

MAINE STATE LEGISLATURE

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EIGHTY - SEVENTH LEGISLATURE

Legislative Document

No. 11

H. P. 38

House of Representatives, January 9, 1935.

Referred to Committee on Judiciary and 500 copies ordered printed.
Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Bubar of Blaine.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-FIVE

AN ACT Relating to Penalty for Operating Motor Vehicle while Under
the Influence of Intoxicating Liquor or Drug.

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

R. S., c. 29, § 88, amended. Section 88 of chapter 29 of the revised statutes is hereby amended to read as follows:

‘Sec. 88. Penalty for operating motor vehicle while under the influence of intoxicating liquor or drug. Whoever shall operate or attempt to operate a motor vehicle upon any way, or in any other public place when intoxicated or at all under the influence of intoxicating liquor or drugs, upon conviction, shall be punished by a fine of not less than \$100 nor more than \$1000 ~~or by imprisonment for not less than thirty days nor more than eleven months, or by both fine and imprisonment, and in addition thereto by imprisonment for not less than 90 days nor more than 11 months.~~ Any person convicted of a second or subsequent offense shall be punished by imprisonment for not less than ~~three 6~~ nor more than 11 months, and in addition thereto, the court may impose a fine as above provided.

Whoever shall operate or attempt to operate a motor vehicle upon any way, or in any other place when intoxicated or at all under the influence of intoxicating liquor or drugs, when such offense is of a high and aggravated nature shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1000, ~~or and in~~

addition by imprisonment for not less than 60 days nor more than 2 years, ~~or by both fine and imprisonment.~~ Any person convicted of a second or subsequent offense of the same gravity shall be punished by imprisonment for not less than 3 months nor more than 3 years, and in addition the court may impose a fine as above provided. The license of any person convicted of violating the provisions of this section shall be revoked immediately by the secretary of state upon receipt of an attested copy of the court records, without further hearing.

If any person convicted of any violation of the provisions of this section shall appeal from the judgment and sentence of the trial court, his license and right to operate a motor vehicle in this state shall be suspended during the time his appeal is pending in the appellate court, unless the trial court shall otherwise order, ~~or unless the secretary of state, after a hearing, shall restore the license or permit pending decision on the appeal.~~ The license of any person against whom probable cause is found and who is held under bail pending the action of the grand jury for the violation of the foregoing provision shall be suspended until the final disposition of the charge.

No person whose license or permit to operate a motor vehicle has been revoked upon conviction of violating the provisions of this section shall be licensed again or permitted to operate a motor vehicle for 3 years, except that, after the expiration of ~~one year~~ **2 years** from the date of such revocation, he may petition the secretary of state for a license or permit, who, after hearing and after his determination that public safety will not be endangered by issuing a new license may issue such license or permit with or without conditions thereto attached; upon a second conviction of a violation of the provisions of this section, such person, whose license or permit to operate a motor vehicle has been revoked again by reason of such conviction, shall not be licensed again or permitted to operate a motor vehicle in this state for 5 years from the date of conviction, provided however, that after ~~two~~ 3 years from the date of such last revocation, he may petition the secretary of state for a license or permit and the secretary of state, after like hearing and determination, again may issue a license or permit to the petitioner, with or without conditions; upon any subsequent conviction for a similar offense, the license or permit shall terminate and no subsequent license or permit shall be granted to such person; ~~for the purpose of this section, in case a person has been convicted one or more times prior to the thirteenth day of July, nineteen hundred twenty-nine, of a violation of the provisions of this section, such previous conviction or convictions shall be construed as one conviction.~~ A copy of sections eighty-seven and eighty-eight shall be printed on every operator's license.'