

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**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

---

---

expeditiously on any recommendation of the board under section 1478, but shall not act until after the conclusion of any judicial review of the recommendation and any resulting administrative proceedings.

Approval under this subchapter constitutes approval under the site location of development laws, but does not replace any other license required by law.

#### §1480. Applicability of regulations

All low-level radioactive waste storage facilities, whether privately or publicly owned or operated, shall be subject to regulation in accordance with this chapter.

#### §1480-A. Joint hearings; intervention

The board may hold joint hearings with the United States Nuclear Regulatory Commission and intervene in any federal licensing proceeding to carry out the purpose of this chapter.

Effective September 23, 1983.

---

## CHAPTER 501

S.P. 618 - L.D. 1753

AN ACT Relating to the Period  
of License Suspension for Drivers  
Convicted or Adjudicated of Operating  
Under the Influence.

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

Sec. 1. 29 MRSA §1312, sub-§1, as amended by PL 1981, c. 679, §14, is further amended to read:

1. Prerequisites to tests. Before any test specified is given, the law enforcement officer shall inform the person as to whom there is probable cause that, if he fails to comply with the duty to submit to and complete a test to determine the level of blood-alcohol at the direction of the law enforcement officer, his license or permit to operate, his right to operate or his right to apply for or obtain a license will be suspended for 180 days, and or, in the case of a 2nd or subsequent failure to submit to and

complete that test within a 6-year period, one year. The officer should also inform the person that the failure to comply with the duty to submit to a blood-alcohol test shall be admissible in evidence against him at any trial for operating under the influence of intoxicating liquor.

No test results shall ~~may~~ be excluded as evidence in any proceeding before any administrative officer or court of this State as a result of the failure of the law enforcement officer to comply with this prerequisite. The only effects of the failure of the officer to comply with this prerequisite shall be as provided in subsections 2 and 8.

Sec. 2. 29 MRSA §1312, sub-§2, as amended by PL 1981, c. 679, §§15 and 16, is further amended to read:

2. Hearing. If a person as to whom there is probable cause fails to comply with the duty to submit to a test to determine his blood-alcohol level by analysis of his blood or breath upon the request of a law enforcement officer, no test may be given. The Secretary of State, upon the receipt of a written statement under oath from a law enforcement officer, stating that the officer had probable cause to believe that a person was operating or attempting to operate a motor vehicle while under the influence of intoxicating liquor, and that the person failed to comply with the duty to submit to a test to determine the blood-alcohol level by analysis of his blood or breath, shall immediately notify the person, in writing, as provided in section 2241, that his license or permit, his right to operate and his right to apply for or obtain a license have been suspended. The suspension shall be for a period of 180 days the first time the person fails to comply with the duty to submit to the test and one year for each subsequent failure to comply with the duty to submit to the test within a 6-year period. The written statement shall be sent to the Secretary of State within 72 hours of the failure to comply with the duty to submit to the blood-alcohol test, excluding Saturdays, Sundays and holidays. If the statement is not sent within this time period, the Secretary of State shall nevertheless impose the suspension for failing to comply with the duty to submit to a test, unless the delay has prejudiced the person's ability to prepare or participate in the hearing described in this subsection.

If such person desires to have a hearing, he shall notify the Secretary of State within 10 days, in writing, of such desire. Any suspension shall remain in effect pending the outcome of such hearing, if

requested.

The scope of such a hearing shall cover whether there was probable cause to believe that the individual was either attempting to operate or was operating under the influence of intoxicating liquor and whether he failed to comply with the duty to submit to one of the blood-alcohol tests upon the request of a law enforcement officer. Any suspension in effect shall be removed if, after hearing, it is determined that the person who failed to submit to the test would not have failed to submit 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, that there was not probable cause to believe that such person was either attempting to operate or was operating under the influence of intoxicating liquor or that the person did not fail to comply with the duty to submit to a blood-alcohol test, any suspension in effect shall be removed immediately.

If it is determined, after a hearing, that any suspension in effect should be removed, the Secretary of State shall delete any record of the suspension and any record of his revocation of consent from that person's driving record.

For the purposes of this section, a prior refusal or revocation of consent to submit to a chemical test shall be a prior refusal or revocation of consent if it occurred within a 6-year period of the date of the most recent refusal or revocation of consent.

Sec. 3. 29 MRSA §1312-B, sub-§2, ¶C, as amended by PL 1981, c. 679, §30, is further amended to read:

C. Upon conviction, the court shall suspend the defendant's license or permit to operate, right to operate a motor vehicle and right to apply for or obtain a license for a period of 90 days for a first offense. In the case of a person previously convicted of violating subsection 10 of former section 1312, this section or section 1312-C within a 6-year period or whose license was suspended for failure to comply with the duty to submit to and complete a test to determine the level of blood-alcohol under section 1312 within a 6-year period, the suspension shall be for a period of one year. The period of suspension shall not be suspended by the court. The court shall give notice of the suspension and take physical custody of an operator's license as provided in section 2241-H. The Secretary of State may impose an additional period of suspension as

provided in section 1312-D, subsection 1-A, and may extend any period of suspension until satisfaction of any conditions imposed pursuant to section 1312-D, subsection 3.

Sec. 4. 29 MRSA §1312-D, sub-§1-A, as enacted by PL 1981, c. 679, §37, is amended to read:

1-A. Additional suspension. The Secretary of State may suspend the license, the right to operate a motor vehicle or the right to apply for or obtain a license of any person adjudicated of having violated section 1312-C for an additional period of up to 135 days beyond the 45-day period of suspension required under section 1312-C, subsection 4.

The Secretary of State may suspend the license, the right to operate or the right to apply for or obtain a license of any person, including a juvenile, convicted for a first offense within a 6-year period under section 1312-B for an additional period of up to 275 days beyond the 90 days required under section 1312-B, subsection 2, paragraph C, or up to 185 days beyond the 180 days required under Title 15, section 3314, subsection 3, and if the person has been previously convicted or adjudicated under the former section 1312, subsection 10 or section 1312-B or section 1312-C, the Secretary of State shall impose a further suspension of not less than 90 days.

Notice of any additional suspension pursuant to this subsection shall be given as provided in subsection 1.

Sec. 5. 29 MRSA §1312-D, sub-§3, as amended by PL 1981, c. 679, §38, is further amended to read:

3. Restricted licenses. After certification under subsection 2 or after completion of the suspension imposed pursuant to this section and section 1312-B, 1312-C or Title 15, section 3314, the Secretary of State may issue the license or permit with whatever conditions, restrictions or terms he deems advisable, having in mind the safety of the public and the welfare of the petitioner, including, but not limited to, successful completion of the alcohol education program of the Department of Human Services, if the petitioner has not already done so under subsection 2. The license or permit may contain the condition that the person abstain from the use of intoxicating liquor or drugs. Any license or permit issued under subsection 2 or under this subsection shall be restricted to use for travel to an alcohol education or treatment program or to employment if the amount of the total period of suspension which has expired is less than 90 days. Any such license

or permit issued shall remain restricted until the amount of time the license or permit was actually suspended plus the amount of time the restricted license or permit has been issued equals a minimum of 90 days.

Effective September 23, 1983.

---

---

## CHAPTER 502

S.P. 625 - L.D. 1763

### AN ACT to Regulate Commercial Whitewater Rafting.

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

Whereas, the 1983 whitewater rafting season begins in June; and

Whereas, in accordance with the findings and objectives detailed in this Act, it is important to establish for the 1983 season safety standards for whitewater rafting and recreational use limits for the Kennebec River and the West Branch Penobscot River to ensure consumer protection, prevent environmental degradation and protect navigation; 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:

Sec. 1. 12 MRSA c. 707, sub-c. X-A, first 2 lines, as enacted by PL 1979, c. 723, §14, are repealed and the following enacted in their place:

#### SUBCHAPTER X-A

#### COMMERCIAL WHITEWATER RAFTING

Sec. 2. 12 MRSA §7361, as enacted by PL 1979, c. 723, §14, is repealed and the following enacted in its place: