

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1519

H.P. 974

House of Representatives, April 5, 2023

An Act to Amend the Laws Governing Operating Under the Influence

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

A handwritten signature in black ink that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative GREENWOOD of Wales. (BY REQUEST)

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

2 **Sec. 1. 29-A MRSA §2411, sub-§1-A, ¶A,** as amended by PL 2009, c. 447, §37,
3 is further amended by amending subparagraph (2) to read:

4 (2) While having an alcohol level of 0.08 grams or more of alcohol per 100
5 milliliters of blood or 210 liters of breath as established through chemical analysis
6 or an alcohol level of 0.09 grams or more of alcohol per 100 milliliters of blood or
7 210 liters of breath as established using a self-contained breath-alcohol apparatus
8 test;

9 **Sec. 2. 29-A MRSA §2411, sub-§1-A, ¶D,** as corrected by RR 2015, c. 2, §18, is
10 amended by amending subparagraph (2) to read:

11 (2) Has either a prior conviction for a Class B or Class C crime under this section
12 or former Title 29, section 1312-B or a prior criminal homicide conviction
13 involving or resulting from the operation of a motor vehicle while under the
14 influence of intoxicating liquor or drugs or with an alcohol level of 0.08 grams or
15 more of alcohol per 100 milliliters of blood or 210 liters of breath as established
16 through chemical analysis or an alcohol level of 0.09 grams of alcohol per 100
17 milliliters of blood or 210 liters of breath as established using a self-contained
18 breath-alcohol apparatus test. For purposes of this subparagraph, the 10-year
19 limitation specified in section 2402 and Title 17-A, section 9-A, subsection 3 does
20 not apply to the prior criminal homicide conviction or to a prior conviction for a
21 Class B or Class C crime under this section or former Title 29, section 1312-B.
22 The convictions may have occurred at any time.

23 **Sec. 3. 29-A MRSA §2411, sub-§2,** as amended by PL 2009, c. 447, §39, is further
24 amended to read:

25 **2. Pleading and proof.** The alternatives outlined in subsection 1-A, paragraph A may
26 be pleaded in the alternative. The State is not required to elect between the alternatives
27 prior to submission to the fact finder. In a prosecution under subsection 1-A, paragraph D,
28 the State need not prove that the defendant's condition of being under the influence of
29 intoxicants or having an alcohol level of 0.08 grams or more of alcohol per 100 milliliters
30 of blood or 210 liters of breath as established through chemical analysis or an alcohol level
31 of 0.09 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath as
32 established using a self-contained breath-alcohol apparatus test caused the serious bodily
33 injury or death alleged. The State must prove only that the defendant's operation caused
34 the serious bodily injury or death. The court shall apply Title 17-A, section 33 in assessing
35 any causation under this section.

36 **Sec. 4. 29-A MRSA §2421, sub-§2,** as amended by PL 2009, c. 447, §43, is further
37 amended to read:

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

40 A. The owner-operator operates or attempts to operate that motor vehicle under the
41 influence of intoxicating liquor or drugs or while having an alcohol level of 0.08 grams
42 or more of alcohol per 100 milliliters of blood or 210 liters of breath as established
43 through chemical analysis or an alcohol level of 0.09 grams or more of alcohol per 100

1 milliliters of blood or 210 liters of breath as established using a self-contained breath-
2 alcohol apparatus test; and

3 B. The owner-operator is under suspension or revocation as a result of a previous
4 conviction of operating under influence of alcohol or drugs or while having an alcohol
5 level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath
6 as established through chemical analysis or an alcohol level of 0.09 grams or more of
7 alcohol per 100 milliliters of blood or 210 liters of breath as established using a self-
8 contained breath-alcohol apparatus test.

9 **Sec. 5. 29-A MRSA §2432, sub-§2**, as amended by PL 2011, c. 335, §4, is further
10 amended to read:

11 **2. Level greater than 0.05 grams and less than 0.08 grams or 0.09 grams as**
12 **applicable.** If a person has an alcohol level in excess of 0.05 grams of alcohol but less
13 than 0.08 grams of alcohol per 100 milliliters of blood or 210 liters of breath as established
14 through chemical analysis or an alcohol level in excess of 0.05 grams of alcohol but less
15 than 0.09 grams of alcohol per 100 milliliters of blood or 210 liters of breath as established
16 using a self-contained breath-alcohol apparatus test, it is admissible evidence, but not prima
17 facie, indicating whether or not that person is under the influence of intoxicants to be
18 considered with other competent evidence, including evidence of a confirmed positive drug
19 or metabolite test result.

20 **Sec. 6. 29-A MRSA §2432, sub-§3**, as amended by PL 2009, c. 447, §48, is further
21 amended to read:

22 **3. Level of 0.08 grams or greater or 0.09 grams or greater as applicable.** In
23 proceedings other than under section 2411, a person is presumed to be under the influence
24 of intoxicants if that person has an alcohol level of 0.08 grams or more of alcohol per 100
25 milliliters of blood or 210 liters of breath as established through chemical analysis or an
26 alcohol level of 0.09 grams or more of alcohol per 100 milliliters of blood or 210 liters of
27 breath as established using a self-contained breath-alcohol apparatus test.

28 **Sec. 7. 29-A MRSA §2453, sub-§2**, as amended by PL 2009, c. 447, §49, is further
29 amended to read:

30 **2. Definition.** For the purposes of this section, "operating a motor vehicle with an
31 excessive alcohol level" means operating a motor vehicle with an alcohol level of 0.08
32 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath as established
33 through chemical analysis or an alcohol level of 0.09 grams or more of alcohol per 100
34 milliliters of blood or 210 liters of breath as established using a self-contained breath-
35 alcohol apparatus test.

36 **Sec. 8. 29-A MRSA §2455, sub-§1, ¶A**, as amended by PL 2009, c. 447, §50, is
37 further amended to read:

38 A. The person was operating under the influence of intoxicating liquor or drugs, or
39 with an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or
40 210 liters of breath as established through chemical analysis or an alcohol level of 0.09
41 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath as
42 established using a self-contained breath-alcohol apparatus test;

1 for the length of suspension time remaining. This bill allows for such a person's license to
2 be reinstated after 2 months of a suspension period has been served subject to the
3 installation of an ignition interlock device.

4 3. The bill provides that a person whose license has been reinstated subject to the
5 installation of an ignition interlock device may petition the Secretary of State for and the
6 secretary may approve a modification of imposed conditions due to special circumstances
7 involving the health care needs of the person or the geographic location of the person's
8 place of residence.