

MAINE STATE LEGISLATURE

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SMCP
R. d. S.

L.D. 1637

Date: 6/23/2017 Minority

(Filing No. S-310)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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STATE OF MAINE

SENATE

128TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 588, L.D. 1637, Bill, "An Act To Ensure Maine Is in Compliance with Certain Federal Drug Laws"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 15 MRSA §3314, sub-§3-A, as corrected by RR 2009, c. 2, §36, is amended to read:

3-A. Operator's license suspension for certain drug offenses. The court may suspend for a period of up to 6 months the license or permit to operate, right to operate a motor vehicle and right to apply for and obtain a license of any person who, in the absence of compelling circumstances warranting an exception, violates Title 17-A, chapter 45; Title 22, section 2383, ~~unless the juvenile is authorized to possess marijuana for medical use pursuant to Title 22, chapter 558-C;~~ Title 22, section 2389, subsection 2; or Title 28-A, section 2052 and is adjudicated pursuant to this chapter to have committed a juvenile crime.

The court shall give notice of suspension and take physical custody of an operator's license or permit as provided in Title 29-A, section 2434. The court shall immediately forward the operator's license and a certified abstract of suspension to the Secretary of State.

Sec. 2. 15 MRSA §3314, sub-§3-B, as enacted by PL 2005, c. 328, §13, is amended to read:

3-B. Operator's license suspension for drug trafficking. If a juvenile uses a motor vehicle to facilitate the trafficking of a scheduled drug, the court ~~may~~ shall, in the absence of compelling circumstances warranting an exception, in addition to other authorized penalties, suspend the juvenile's operator's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license for a period not less than 6 months and not to exceed more than one year. A suspension may not begin until after any period of incarceration is served. If the court suspends a juvenile's operator's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court

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1 shall notify the Secretary of State of the suspension and the court shall take physical
2 custody of the juvenile's operator's license. The Secretary of State may not reinstate the
3 juvenile's operator's license, permit, privilege to operate a motor vehicle or right to apply
4 for or obtain a license unless the juvenile demonstrates that after having been released
5 and discharged from any period of incarceration that may have been ordered, the juvenile
6 has served the period of suspension ordered by the court.

7 **Sec. 3. 15 MRSA §3314, sub-§3-C** is enacted to read:

8 **3-C. Mandatory operator's license suspension for certain drug offenses.** The
9 court shall, in the absence of compelling circumstances warranting an exception, suspend
10 for a period of 6 months the license or permit to operate, right to operate a motor vehicle
11 and right to apply for and obtain a license of any person who violates Title 17-A, chapter
12 45 or Title 22, section 2383, unless the juvenile is authorized to possess marijuana for
13 medical use pursuant to Title 22, chapter 558-C.

14 The court shall give notice of suspension and take physical custody of an operator's
15 license or permit as provided in Title 29-A, section 2434. The court shall immediately
16 forward the operator's license and a certified abstract of suspension to the Secretary of
17 State.

18 **Sec. 4. 17-A MRSA §1125** is enacted to read:

19 **§1125. Mandatory driver's license suspension; mandatory delay in license issuance**
20 **or reinstatement**

21 1. In the absence of compelling circumstances warranting an exception, the court
22 shall suspend for 6 months the driver's license of a person convicted of a crime under this
23 chapter, except for a conviction under section 1116.

24 2. In the absence of compelling circumstances warranting an exception, if a person
25 convicted of violating a provision of this chapter, except for a conviction under section
26 1116, does not have a driver's license, or the person's driver's license is suspended at the
27 time of conviction, the court shall order that the issuance or reinstatement of a driver's
28 license to the person be delayed for 6 months after the person applies for issuance or
29 reinstatement of a driver's license.

30 **Sec. 5. 29-A MRSA §2411, sub-§5, ¶A**, as amended by PL 2013, c. 389, §1 and
31 affected by §7, is further amended to read:

- 32 A. For a person having no previous OUI offenses within a 10-year period:
- 33 (1) A fine of not less than \$500, except that if the person failed to submit to a
34 test, a fine of not less than \$600;
 - 35 (2) A court-ordered suspension of a driver's license for a period of ~~450~~ 180 days.
36 If the court finds compelling circumstances warranting an exception to the 180-
37 day suspension period, the court shall order suspension of the person's driver's
38 license for 150 days; and
 - 39 (3) A period of incarceration as follows:
 - 40 (a) Not less than 48 hours when the person:

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- 1 (i) Was tested as having an alcohol level of 0.15 grams or more of
- 2 alcohol per 100 milliliters of blood or 210 liters of breath;
- 3 (ii) Was exceeding the speed limit by 30 miles per hour or more;
- 4 (iii) Eluded or attempted to elude an officer; or
- 5 (iv) Was operating with a passenger under 21 years of age; and
- 6 (b) Not less than 96 hours when the person failed to submit to a test at the
- 7 request of a law enforcement officer;

8 **Sec. 6. 29-A MRSA §2451, sub-§3, ¶A**, as repealed and replaced by PL 2015, c.
9 329, Pt. A, §17, is amended to read:

10 A. One hundred ~~forty~~ eighty days, if the person has one OUI conviction within a 10-
11 year period. If the court finds compelling circumstances warranting an exception to
12 the 180-day suspension period, the court shall order a suspension period of 150 days;

13 **Sec. 7. 29-A MRSA §§2451-A and 2451-B** are enacted to read:

14 **§2451-A. Suspension for drug offense**

15 **1. Recording and notice by Secretary of State.** On receipt of an attested copy of
16 the court record of a suspension of the driver's license of a person convicted of violating
17 the federal Controlled Substances Act of 1970, 21 United States Code, Section 801 et seq.
18 or of any criminal offense specified in Title 17-A, chapter 45, except for a conviction
19 under Title 17-A, section 1116, the Secretary of State shall immediately record the
20 suspension and send written notice of the suspension to the person whose driver's license
21 has been suspended.

22 **2. Suspension, recording and notice by Secretary of State.** Except as provided in
23 subsection 1, on receipt of an attested copy of the court record of a conviction of a person
24 of a violation of the federal Controlled Substances Act of 1970, 21 United States Code,
25 Section 801 et seq. or of any criminal offense specified in Title 17-A, chapter 45, except
26 for a conviction under Title 17-A, section 1116, the Secretary of State shall suspend the
27 driver's license of the person, immediately record the suspension and send written notice
28 of the suspension to the person whose driver's license has been suspended.

29 **3. Suspension period.** The period of the driver's license suspension recorded
30 pursuant to subsection 1 is that ordered by the court under subsection 1 or the Secretary
31 of State under subsection 2.

32 **§2451-B. Delayed issuance or reinstatement of driver's license for drug offense**

33 **1. Court record of delay in issuance or reinstatement.** On receipt of an attested
34 copy of the court record of a delay in the issuance or reinstatement of a driver's license of
35 a person convicted of violating the federal Controlled Substances Act of 1970, 21 United
36 States Code, Section 801 et seq. or of any criminal offense specified in Title 17-A,
37 chapter 45, except for a conviction under Title 17-A, section 1116, the Secretary of State
38 shall immediately record the court-ordered delay and send written notice to the person
39 whose driver's license is the subject of the court-ordered delay that the issuance or
40 reinstatement of the person's driver's license will be delayed for the time ordered by the

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1 court after the person applies for the issuance or reinstatement of that person's driver's
2 license.

3 **2. Court record of conviction.** On receipt of an attested copy of the court record of
4 a conviction of a person of a violation of the federal Controlled Substances Act of 1970,
5 21 United States Code, Section 801 et seq. or of any criminal offense specified in Title
6 17-A, chapter 45, except for a conviction under Title 17-A, section 1116, the Secretary of
7 State shall immediately order a delay in the issuance or reinstatement of a driver's license,
8 record the delay and send written notice to the person whose driver's license is the subject
9 of the delay that the issuance or reinstatement of the person's driver's license will be
10 delayed for the time ordered by the Secretary of State after the person applies for the
11 issuance or reinstatement of that person's driver's license.

12 **Sec. 8. 29-A MRSA §2508, sub-§1, ¶A-1,** as enacted by PL 2013, c. 389, §3 and
13 affected by §7, is amended to read:

14 A-1. The license of a person with one OUI offense may be reinstated after 30 days of
15 the suspension period has run if the person has installed for a period of ~~150~~ 180 days
16 or the length of time remaining for a suspension imposed pursuant to section 2411,
17 subsection 5, paragraph A, subparagraph (2), whichever is shorter, an ignition
18 interlock device approved by the Secretary of State in the motor vehicle the person
19 operates. If the 180-day period applies to the person and the court finds compelling
20 circumstances warranting an exception to the 180-day period, the court shall order a
21 period of 150 days.

22 **Sec. 9. Appropriations and allocations.** The following appropriations and
23 allocations are made.

24 **SECRETARY OF STATE, DEPARTMENT OF**
25 **Administration - Motor Vehicles 0077**

26 Initiative: Provides a one-time allocation for computer updates.

27	HIGHWAY FUND	2017-18	2018-19
28	All Other	\$5,597	\$0
29			
30	HIGHWAY FUND TOTAL	<u>\$5,597</u>	<u>\$0</u>
31			

32 **SUMMARY**

33 This amendment is the minority report of the committee and replaces the bill. The
34 amendment brings Maine's driver's license suspension provisions into compliance with
35 the federal Controlled Substances Act of 1970. The amendment provides a mandatory 6-
36 month driver's license suspension or delay in issuance or reinstatement for certain drug
37 convictions and operating under the influence convictions, providing an exception for
38 compelling circumstances. The amendment enacts similar penalties and exceptions for
39 certain juvenile drug crime convictions and adjudications. The amendment provides for
40 notice to the Secretary of State when a court suspends or delays a driver's license under
41 the law, recording of the suspension and a procedure for notice to the driver. The

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COMMITTEE AMENDMENT "A" to S.P. 588, L.D. 1637

1 amendment provides for notice to and suspension by the Secretary of State when a court
2 enters a judgment of conviction under the law.

3 The amendment also adds an appropriations and allocations section.

4 **FISCAL NOTE REQUIRED**

5 (See attached)

COMMITTEE AMENDMENT



128th MAINE LEGISLATURE

LD 1637

LR 2381(02)

An Act To Ensure Maine Is in Compliance with Certain Federal Drug Laws

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-310)
Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
Net Cost (Savings)				
General Fund	(\$22,500)	(\$30,000)	(\$30,000)	(\$30,000)
Highway Fund	(\$121,903)	(\$170,000)	(\$170,000)	(\$170,000)
Appropriations/Allocations				
Highway Fund	\$5,597	\$0	\$0	\$0
Revenue				
General Fund	\$22,500	\$30,000	\$30,000	\$30,000
Highway Fund	\$127,500	\$170,000	\$170,000	\$170,000

Correctional and Judicial Impact Statements

Increases caseloads with no effect on fines or fees

Fiscal Detail and Notes

This bill provides a mandatory driver's license suspension for certain drug convictions and would result in an increase in General Fund revenue of \$22,500 in fiscal year 2017-18 and \$30,000 in fiscal year 2018-19 and an increase in Highway Fund revenue of \$127,500 in fiscal year 2017-18 and \$170,000 in fiscal year 2018-19. This estimate is based upon 4,000 convictions over the past two years with reinstatement fees of \$50 each for a total of \$200,000 collected annually. By statute, 15% is credited to the General Fund and 85% is credited to the Highway Fund.

The bill includes a one-time Highway Fund allocation of \$5,597 computer programming.