

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

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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

ance to the Commissioner of Environmental Protection. The commissioner may, without hearing, issue that variance for the supplier and his regular users for a period not to exceed 60 days if the application, in his judgment, meets the criteria of the applicable statutory variance requirements and that the emergency action is necessary to avoid an immediate threat to public health, safety or general welfare. The temporary variance cannot be renewed.

Effective September 23, 1983.

CHAPTER 505

H.P. 1319 - L.D. 1749

AN ACT to Provide for Swifter Disposition of Drunk Driving Cases.

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

Sec. 1. 29 MRSA §1311-A is enacted to read:

§1311-A. Suspension on administrative determination for operating with an excessive blood-alcohol level

1. Purpose. The purpose of this section is:

A. To provide maximum safety for all persons who travel or otherwise use the public highways of the State; and

B. To remove quickly from the public highways of this State those persons who have shown themselves to be a safety hazard by operating or attempting to operate a motor vehicle with an excessive blood-alcohol level.

1-A. Definition. For the purposes of this section, "operating or attempting to operate a motor vehicle with an excessive blood-alcohol level" means operating or attempting to operate a motor vehicle while having 0.10% or more by weight of alcohol in the blood.

2. Suspension. The Secretary of State shall make the determination of suspension as follows.

A. The Secretary of State shall suspend the license or permit to operate, right to operate a motor vehicle and right to apply for or obtain a license of any person upon his determination that the person operated or attempted to operate a motor vehicle with an excessive blood-alcohol level.

B. The Secretary of State shall make a determination on the basis of the information required in subsection 3, and this determination shall be final unless a hearing is requested and held. If a hearing is held, the Secretary of State shall review the matter and make a final determination on the basis of evidence received at the hearing.

C. The determination of these facts by the Secretary of State is independent of the determination of the same or similar facts in the adjudication of any civil or criminal charges arising out of the same occurrence. The disposition of those civil or criminal charges shall not affect any suspension under this section.

3. Report by law enforcement officer. A law enforcement officer shall forward a report to the Secretary of State as follows.

A. A law enforcement officer who arrests or summons any person for operating or attempting to operate a motor vehicle with an excessive blood-alcohol level, shall immediately forward to the Secretary of State a report, under oath of all information relevant to the enforcement action, including information which adequately identifies the person so arrested or summonsed, a statement of the officer's grounds for belief that the person committed the offense of operating or attempting to operate a motor vehicle with an excessive blood-alcohol level, a certificate under section 1312, subsection 8 of the results of any blood-alcohol tests by a self-contained breath-alcohol testing apparatus which were conducted, and a copy of the uniform traffic ticket filed with the court.

B. The report required in this subsection shall be made on forms supplied by the Secretary of State.

C. If the blood-alcohol test was not analyzed by a law enforcement officer, the person who analyzed the results shall cause a copy of his certificate under section 1312, subsection 8, to be sent to the Secretary of State.

4. Notice of suspension. The notice of suspension by the Secretary of State shall be made as follows.

A. Upon receipt of the information required in subsection 3, the Secretary of State shall make the determination described in subsection 2. If the Secretary of State determines that the person is subject to license suspension, he shall immediately issue a notice of suspension.

B. The notice of suspension shall be sent by regular mail to the person at the last known address on record at the Division of Motor Vehicles, and to the address provided in the report of the law enforcement officer if that address differs from the address of record. The notice is deemed received 3 days after mailing, unless returned by postal authorities.

C. The notice of suspension shall clearly specify the reason and statutory grounds for the suspension, the effective date of the suspension, the right of the person to request a hearing, the procedure for requesting a hearing and the date by which that request for a hearing shall be made.

5. Effective date and period of suspension. The effective date and period of suspension are determined as follows.

A. The effective date of the suspension issued under this section shall be in accordance with section 2241-E. If a written request for a hearing is received by the Secretary of State, the effective date of the suspension shall be stayed until a final order is issued following the hearing, provided that any delay in the hearing which is caused or requested by the subject person or counsel representing that person shall not result in a stay of the suspension during the period of delay.

B. The period of license suspension for a person the Secretary of State has determined to have operated or attempted to operate a motor vehicle with an excessive blood-alcohol level for a first or subsequent offense shall be the same suspension period as if the person was convicted or adjudicated of a violation of section 1312-B, 1312-C or Title 15, section 3103, subsection 1, paragraph F.

C. Where a person's license is suspended under this section and is also suspended after having been adjudicated or convicted on charges arising

out of the same occurrence for a violation of section 1312-B, 1312-C or Title 15, section 3103, subsection 1, paragraph F, the periods of suspension shall run concurrently. The periods of suspension are intended to be minimum periods of suspension and the Secretary of State may suspend the license for the additional periods as provided in section 1312-D, subsection 1-A.

5-A. Work-restricted license. Notwithstanding any other provision of this section, upon receipt by the Secretary of State of a petition for a work-restricted license by any person whose license or right to operate a motor vehicle has been suspended, the Secretary of State may stay the suspension during the statutory suspension period and issue a work-restricted license. A work-restricted license means a license to operate a motor vehicle between a residence and a place of employment, in the scope employment, or both, as determined by the Secretary of State.

6. Restoration of license. The Secretary of State may issue a license or permit as follows.

A. Restoration of any license or permit to operate, right to operate a motor vehicle and right to apply for or obtain a license suspended under this section shall be in accordance with section 1312-D, subsections 2 to 4.

7. Request for hearing. A person who has received notice of suspension may request a hearing as follows.

A. Any person who has received a notice of suspension under this section may make a written request for a review of the determination of the Secretary of State at a hearing.

B. The request for a hearing shall be made within 10 days from the effective date of the suspension. If a written request for a hearing is made after the 10-day period and the Secretary of State finds that the person was unable to make a timely request due to lack of actual notice of the suspension or due to factors of physical incapacity, the Secretary of State shall waive the period of limitation, reopen the matter and grant the hearing request, except, in such a case, a stay of the suspension pending the hearing shall not be granted.

8. Hearing. The hearing and notice shall be as follows.

A. The hearing and notice shall be as provided in section 2241, subsection 3.

B. The sole issue at the hearing shall be whether by a preponderance of the evidence there was probable cause to believe that the person was operating or attempting to operate with an excessive blood-alcohol level. If it is determined, after hearing, that there was not probable cause to believe that the person operated or attempted to operate a motor vehicle with an excessive blood-alcohol level, the suspension shall be removed immediately.

Sec. 2. 29 MRSA §1312-D, sub-§7, as amended by PL 1981, c. 679, §40, is further amended to read:

7. Suspension in effect during appeal. If any person suspended under section 1311-A or convicted or adjudicated of a violation of section 1312-B or 1312-C appeals the judgment or adjudication or administrative determination of the Secretary of State, the suspension imposed shall remain in effect during the time an appeal is pending, unless the court orders otherwise, or unless the Secretary of State restores the license, permit or privilege to operate pending decision on the appeal.

Sec. 3. 29 MRSA §2241-D, sub-§1, as amended by PL 1981, c. 456, Pt. A, §96, is further amended to read:

1. Fee. Notwithstanding any other provisions of ~~Title 29~~ this Title, before a mandatory suspension, a mandatory revocation or a suspension ordered by the Secretary of State or a court of a person's driving privilege may be terminated or reinstated, there shall be paid to the Secretary of State a fee of ~~\$20~~ \$25 which shall be in addition to the regular registration or license fee.

Sec. 4. Effective date. This Act shall take effect on January 1, 1984.

Effective January 1, 1984.

CHAPTER 506

H.P. 75 - L.D. 80

AN ACT to Establish a Sign on the Maine
Turnpike to Guide Visitors to Norway,
South Paris and the Oxford Hills Region.