

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 280

S.P. 95

January 19, 2007

An Act To Make a Conviction for a 6th Operating under the Influence Charge a Class B Crime

Reference to the Committee on Criminal Justice and Public Safety 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 Senator DIAMOND of Cumberland.
Cosponsored by Representative HANLEY of Gardiner, Representative SYKES of Harrison
and Senators: McCORMICK of Kennebec, SHERMAN of Aroostook, Representatives:
BRYANT of Windham, GERZOFKY of Brunswick, HASKELL of Portland, MAREAN of
Hollis, PLUMMER of Windham, ROBINSON of Raymond.

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

2 **Sec. 1. 29-A MRSA §2411, sub-§1-A**, as amended by PL 2005, c. 606, Pt. A, §1,
3 is further amended to read:

4 **1-A. Offense.** A person commits OUI if that person:

5 A. Operates a motor vehicle:

- 6 (1) While under the influence of intoxicants; or
7 (2) While having a blood-alcohol level of 0.08% or more;

8 B. Violates paragraph A and:

- 9 (1) Has one previous OUI offense within a 10-year period;
10 (2) Has 2 previous OUI offenses within a 10-year period; ~~or~~
11 (3) Has 3 or ~~more~~ 4 previous OUI offenses within a 10-year period; or
12 (4) Has 5 or more previous OUI offenses;

13 C. Violates paragraph A, failed to submit to a test at the request of a law
14 enforcement officer and:

- 15 (1) Has no previous OUI offenses within a 10-year period;
16 (2) Has one previous OUI offense within a 10-year period;
17 (3) Has 2 previous OUI offenses within a 10-year period; ~~or~~
18 (4) Has 3 or 4 previous OUI offenses within a 10-year period; or
19 (5) Has 5 or more previous OUI offenses; or

20 D. Violates paragraph A, B or C and:

- 21 (1) In fact causes serious bodily injury as defined in Title 17-A, section 2,
22 subsection 23 to another person;
23 (1-A) In fact causes the death of another person; or
24 (2) Has either a prior conviction for a Class B or Class C crime under this
25 section or former Title 29, section 1312-B or a prior criminal homicide
26 conviction involving or resulting from the operation of a motor vehicle while
27 under the influence of intoxicating liquor or drugs or with a blood-alcohol level
28 of 0.08% or greater.

29 **Sec. 2. 29-A MRSA §2411, sub-§5, ¶D**, as amended by PL 2003, c. 673, Pt. TT,
30 §4, is further amended to read:

31 D. For a person having 3 or ~~more~~ 4 previous OUI offenses within a 10-year period,
32 which is a Class C crime:

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

- 1 (2) A period of incarceration of not less than 6 months, except that if the person
2 failed to submit to a test at the request of a law enforcement officer, a period of
3 incarceration of not less than 6 months and 20 days;
- 4 (3) A court-ordered suspension of a driver's license for a period of 6 years; and
- 5 (4) In accordance with section 2416, a court-ordered suspension of the person's
6 right to register a motor vehicle;

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

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

15 **Sec. 4. 29-A MRSA §2411, sub-§5, ¶G**, as amended by PL 2005, c. 606, Pt. A,
16 §4, is further amended to read:

17 G. The court shall order an additional period of license suspension of 275 days for a
18 person sentenced under paragraph A, B, C, D, D-1 or D-2 if the person was operating
19 the motor vehicle at the time of the offense with a passenger under 21 years of age;
20 and

21 **Sec. 5. 29-A MRSA §2411, sub-§5, ¶H** is enacted to read:

22 H. For a person having 5 or more previous OUI offenses, which is a Class B crime:

23 (1) A fine of not less than \$3,000, except that if the person failed to submit to a
24 test at the request of a law enforcement officer, a fine of not less than \$3,500;

25 (2) A period of incarceration of not less than one year, except that if the person
26 failed to submit to a test at the request of a law enforcement officer, a period of
27 incarceration of not less than one year and 3 months;

28 (3) A court-ordered suspension of a driver's license for life. A person whose
29 license is revoked pursuant to this paragraph may petition the Secretary of State
30 for relicensure after 10 years. The Secretary of State may relicensure the person
31 only if the Secretary of State determines that the person has satisfied all statutory
32 and administrative conditions that warrant relicensure; and

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

35

SUMMARY

36 This bill creates a new Class B crime of operating a motor vehicle while under the
37 influence 6 or more times. This new crime is not limited by the 10-year lookback period
38 and is subject to penalties including a fine of not less than \$3,000, except that if the
39 person failed to submit to a test at the request of a law enforcement officer, a fine of not

1 less than \$3,500; a period of incarceration of not less than one year, except that if the
2 person failed to submit to a test at the request of a law enforcement officer, a period of
3 incarceration of not less than one year and 3 months; and a court-ordered suspension of a
4 driver's license for life.