

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 453-End

AND AT THE

FIRST SPECIAL SESSION
September 6, 1983 to September 7, 1983
Chapters 583-588

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

beginning on or after January 1, 1979; shall be increased, for the tax year ending in 1982, by the amount of deductions allowed for that tax year to the taxpayer as nominal lessor in a safe harbor lease pursuant to the United States Internal Revenue Code, Section 168(f)(8), plus 18% of the remaining deductions allowed for that tax year under the United States Internal Revenue Code, Sections 167 and 168, shall be decreased, for each of the tax years ending in 1983 through 1985, by 6% of the deductions allowed under the United States Internal Revenue Code, Sections 167 and 168 for the taxpayer's tax year ending in 1982, excluding the amount of deductions allowed for that tax year to the nominal lessor in a safe harbor lease pursuant to the United States Internal Revenue Code, Section 168(f)(8); and is reduced by the amount of the tax payable by the corporation or association for the taxable year under chapter 817.

Effective September 23, 1983.

CHAPTER 478

H.P. 1326 - L.D. 1761

AN ACT to Deter Drinking and Driving by Teenagers.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period may not terminate until the fall of 1983; and

Whereas, the lives of several teenagers have already been lost this year in alcohol-related accidents; and

Whereas, the combination of drinking and driving by underaged individuals inexperienced in both activities constitutes a real and immediate danger to the lives and safety of themselves and others on the Maine highways; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

29 MRSA §2241-G, as enacted by PL 1977, c. 694, §526, is repealed and the following enacted in its place:

§2241-G. Provisional license

1. Licensee 20 years of age and older. The original state license issued to a new applicant 20 years of age and older shall be a provisional license for a period of one year following the date of issue and shall remain in force as a nonprovisional license to the next normal expiration date. If a person is convicted of or adjudicated to have committed a motor vehicle moving violation while in possession of a provisional license on the first offense, the license shall be suspended for 30 days. If he is convicted of or adjudicated to have committed a 2nd moving violation, his license shall be suspended for 60 days and if he is convicted of or adjudicated to have committed a 3rd moving violation, the license shall be suspended to the 2nd birthday next following the date of issue or for 90 days, whichever shall be the longer period of time. In these cases, a hearing may be requested of the Secretary of State, and the Secretary of State shall afford the provisional licensee opportunity for hearing as soon as practicable after receipt of the request. Upon the hearing, the Secretary of State, for good cause shown, may continue, modify or rescind the suspension. This subsection shall not prevail when a person is convicted of or adjudicated to have committed an offense which carries a suspension or revocation period greater than that prescribed in this subsection.

2. Licensee under 20 years of age. The original license or any renewal license issued to an applicant under 20 years of age shall be a provisional license for a period of one year following the date of issue or until the licensee attains the age of 20 years of age, whichever occurs last. Upon expiration of the provisionary term, the license shall remain in force as a nonprovisional license to the next normal expiration date. Any license issued by any other jurisdiction to a person who has not yet attained the age of 20 years shall be construed to be a provisional license for the purpose of operating a motor vehicle within this State.

A. During the first year from the date of issue of the provisional license, if a person is convicted of or adjudicated to have committed a

motor vehicle moving violation, on the first offense, the license shall be suspended for 30 days. If he is convicted of or adjudicated to have committed a 2nd moving violation, his license shall be suspended for 60 days and if he is convicted of or adjudicated to have committed a 3rd moving violation, the license shall be suspended to the 2nd birthday next following the date of issue or for 90 days, whichever shall be the longer period of time. In these cases, a hearing may be requested of the Secretary of State, and the Secretary of State shall afford the provisional licensee opportunity for hearing as soon as practicable after receipt of the request. Upon the hearing, the Secretary of State, for good cause shown, may continue, modify or rescind the suspension. This paragraph shall not prevail when a person is convicted of or adjudicated to have committed an offense which carries a suspension or revocation period greater than that prescribed in this paragraph.

B. The Secretary of State shall suspend for a minimum period of one year, without preliminary hearing, the provisional license of any person under 20 years of age:

(1) As to whom there is received a record of conviction or adjudication for violation of section 1312-B or 1312-C or Title 15, section 3103, subsection 1, paragraph F; or

(2) As to whom there is received the result of a test to determine his blood-alcohol level which shows the presence of 0.02% or more by weight of alcohol in his blood.

Any person not having attained the age of 20 years who operates or attempts to operate a motor vehicle within this State shall, in addition to the requirements of section 1312, have the duty to submit to a test to determine his blood-alcohol level by analysis of his blood or breath, if there is probable cause to believe he has operated or attempted to operate a motor vehicle while having 0.02% or more by weight of alcohol in his blood. The provisions of section 1312 shall apply, except that in all cases probable cause shall be to believe that the person was operating or attempting to operate a motor vehicle while having 0.02% or more by weight of alcohol in his blood and that the suspension for failing to comply with the duty to submit to the test shall be for a period of one year.

The provisions of section 1312, subsection 6,

shall apply, except that probable cause shall be to believe that the person was operating or attempting to operate a motor vehicle while having 0.02% or more by weight of alcohol in his blood.

The Secretary of State, upon receipt of both a written statement under oath from a law enforcement officer that the officer had probable cause to believe that a person was operating or attempting to operate a motor vehicle while having 0.02% or more by weight of alcohol in his blood and the result of a blood-alcohol test taken under this section which shows the presence of 0.02% or more by weight of alcohol in his blood, and which is certified pursuant to section 1312, subsection 8, shall immediately notify the person, in writing, as provided in section 2241, that his provisional license has been suspended. The suspension shall be for a period of one year. The written statement shall be sent to the Secretary of State, within 72 hours of receipt by the officer, of the results of the test, excluding Saturdays, Sundays and holidays, provided that if the statement is not sent within this time period, the Secretary of State shall nevertheless impose the suspension upon receipt, unless the delay has prejudiced the person's ability to prepare for or participate in the hearing. If a person, whose license is so suspended, desires to have a hearing, he shall so notify the Secretary of State in writing within 10 days from the effective date of the suspension. The suspension shall remain in effect pending the hearing.

The scope of the hearing shall cover whether there was probable cause to believe that the person was operating or attempting to operate a motor vehicle while having 0.02% or more by weight of alcohol in his blood. If it is determined after the hearing that there was not probable cause to believe that the person was operating or attempting to operate a motor vehicle while having 0.02% or more by weight of alcohol in his blood, the suspension shall be removed immediately and the Secretary of State shall delete any record of the suspension.

Any person whose provisional license is suspended under this section on the basis of a blood-alcohol test 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. If the court rescinds the suspen-

sion, it shall also order the Secretary of State to delete any record of the suspension.

C. Any suspension issued under paragraph B shall run concurrently with any suspension ordered by a court upon conviction or adjudication of any violation of section 1312-B or 1312-C or Title 15, section 3103, subsection 1, paragraph F.

D. Following the expiration of 1/2 of the total period of suspension imposed pursuant to paragraph B, the Secretary of State may issue a provisional license, subject to the conditions, restrictions or terms he deems advisable, to the person if he receives written notice that the person has satisfactorily completed the alcohol education program of the Department of Human Services and, when required, has satisfactorily completed an alcohol treatment or rehabilitation program approved or licensed by the department.

E. Any suspension pursuant to paragraph B or provisional license reissued after suspension pursuant to paragraph D may extend beyond the person's 20th birthday to allow for completion of the total suspension period or to continue the period of conditions, restrictions or terms imposed on a license reissued pursuant to paragraph D.

F. The Secretary of State may promulgate whatever rules are necessary to carry out the purposes of this section.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 23, 1983.

CHAPTER 479

H.P. 1019 - L.D. 1322

AN ACT to Reform the Workers'
Compensation System.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Workers' Compensation System in Maine suffers from structural problems which cause