

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 1166

S.P. 414

March 7, 2007

An Act To Reduce the OUI Limit to .06

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

A handwritten signature in black ink that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MILLS of Somerset.

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

2 **Sec. 1. 12 MRSA §10701, sub-§1-A**, as enacted by PL 2003, c. 655, Pt. B, §74
3 and as affected by §422, is amended to read:

4 **1-A. Prohibition.** Prohibitions against hunting and operating under the influence are
5 as follows.

6 A. A person may not hunt wild animals or wild birds:

7 (1) While under the influence of intoxicating liquor or drugs or a combination of
8 liquor and drugs;

9 (2) If 21 years of age or older, while having ~~0.08%~~ 0.06% or more by weight of
10 alcohol in that person's blood; or

11 (3) If less than 21 years of age, while having any amount of alcohol in that
12 person's blood.

13 B. A person may not operate or attempt to operate a watercraft:

14 (1) While under the influence of intoxicating liquor or drugs or a combination of
15 liquor and drugs;

16 (2) If 21 years of age or older, while having ~~0.08%~~ 0.06% or more by weight of
17 alcohol in that person's blood; or

18 (3) If less than 21 years of age, while having any amount of alcohol in the
19 blood.

20 C. A person may not operate or attempt to operate a snowmobile:

21 (1) While under the influence of intoxicating liquor or drugs or a combination of
22 liquor and drugs;

23 (2) If 21 years of age or older, while having ~~0.08%~~ 0.06% or more by weight of
24 alcohol in that person's blood; or

25 (3) If less than 21 years of age, while having any amount of alcohol in the
26 blood.

27 D. A person may not operate or attempt to operate an ATV:

28 (1) While under the influence of intoxicating liquor or drugs or a combination of
29 liquor and drugs;

30 (2) If 21 years of age or older, while having ~~0.08%~~ 0.06% or more by weight of
31 alcohol in that person's blood; or

32 (3) If less than 21 years of age, while having any amount of alcohol in the
33 blood.

34 **Sec. 2. 12 MRSA §10701, sub-§3, ¶A**, as affected by PL 2003, c. 614, §9 and
35 amended by c. 655, Pt. B, §75 and affected by §422, is further amended to read:

1 A. In the case of a person having no previous convictions of a violation of
2 subsection 1-A within the previous 6-year period, the fine may not be less than \$400.
3 If that person was adjudicated within the previous 6-year period for failure to comply
4 with the duty to submit to and complete a blood-alcohol test under section 10702,
5 subsection 1, the fine may not be less than \$500. A conviction under this paragraph
6 must include a period of incarceration of not less than 48 hours, none of which may
7 be suspended, when the person:

8 (1) Was tested as having a blood-alcohol level of 0.15% or more;

9 (2) Failed or refused to stop upon request or signal of an officer in uniform,
10 pursuant to section 6953 or 10651, during the operation that resulted in
11 prosecution for operating under the influence or with a blood-alcohol level of
12 ~~0.08%~~ 0.06% or more; or

13 (3) Failed to submit to a chemical test to determine that person's blood-alcohol
14 level or drug concentration, requested by a law enforcement officer on the
15 occasion that resulted in the conviction.

16 **Sec. 3. 12 MRSA §10703, sub-§4, ¶B**, as enacted by PL 2003, c. 414, Pt. A, §2
17 and affected by c. 614, §9, is amended to read:

18 B. If there was, at the time alleged, in excess of 0.05% but less than ~~0.08%~~ 0.06%
19 by weight of alcohol in the blood of a defendant who was 21 years of age or older at
20 the time of the arrest, it is relevant evidence, but it is not to be given prima facie
21 effect in indicating whether or not the defendant was under the influence of
22 intoxicating liquor within the meaning of this section, but that fact may be considered
23 with other competent evidence in determining whether or not the defendant was
24 under the influence of intoxicating liquor.

25 **Sec. 4. 12 MRSA §10703, sub-§4, ¶C**, as affected by PL 2003, c. 614, §9 and
26 amended by c. 655, Pt. B, §78 and affected by §422, is further amended to read:

27 C. For purposes of evidence in proceedings other than those arising under section
28 10701, subsection 1-A, it is presumed that a person was under the influence of
29 intoxicating liquor when that person has:

30 (1) For a person 21 years of age or older, a blood-alcohol level of ~~0.08%~~ 0.06%
31 or more by weight; and

32 (2) For a person less than 21 years of age, any amount of alcohol in the blood.

33 **Sec. 5. 29-A MRSA §1653, sub-§1**, as enacted by PL 1993, c. 683, Pt. A, §2 and
34 as affected by Pt. B, §5, is amended to read:

35 **1. Liability.** An owner or person having control of a motor vehicle who, having
36 knowledge or reason to know that a person is under the influence of intoxicating liquor or
37 drugs or has a blood-alcohol level of ~~0.08%~~ 0.06% or more by weight of alcohol in the
38 blood, permits that person to operate that motor vehicle is jointly and severally liable with
39 that person for damages caused by the negligence of the person.

1 **Sec. 6. 29-A MRSA §2404**, as enacted by PL 1993, c. 683, Pt. A, §2 and as
2 affected by Pt. B, §5, is amended to read:

3 **§2404. Owner liable for damage by impaired operator**

4 An owner or person having control over a motor vehicle who, having knowledge or
5 reason to know that a person under the influence of intoxicants has a blood-alcohol level
6 of ~~0.08%~~ 0.06% or more by weight of alcohol in the blood, permits that person to operate
7 that motor vehicle is jointly and severally liable with that person for damages caused by
8 the negligence of the person. This section is not in derogation of, does not limit and does
9 not diminish any cause of action or right of recovery that is or may become available
10 under the common law.

11 **Sec. 7. 29-A MRSA §2411, sub-§1-A, ¶A**, as enacted by PL 2003, c. 452, Pt. Q,
12 §78 and as affected by Pt. X, §2, is amended to read:

13 A. Operates a motor vehicle:

14 (1) While under the influence of intoxicants; or

15 (2) While having a blood-alcohol level of ~~0.08%~~ 0.06% or more;

16 **Sec. 8. 29-A MRSA §2411, sub-§1-A, ¶D**, as amended by PL 2005, c. 606, Pt.
17 A, §1, is further amended to read:

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

19 (1) In fact causes serious bodily injury as defined in Title 17-A, section 2,
20 subsection 23 to another person;

21 (1-A) In fact causes the death of another person; or

22 (2) Has either a prior conviction for a Class C crime under this section or former
23 Title 29, section 1312-B or a prior criminal homicide conviction involving or
24 resulting from the operation of a motor vehicle while under the influence of
25 intoxicating liquor or drugs or with a blood-alcohol level of ~~0.08%~~ 0.06% or
26 greater.

27 **Sec. 9. 29-A MRSA §2411, sub-§2**, as amended by PL 2003, c. 452, Pt. Q, §79
28 and as affected by Pt. X, §2, is further amended to read:

29 **2. Pleading and proof.** The alternatives outlined in subsection 1-A, paragraph A
30 may be pleaded in the alternative. The State is not required to elect between the
31 alternatives prior to submission to the fact finder. In a prosecution under subsection 1-A,
32 paragraph D, the State need not prove that the defendant's condition of being under the
33 influence of intoxicants or having a blood-alcohol level of ~~0.08%~~ 0.06% or more caused
34 the serious bodily injury or death alleged. The State must prove only that the defendant's
35 operation caused the serious bodily injury or death. The court shall apply Title 17-A,
36 section 33 in assessing any causation under this section.

37 **Sec. 10. 29-A MRSA §2421, sub-§2**, as enacted by PL 1993, c. 683, Pt. A, §2
38 and as affected by Pt. B, §5, is amended to read:

1 **2. Seizure of vehicle of owner-operator.** A motor vehicle operated by a sole owner
2 is subject to seizure by a law enforcement officer when:

3 A. The owner-operator operates or attempts to operate that motor vehicle under the
4 influence of intoxicating liquor or drugs or while having ~~0.08%~~ 0.06% of alcohol by
5 weight in the blood; and

6 B. The owner-operator is under suspension or revocation as a result of a previous
7 conviction of operating under the influence of alcohol or drugs or while having
8 ~~0.08%~~ 0.06% of alcohol by weight in the blood.

9 **Sec. 11. 29-A MRSA §2432, sub-§2,** as enacted by PL 1993, c. 683, Pt. A, §2
10 and as affected by Pt. B, §5, is amended to read:

11 **2. Level greater than 0.05% and less than 0.06%.** If a person has a blood-alcohol
12 level in excess of 0.05%, but less than ~~0.08%~~ 0.06%, it is relevant evidence, but not prima
13 facie, indicating whether or not that person is under the influence of intoxicants to be
14 considered with other competent evidence.

15 **Sec. 12. 29-A MRSA §2432, sub-§3,** as enacted by PL 1993, c. 683, Pt. A, §2
16 and as affected by Pt. B, §5, is amended to read:

17 **3. Level of 0.06% or greater.** In proceedings other than under section 2411, a
18 person is presumed to be under the influence of intoxicants if that person has a blood-
19 alcohol level of ~~0.08%~~ 0.06% or more.

20 **Sec. 13. 29-A MRSA §2453, sub-§2,** as enacted by PL 1993, c. 683, Pt. A, §2
21 and as affected by Pt. B, §5, is amended to read:

22 **2. Definition.** For the purposes of this section, "operating a motor vehicle with an
23 excessive blood-alcohol level" means operating a motor vehicle with a blood-alcohol
24 level of ~~0.08%~~ 0.06% or more.

25 **Sec. 14. 29-A MRSA §2455, sub-§1, ¶A,** as enacted by PL 1993, c. 683, Pt. A,
26 §2 and as affected by Pt. B, §5, is amended to read:

27 A. The person was operating under the influence of intoxicating liquor or drugs, or
28 with a blood-alcohol of ~~0.08%~~ 0.06% or greater;

29 **Sec. 15. 29-A MRSA §2456, sub-§1, ¶B,** as enacted by PL 1993, c. 683, Pt. A,
30 §2 and as affected by Pt. B, §5, is amended to read:

31 B. While having a blood-alcohol level of ~~0.08%~~ 0.06% or more; or

32 **Sec. 16. 29-A MRSA §2457, sub-§3, ¶C,** as enacted by PL 1993, c. 683, Pt. A,
33 §2 and as affected by Pt. B, §5, is amended to read:

34 C. If a person is determined to have operated a motor vehicle with a blood-alcohol
35 level of ~~0.08%~~ 0.06% or more and both this section and section 2453 apply, the
36 longer period of suspension applies.

SUMMARY

1

2 This bill reduces the blood-alcohol limit that determines operating under the
3 influence from 0.08% to 0.06%.