

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 1980 to June 19, 1981

AND AT THE

FIRST SPECIAL SESSION
August 3, 1981

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

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1981

§ 104-B. Multiple injuries; apportionment of liability

1. **Applicability.** Where 2 or more occupational injuries occur, during either a single employment or successive employments, which combine to produce a single incapacitating condition, and more than one insurer is responsible for that condition, their liability shall be governed by this section.

2. **Liability to employee.** If an employee has sustained more than one injury while employed by different employers, or if an employee has sustained more than one injury while employed by the same employer and that employer was insured by one insurer when the first injury occurred and insured by another insurer when the subsequent injury or injuries occurred, the insurer providing coverage at the time of the last injury shall initially be responsible to the employee for all benefits payable under this Act.

3. **Subrogation.** Any insurer determined to be liable for benefits under subsection 2 shall be subrogated to the employee's rights under this Act for all benefits the insurer has paid and for which another insurer may be liable. Any such insurer may, in accordance with rules prescribed by the commission, file a petition for an apportionment of liability among the responsible insurers. The commission has jurisdiction over all claims for apportionment under this section. In any proceeding for apportionment, no insurer is bound as to any finding of fact or conclusion of the law made in a prior proceeding in which it was not a party.

4. **Consolidation.** The commission or any commissioner may consolidate some or all proceedings arising out of multiple injuries.

Effective September 18, 1981

CHAPTER 475**H. P. 556 — L. D. 635**

AN ACT to Amend Provisions Concerning the Operation of the Operation after Suspension and Habitual Offender Laws and Certain Nonsentencing Provisions of the Operating under the Influence Law.

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

Sec. 1. 29 MRSA § 787, sub-§ 7, first sentence is amended to read:

Any person whose operator's license or registration certificates or other privilege to operate a motor vehicle, trailer or ~~semi-trailer~~ **semitrailer** has been suspended or revoked, restoration thereof or the issuance of a new license or registration being contingent upon the furnishing of security or proof of financial responsibility, and who during such suspension or revocation or in the absence of

full authorization from the Secretary of State shall drive any motor vehicle, trailer or semitrailer upon any highway or knowingly permits any motor vehicle, trailer or ~~semi-trailer~~ **semitrailer** owned by such person to be operated by another upon any highway, except as permitted under this subchapter, shall be punished ~~by imprisonment for not more than 6 months or by a fine of not more than \$500, or by both as provided in section 2184.~~

Sec. 2. 29 MRSA § 1312, first ¶, as repealed and replaced by PL 1971, c. 547, is amended to read:

Any person who operates or attempts to operate a motor vehicle within this State shall be deemed to have given consent to a chemical test to determine his blood-alcohol level by analysis of his blood or breath, if ~~arrested for operating or attempting~~ **there is probable cause to believe he has operated or attempted** to operate a motor vehicle while under the influence of intoxicating liquor.

Sec. 3. 29 MRSA § 1312, 2nd ¶, as repealed and replaced by PL 1971, c. 547, is amended by adding at the end the following new sentence to read:

If the accused selects a breath test, the law enforcement officer may determine which type of breath test, as described in subsection 6, to be administered.

Sec. 4. 29 MRSA § 1312, sub-§ 2, 3rd and 4th ¶¶, as last repealed and replaced by PL 1979, c. 701, § 32, are amended to read:

The scope of such a hearing shall cover whether **there was probable cause to believe that** the individual was ~~lawfully placed under arrest~~ **operating under the influence of intoxicating liquor** and whether he revoked his prior implied consent by refusing to submit to one of the tests upon the request of a law enforcement officer. Any suspension in effect shall be removed if, after hearing, it is determined that the ~~arrested~~ person who refused to permit the test would not have refused but for the failure of the law enforcement officer to give either or both of the warnings required by subsection 1.

If it is determined, after hearing when such is requested, **that there was not probable cause to believe that** such person was ~~not arrested~~ **operating under the influence of intoxicating liquor** or did not revoke his implied consent to permit a chemical test to determine his blood-alcohol level by analysis of his blood or breath, any suspension in effect shall be removed immediately.

Sec. 5. 29 MRSA § 1312, sub-§ 3, as last repealed and replaced by PL 1979, c. 701, § 32, is amended to read:

3. Review. Any person, whose license, permit or privilege to operate is suspended for ~~revoking his implied consent to submit to a chemical test to determine his blood-alcohol level by analysis of his blood or breath at the direction of a law enforcement officer after having been arrested for operating or attempting~~ **claiming to have had probable cause to believe that the person**

operated or attempted to operate while under the influence of intoxicating liquor, shall have the right to file a petition in the Superior Court in the county where he resides, or in Kennebec County, to review the order of suspension by the Secretary of State by the same procedure as is provided in section 2242.

Sec. 6. 29 MRSA § 1312, sub-§ 6, 2nd and 3rd ¶¶, as last amended by PL 1975, c. 293, § 4, are further amended to read:

Only a duly licensed physician, registered nurse or a person certified by the Department of Human Services under certification standards to be set by that department, acting at the request of a law enforcement officer, ~~with the consent of the defendant~~ may draw a specimen of blood for the purpose of determining the blood-alcohol level ~~thereof of a person who has not revoked his implied consent and who has selected a blood test~~. This limitation shall not apply to the taking of breath specimens.

A law enforcement officer ~~with the consent of the person from whom the sample is to be taken~~ may take a sample specimen of the breath of any person ~~arrested for operating or attempting~~ **whom he has probable cause to believe has operated or attempted** to operate a motor vehicle while under the influence of intoxicating liquor **and who has not revoked his implied consent and who has selected a breath test**, ~~said~~ the sample specimen to be submitted to the Department of Human Services or a person certified by the Department of Human Services for the purpose of conducting chemical tests of the sample specimen to determine the blood-alcohol level thereof.

Sec. 7. 29 MRSA § 1312, sub-§ 8, 2nd ¶, 3rd sentence, as amended by PL 1979, c. 663, § 171, is amended to read:

It shall be prima facie evidence that the **person taking a specimen of blood was a person authorized by subsection 6, that the equipment, chemicals and other materials used in the taking of the blood specimen or a breath sample were of a quality appropriate for the purpose of producing reliable test results, that any equipment, chemicals or materials required by subsection 6 to be approved by the Department of Human Services were in fact approved, that the sample tested by the person certified under subsection 6 was in fact the same sample taken from the defendant and that the percentage by weight of alcohol in the blood of the defendant was, at the time the blood or breath sample was taken, as stated in the certificate, unless with 10 days written notice to the prosecution, the defendant requests that a qualified witness testify as to the results of the chemical analysis any of the matters as to which the certificate constitutes prima facie evidence. The notice shall specify those matters concerning which the defendant requests testimony.**

Sec. 8. 29 MRSA § 1312, sub-§ 8, 4th ¶, 2nd sentence, as repealed and replaced by PL 1979, c. 701, § 33, is amended to read:

If the ~~arresting~~ law enforcement officer **having probable cause to believe that the**

person operated or attempted to operate a motor vehicle under the influence of intoxicating liquor fails to give either of the warnings required under subsection 1, the revocation of the person's implied consent by refusing to submit to a chemical test shall not be admissible.

Sec. 9. 29 MRSA § 1312, sub-§ 11, ¶¶ A and B, as enacted by PL 1977, c. 626, § 3, are amended to read:

A. After ~~making an arrest for a person has been charged with~~ a violation of this section, the ~~investigating or~~ arresting officer shall investigate to determine whether the ~~arrested charged~~ person has any prior convictions under this section. As part of his investigation, the ~~arresting~~ officer shall make the necessary inquiries of the Secretary of State. ~~If the arresting officer determines that the arrested person has a prior conviction, he shall cause to be issued a complaint for a 2nd violation in accordance with subsection 10, paragraph B~~

B. Any officer authorized to arrest for violations of this section may arrest, without a warrant, any person ~~involved in a motor vehicle accident,~~ if the officer has probable cause to believe ~~that that person~~ has violated this section if the arrest occurs within a period following the offense reasonably likely to result in the obtaining of probative evidence of blood-alcohol level.

Sec. 10. 29 MRSA § 2296, first sentence, as enacted by PL 1979, c. 10, § 2, is amended to read:

At the expiration of one year from the date of the revocation under this chapter, or by the Superior Court under former chapter 18, a person whose license has been so revoked may petition the Secretary of State for relief from his habitual offender status.

Effective September 18, 1981

CHAPTER 476

H. P. 1563 — L. D. 1671

AN ACT to Recodify and Amend the Maine Guarantee Authority Laws.

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

Sec. 1. 10 MRSA cc. 102 to 104, as amended, are repealed.

Sec. 2. 10 MRSA c. 110 is enacted to read:

CHAPTER 110

MAINE GUARANTEE AUTHORITY