

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**

**January 5, 1994 to April 14, 1994**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 14, 1994**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1993**

**§396-S. Approval of emergency medicine resident spaces**

The commission, after seeking advice from the Advisory Committee on Medical Education described in Title 20-A, section 12106, shall approve the establishment or addition of emergency medicine resident spaces by a hospital if the commission finds that the additional spaces are consistent with the comprehensive programs developed by the Finance Authority of Maine under Title 20-A, chapter 424 or, in the absence of any such comprehensive programs, with the orderly development of emergency physician training and recruitment programs in the State.

See title page for effective date.

**CHAPTER 734**

**S.P. 669 - L.D. 1837**

**An Act to Subject Motorists with  
Prior Out-of-state Operating-under-  
the-influence Convictions to the  
Sentencing Provisions of the State's  
Operating-under-the-influence Laws**

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

**Sec. 1. 29 MRSA §1312-B, sub-§2, ¶A**, as amended by PL 1989, c. 784, §5, is further amended to read:

A. Except as provided in paragraph B, in the case of a person having no previous convictions of ~~a violation of former section 1312, subsection 10, former section 1312-B or this section~~ operating under the influence of intoxicating liquor or drugs, or a combination of liquor or drugs, or with an excessive blood-alcohol level and having no previous suspension of license or privilege to operate for failure to comply with the duty to submit to and complete chemical testing under section 1312 within a 6-year period, the fine may not be less than \$300 and the court shall suspend the defendant's license or permit to operate, right to operate a motor vehicle and right to apply for and obtain a license for a period of 90 days, which penalties may not be suspended.

**Sec. 2. 29 MRSA §1312-B, sub-§2, ¶B**, as repealed and replaced by PL 1991, c. 377, §18, is amended to read:

B. In the case of a person having no previous convictions of ~~a violation of former section 1312, subsection 10, former section 1312-B or this section~~ operating under the influence of in-

toxicating liquor or drugs, or a combination of liquor or drugs, or with an excessive blood-alcohol level and having no previous suspension of license or privilege to operate for failure to comply with the duty to submit to and complete chemical testing under section 1312 within a 6-year period, the fine may not be less than \$300, the sentence must include a period of incarceration of not less than 48 hours and the court shall suspend the defendant's license or permit to operate, right to operate a motor vehicle and right to apply for and obtain a license for a period of 90 days. These penalties may not be suspended when the person:

(1) Was tested as having a blood-alcohol level of 0.15% or more;

(2) Was driving in excess of the speed limit by 30 miles an hour or more during the operation that resulted in the prosecution for operating under the influence or with a blood-alcohol level of 0.08% or more;

(3) Eluded or attempted to elude an officer, as defined in section 2501-A, subsection 3, during the operation that resulted in prosecution for operating under the influence or with a blood-alcohol level of 0.08% or more;

(4) Failed to submit to a chemical test for the determination of that person's blood-alcohol level or drug concentration at the request of a law enforcement officer on the occasion that resulted in the conviction; or

(5) Was, on the occasion that resulted in the conviction, operating or attempting to operate a motor vehicle with a passenger under 16 years of age.

**Sec. 3. 29 MRSA §1312-B, sub-§2, ¶C**, as amended by PL 1989, c. 784, §7, is further amended to read:

C. In the case of a person having one previous conviction of ~~a violation of former section 1312, subsection 10, former section 1312-B or this section~~ operating under the influence of intoxicating liquor or drugs, or a combination of liquor or drugs, or with an excessive blood-alcohol level or having at least one previous suspension for failure to comply with the duty to submit to and complete chemical testing to determine the level of blood-alcohol or drug concentration under section 1312 within a 6-year period, the fine may not be less than \$500, the sentence ~~shall~~ must include a period of incarceration of not less

than 7 days and the court shall suspend the defendant's license or permit to operate, right to operate a motor vehicle and right to apply for and obtain a license for a period of one year, which penalties may not be suspended.

**Sec. 4. 29 MRSA §1312-B, sub-§2, ¶D**, as repealed and replaced by PL 1985, c. 412, §4, is amended to read:

D. In the case of a person having 2 or more previous convictions of ~~violations of former section 1312, subsection 10, former section 1312-B or this section~~ operating under the influence of intoxicating liquor or drugs, or a combination of liquor or drugs, or with an excessive blood-alcohol level within a 6-year period, the fine ~~shall may~~ not be less than \$750, the sentence ~~shall must~~ include a period of incarceration of not less than 30 days and the court shall suspend the defendant's license or permit to operate, right to operate a motor vehicle and right to apply for and obtain a license for a period of 2 years, which penalties may not be suspended.

**Sec. 5. 29 MRSA §1312-B, sub-§2, ¶H** is enacted to read:

H. For the purposes of this section, a conviction of operating under the influence of intoxicating liquor or drugs, or a combination of liquor or drugs, or with an excessive blood-alcohol level includes:

(1) A conviction of a violation of former section 1312, subsection 10, of former section 1312-B or of this section;

(2) A conviction, in any jurisdiction that is or becomes a party to the driver license compact in chapter 7, subchapter III, of any offense described in the compact under section 634, subsection 1, paragraph B or of an offense that is similar to the offense provided in section 634, subsection 3;

(3) An adjudication or other determination made under the juvenile laws of this State or of another jurisdiction for conduct that, if committed by an adult, would have been a conviction included in this subsection, including the conduct under Title 15, section 3103, subsection 1, paragraph F; and

(4) A conviction in the tribal court of the Penobscot Nation or the Passamaquoddy Tribe, a court of the United States or a court of a state that is not a party to the driver license compact in chapter 7, subchapter III, provided that the punishment for the offense includes the possibility of

incarceration, whether or not actually imposed on that occasion, and the elements of the offense as provided in the law of that jurisdiction include operation or attempted operation of a motor vehicle while intoxicated, impaired or under the influence of intoxicating liquor or drugs, or a combination of liquor or drugs, or with a blood-alcohol level sufficient for conviction under the laws of that jurisdiction.

**Sec. 6. 29 MRSA §1312-B, sub-§2-A**, as amended by PL 1989, c. 872, §6, is further amended to read:

**2-A. Aggravated punishment category.** If the State pleads and proves that the actor, while operating a motor vehicle in violation of this section, ~~the actor~~ in fact caused serious bodily injury as defined in Title 17-A, section 2, subsection 23, to another person or in fact caused the death of another person, the sentencing class for the offense in subsection 1 is a Class C crime. The minimum penalties specified in subsection 2 apply, but the minimum period of suspension is 18 months unless a longer minimum period otherwise applies.

If the State pleads and proves that the actor, while operating a motor vehicle in violation of this section, ~~the actor had been previously convicted of 3 or more violations of former section 1312, subsection 10, former section 1312-B or this section~~ previous convictions of operating under the influence of intoxicating liquor or drugs, or a combination of liquor or drugs, or with an excessive blood-alcohol level within a 6-year period, the sentencing class for the offense in subsection 1 is a Class C crime. The minimum penalties specified in subsection 2 apply, but the minimum fine is \$1,000.

See title page for effective date.

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## CHAPTER 735

H.P. 1385 - L.D. 1884

### An Act to Ensure Proper Funding of the Department of Environmental Protection

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

**Sec. 1. 38 MRSA §342, sub-§16** is enacted to read:

**16. Receipt of funds.** Through the Department of Administrative and Financial Services, the commissioner may establish accounts as necessary for the