU of Jay.

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

4 **Sec. 1. 29-A MRSA §2411, sub-§5, ¶¶C and D,** as amended by PL  
2003, c. 673, Pt. TT, §4, are further amended to read:

6 C. For a person having 2 previous OUI offenses within a  
10-year period:

8 (1) A fine of not less than \$1,100, except that if the  
10 person failed to submit to a test at the request of a  
12 law enforcement officer, a fine of not less than \$1,400;

14 (2) A period of incarceration of not less than 30  
16 days, except that if the person failed to submit to a  
18 test at the request of a law enforcement officer, a  
20 period of incarceration of not less than 40 days;

22 (3) A court-ordered suspension of a driver's license  
for a period of 4 years unless the person has 2 or more  
previous OUI offenses within a 5-year period, in which  
case a court may order revocation of a driver's  
license; and

24 (4) In accordance with section 2416, a court-ordered  
26 suspension of the person's right to register a motor  
vehicle;

28 D. For a person having 3 or more previous OUI offenses  
within a 10-year period, which is a Class C crime:

30 (1) A fine of not less than \$2,100, except that if the  
32 person failed to submit to a test at the request of a  
34 law enforcement officer, a fine of not less than \$2,500;

36 (2) A period of incarceration of not less than 6  
38 months, except that if the person failed to submit to a  
40 test at the request of a law enforcement officer, a  
42 period of incarceration of not less than 6 months and  
44 20 days;

46 (3) A court-ordered suspension of a driver's license  
for a period of 6 years unless the person has 2 or more  
previous OUI offenses within a 5-year period, in which  
case a court may order revocation of a driver's  
license; and

48 (4) In accordance with section 2416, a court-ordered  
50 suspension of the person's right to register a motor  
vehicle;

2           **Sec. 2. 29-A MRSA §2411, sub-§5, ¶F**, as amended by PL 2001, c.  
511, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to  
read:

4  
6           F. For a person sentenced under paragraph B, C or D, the  
court shall order the defendant to participate in the  
8           alcohol and other drug program of the Department of Health  
and Human Services, Office of Substance Abuse. The court  
10           may waive the program pursuant to Title 5, section 20073-B,  
if the court finds that the defendant has completed an  
12           alcohol or other drug treatment program subsequent to the  
date of the offense; and

14           **Sec. 3. 29-A MRSA §2411, sub-§5, ¶G**, as amended by PL 2003, c.  
452, Pt. Q, §82 and affected by Pt. X, §2, is further amended to  
read:

18           G. The court shall order an additional period of license  
suspension of 275 days for a person sentenced under  
20           paragraph A, B, C, D or D-1 if the person was operating the  
motor vehicle at the time of the offense with a passenger  
22           under 21 years of age;

24           **Sec. 4. 29-A MRSA §2411, sub-§5, ¶¶H and I** are enacted to read;

26           H. Notwithstanding the provisions of paragraph B,  
subparagraph (2), for a person having one previous OUI  
28           offense within a 5-year period, a period of incarceration of  
not less than 20 days; and

30           I. Notwithstanding the provisions of paragraph C,  
subparagraph (2), for a person having 2 or more previous OUI  
32           offenses within a 5-year period, a period of incarceration  
34           of not less than 6 months.

36           **Sec. 5. 29-A MRSA §2411, sub-§§9 to 12** are enacted to read:

38           9. Failure to submit. In addition to any other penalty  
under this chapter, a failure to submit to a test of a law  
40           enforcement officer is a Class E crime.

42           10. Financial liability. In addition to the surcharge  
under subsection 7 and any other penalties under this section, a  
44           person convicted under this section is financially liable for the  
cost of emergency services that responded as a result of an  
46           accident that occurred during the occurrence of the OUI offense.

48           11. Additional fine. In addition to the surcharge under  
subsection 7 and any other penalties under this section, a fine

2 of \$50 must be charged to a person convicted under this section.  
3 Notwithstanding the provisions of section 2602, a fine under this  
4 subsection accrues to the Medical Care for Drunk Driving Victims  
5 Fund established in subsection 12.

6 **12. Medical Care for Drunk Driving Victims Fund.** There is  
7 established the Medical Care for Drunk Driving Victims Fund, a  
8 nonlapsing, interest-bearing account referred to in this section  
9 as "the fund," administered by the Commissioner of Public  
10 Safety. The fund receives money deposited by the Treasurer of  
11 State pursuant to subsection 11. All money deposited in the fund  
12 and the earnings on that money remain in the fund and may be used  
13 to provide emergency services for medical care for victims of  
14 drunk driving and for the necessary administrative and personnel  
15 costs associated with the management of the fund.

16 **Sec. 6. 29-A MRSA §2421, sub-§1,** as enacted by PL 1993, c.  
17 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

18 **1. Forfeiture.** After notice and hearing, a motor vehicle  
19 must be forfeited to the State when a defendant is the sole  
20 owner-operator of that vehicle and:  
21

22 ~~A. The sole owner-operator of that vehicle; and~~  
23

24 B. Convicted of:

25 (1) OUI; and

26 (2) A simultaneous offense of operating after  
27 suspension when the underlying suspension was imposed  
28 for a prior OUI conviction; or

29 C. Convicted of 3 or more OUI offenses within a 10-year  
30 period.

31 The court shall order the forfeiture unless another person  
32 satisfies the court prior to the judgment and by a preponderance  
33 of the evidence that the other person had a right to possess that  
34 motor vehicle, to the exclusion of the defendant, at the time of  
35 the offense.

## 36 SUMMARY

37 This bill amends the OUI laws in several ways, including:

38 1. Establishing a mandatory sentence of 20 days in jail for  
39 2 OUI offenses committed within a 5-year period;

2           2. Establishing a mandatory minimum sentence of 6 months in  
3 jail for 3 or more OUI offenses committed within a 5-year period  
4 and possible revocation of the defendant's driver's license;

5           3. Providing that a refusal to submit to a test at the  
6 request of a law enforcement officer is a Class E crime;

7           4. Providing that 3 OUI offenses within a 10-year period  
8 will result in forfeiture of the defendant's car;

9           5. Holding a person convicted of OUI financially  
10 responsible for the cost of emergency services that responded as  
11 a result of an accident that occurred during the occurrence of  
12 the OUI offense;

13           6. Requiring a person convicted of OUI to pay a \$50 fine to  
14 the Medical Care for Drunk Driving Victims Fund; and

15           7. Establishing the Medical Care for Drunk Driving Victims  
16 Fund to provide emergency medical care for victims of drunk  
17 driving.  
18  
19  
20