

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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

J.S. McCarthy Company
Augusta, Maine
1995

Sec. 4. Funding. Any funds necessary for the implementation of this Act must be in addition to funds currently allocated to the Local Road Assistance Program.

Sec. 5. Date for payments under revised distribution formula. The State shall begin distribution to municipalities in accordance with the provisions of this Act with the quarterly payments due March 1, 1997. For fiscal year 1996-97, municipalities with roads in excess of 2 lanes will receive 1/2 of the annual increase resulting from the calculation for distribution using lane miles in accordance with this Act. The allocation in fiscal year 1996-97 is \$75,000, 1/2 the anticipated annual increase in distribution under the Local Road Assistance Program.

Sec. 6. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

1996-97

**TRANSPORTATION,
DEPARTMENT OF**

Local Road Assistance

All Other	\$75,000
Allocates additional funds to be distributed to municipalities for each mile of public road with more than 2 lanes pursuant to the funding formula of the Local Road Assistance Program.	

Sec. 7. Effective date. This Act takes effect on January 1, 1997.

Effective January 1, 1997.

CHAPTER 679

S.P. 323 - L.D. 904

An Act to Increase the Penalties for Certain Crimes Involving Alcohol and Illegal Drugs

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

Whereas, the use of intoxicating liquor or drugs while hunting or operating a snowmobile, ATV or watercraft is a threat to the public health and welfare; and

Whereas, existing penalties for those crimes are not sufficient; and

Whereas, the penalties established in this legislation must take effect prior to the summer recreational season; 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 §7077, sub-§1-A, ¶B, as enacted by PL 1993, c. 136, §1, is amended to read:

B. Hunting while under the influence of alcohol intoxicating liquor or drugs, in violation of section 7406, subsection 3;

Sec. 2. 12 MRSA §7077-A, sub-§1-A is enacted to read:

1-A. Hunting while under the influence of intoxicating liquor or drugs. Notwithstanding any other provision of this Part, a person convicted of hunting while under the influence of intoxicating liquor or drugs in violation of section 7406, subsection 3 is not eligible to obtain a license to hunt in this State for a period of 5 years from the date of conviction.

Sec. 3. 12 MRSA §7406, sub-§3, as repealed and replaced by PL 1991, c. 443, §21, is amended to read:

3. Hunting while under the influence of intoxicating liquor or drugs. A person is ~~guilty of a Class E crime~~ commits the crime of hunting while under the influence of intoxicating liquor or drugs if that person hunts wild animals or wild birds:

A. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs; ~~or~~

B. ~~While~~ For a person 21 years of age or older, while having 0.08% or more by weight of alcohol in that person's blood; or

C. For a person less than 21 years of age, while having any amount of alcohol in the blood.

Hunting while under the influence of intoxicating liquor or drugs is a Class D crime.

Sec. 4. 12 MRSA §7408, as enacted by PL 1991, c. 443, §24, is amended to read:

§7408. Implied consent to chemical tests

Any person who hunts wild animals or wild birds within this State has a duty to submit to a test to determine that person's blood-alcohol level or drug concentration by analysis of blood ~~or~~, breath or urine if there is probable cause to believe that the person is hunting wild animals or wild birds while under the influence of intoxicating liquor or drugs. The duty to submit to a blood-alcohol or drug concentration test includes the duty to complete either a blood ~~or~~, breath or urine test, or any combination of those tests. Tests and procedures for determining whether a person is under the influence of intoxicating liquor or drugs are governed by section 7912.

Sec. 5. 12 MRSA §7801, sub-§9, as repealed and replaced by PL 1989, c. 599, §1, is amended to read:

9. Operating watercraft while under the influence of intoxicating liquor or drugs. A person ~~is guilty of a criminal violation~~ commits the crime of operating a watercraft while under the influence of intoxicating liquor or drugs if that person operates or attempts to operate any watercraft:

A. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs; ~~or~~

B. ~~While~~ For a person 21 years of age or older, while having 0.08% or more by weight of alcohol in that person's blood; ~~or~~

C. For a person less than 21 years of age, while having any amount of alcohol in the blood.

Operating a watercraft while under the influence of intoxicating liquor or drugs is a Class D crime.

Sec. 6. 12 MRSA §7827, sub-§9, as repealed and replaced by PL 1991, c. 443, §34, is amended to read:

9. Operating a snowmobile while under the influence of intoxicating liquor or drugs. A person ~~is guilty of a Class E crime~~ commits the crime of operating a snowmobile while under the influence of intoxicating liquor or drugs if that person operates or attempts to operate any snowmobile:

A. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs; ~~or~~

B. ~~While~~ For a person 21 years of age or older, while having 0.08% or more by weight of alcohol in that person's blood; ~~or~~

C. For a person less than 21 years of age, while having any amount of alcohol in the blood.

Operating a snowmobile while under the influence of intoxicating liquor or drugs is a Class D crime.

Sec. 7. 12 MRSA §7827, sub-§9-A, as enacted by PL 1991, c. 443, §35, is amended to read:

9-A. Failure to comply with duty to submit. A person is guilty of failure to comply with the duty to submit to and complete a blood-alcohol or drug concentration test under section 7828 if that person refuses to submit to or fails to complete a blood-alcohol or drug concentration test, or both, when requested to do so by a law enforcement officer who has probable cause to believe that the person operated or attempted to operate a snowmobile while under the influence of intoxicating liquor or drugs.

Sec. 8. 12 MRSA §7828, as enacted by PL 1991, c. 443, §36, is amended to read:

§7828. Implied consent to chemical tests

Any person who operates or attempts to operate a snowmobile within this State has a duty to submit to a test to determine that person's blood-alcohol level or drug concentration by analysis of blood ~~or~~, breath or urine if there is probable cause to believe that the person has operated or attempted to operate a snowmobile while under the influence of intoxicating liquor or drugs. The duty to submit to a blood-alcohol or drug concentration test includes the duty to complete ~~either~~ a blood ~~or~~, breath or urine test or any combination of those tests. Tests and procedures applicable in determining whether a person is under the influence of intoxicating liquor or drugs are governed by section 7912.

Sec. 9. 12 MRSA §7857, sub-§10, as repealed and replaced by PL 1991, c. 443, §37, is amended to read:

10. Operating an ATV while under the influence of intoxicating liquor or drugs. A person ~~is guilty of a Class E crime~~ commits the crime of operating an ATV while under the influence of intoxicating liquor or drugs if that person operates or attempts to operate any ATV:

A. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs; ~~or~~

B. ~~While~~ For a person 21 years of age or older, while having 0.08% or more by weight of alcohol in that person's blood; ~~or~~

C. For a person less than 21 years of age, while having any amount of alcohol in the blood.

Operating an ATV while under the influence of intoxicating liquor or drugs is a Class D crime.

Sec. 10. 12 MRSA §7857, sub-§10-A, as enacted by PL 1991, c. 443, §38, is amended to read:

10-A. Failure to comply with duty to submit. A person is guilty of failure to comply with the duty to submit to and complete a blood-alcohol or drug concentration test under section 7860 if that person refuses to submit to or fails to complete a blood-alcohol or drug concentration test, or both, when requested to do so by a law enforcement officer who has probable cause to believe that the person operated or attempted to operate an ATV while under the influence of intoxicating liquor or drugs.

Sec. 11. 12 MRSA §7860, as enacted by PL 1991, c. 443, §39, is amended to read:

§7860. Implied consent to chemical tests

Any person who operates or attempts to operate an ATV ~~within~~ in this State has the duty to submit to a test to determine that person's blood-alcohol or drug concentration level by analysis of blood ~~or~~, breath or urine if there is probable cause to believe that the person has operated or attempted to operate an ATV while under the influence of intoxicating liquor or drugs. The duty to submit to a blood-alcohol or drug concentration test includes the duty to complete ~~either~~ a blood ~~or~~, breath or urine test or any combination of those tests. Tests and procedures applicable in determining whether a person is under the influence of intoxicating liquor or drugs are governed by section 7912.

Sec. 12. 12 MRSA §7901, sub-§13, as corrected by RR 1991, c. 2, §39, is amended to read:

13. Penalties for hunting or attempting to hunt and operating or attempting to operate a watercraft, snowmobile or all-terrain vehicle while under the influence of intoxicating liquor or drugs. The ~~offense~~ offenses defined in section 7406, subsection 3; section 7801, subsection 9; is a; section 7827, subsection 9; and section 7857, subsection 10 are Class D ~~crime~~ crimes. In determining an appropriate sentence, refusal to submit to a chemical test ~~shall~~ must in every case be an aggravating factor. In the following cases the following minimum penalties ~~shall~~ apply.

A. Except as provided in paragraph B, in the case of a person having no previous convictions of a violation of section 7406, subsection 3; section 7801, subsection 9; section 7827, subsection 9; or section 7857, subsection 10 and having no previous adjudications of failure to comply with the duty to submit to and complete a blood-alcohol test under section 7802 7408, 7805, 7828 or 7860 within a 6-year period, the fine ~~shall~~ may not be less than \$300. Beginning

July 1, 1990, the penalties provided in this paragraph may not be suspended.

B. In the case of a person having no previous convictions of a violation of section 7406, subsection 3; section 7801, subsection 9; section 7827, subsection 9; or section 7857, subsection 10 and having no previous adjudications of failure to comply with the duty to submit to and complete a blood-alcohol test under section 7802, 7805, 7828 or 7860 within a 6-year period, the fine ~~shall~~ may not be less than \$300 and the sentence ~~shall~~ must include a period of incarceration of not less than 48 hours, which penalties may not be suspended, when the person:

- (1) Was tested as having a blood-alcohol level of 0.15% or more;
- (2) Failed or refused to stop upon request or signal of an officer in uniform, as defined in section 6953 or 7060, during the operation ~~which that~~ which resulted in prosecution for operating under the influence or with a blood-alcohol level of 0.08% or more; or
- (3) Failed to submit to a chemical test to determine that person's blood-alcohol level or drug concentration, at the request of a law enforcement officer on the occasion ~~which that~~ which resulted in the conviction.

C. In the case of a person having one previous conviction of a violation of section 7406, subsection 3; section 7801, subsection 9; section 7827, subsection 9; or section 7857, subsection 10 or one previous adjudication of failure to comply with the duty to submit to and complete a blood-alcohol or drug concentration test under section 7802 7408, 7805, 7828 or 7860 within a 6-year period, the fine ~~shall~~ may not be less than \$500 and the sentence ~~shall~~ must include a period of incarceration of not less than 7 days, which penalties may not be suspended.

D. In the case of a person having 2 or more previous convictions of violations of section 7406, subsection 3; section 7801, subsection 9; section 7827, subsection 9; and section 7857, subsection 10 or adjudications of failure to comply with the duty to submit to and complete a blood-alcohol or drug concentration test under section 7802 7408, 7805, 7828 or 7860 within a 6-year period, the fine ~~shall~~ may not be less than \$750 and the sentence ~~shall~~ must include a period of incarceration of not less than 30 days, which penalties may not be suspended.

E. In addition to the penalties provided under paragraphs C and D, the court may order the

defendant to participate in the alcohol and other drug education, evaluation and treatment programs for multiple offenders administered by the ~~Department of Human Services Office of Substance Abuse~~, as defined in Title 22 ~~5~~, chapter ~~4602~~ 521.

F. The penalties provided under paragraphs B, C, D and, beginning July 1, 1990, paragraph A, ~~shall~~ may not be suspended by the court.

G. If the State pleads and proves that, while hunting or operating a snowmobile, ATV or watercraft in violation of this section, the ~~actor~~ defendant 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~~ offenses in section 7406, subsection 3; section 7801, subsection 9, paragraphs A and B; section 7827, subsection 9; and section 7857, subsection 10 are Class C crime crimes. The minimum penalties specified in this subsection ~~shall~~ apply, ~~but the minimum period of suspension shall be 18 months unless a longer minimum period otherwise applies.~~

~~The~~ Any alternatives defined in section 7406, subsection 3; section 7801, subsection 9, paragraphs A and B; section 7827, subsection 9; and section 7857, subsection 10 may be pleaded in the alternative. The State may, but ~~shall~~ is not be required to, elect prior to submission to the fact finder.

For purposes of this subsection, a prior conviction has occurred within the 6-year period if the date of docket entry by the clerk of a judgment of conviction or adjudication is 6 years or less from the date of the new conduct that is penalized or for which the penalty is or may be enhanced.

In determining the appropriate sentence, the court shall consider the defendant's record of convictions for hunting or operating a snowmobile, ATV or watercraft while under the influence of intoxicating liquor or drugs and for failure to comply with the duty to submit. The court may rely upon oral representations based on records maintained by the courts, by the State Bureau of Identification, by the Secretary of State, including telecommunications of records maintained by the Secretary of State, or by the Department of Inland Fisheries and Wildlife. If the defendant disputes the accuracy of any representation concerning a conviction or adjudication, the court shall grant a continuance for the purposes of determining the accuracy of the record.

References in this Title to this subsection are determined also to refer to the juvenile crime stated in Title 15, section 3103, subsection 1, paragraph E and to the disposition, including a suspension, for that

juvenile crime as provided in Title 15, section 3314, subsection 3, except as otherwise provided or ~~except~~ when the context clearly requires otherwise.

Sec. 13. 12 MRSA §7912, sub-§§2, 4, 5, 7 and 10 to 12, as amended by PL 1991, c. 443, §42, are further amended to read:

2. Prerequisites to tests. Before any test is given, the law enforcement officer shall inform the person to be tested ~~that, if that of the consequences of refusing to comply with the test.~~ If the person fails to comply with the duty to submit to and complete a blood alcohol test to determine the level of blood alcohol the requested chemical tests at the direction of the law enforcement officer, that person is committing a civil violation for which the person may be required to pay a civil forfeiture of up to \$500. The officer shall also inform the person that the failure to comply with the duty to submit to a blood alcohol chemical test is admissible in evidence against that person at any trial for hunting or operating under the influence of intoxicating liquor or drugs or a combination of liquor and drugs.

~~No test~~ Test results may not 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 these prerequisites. The only effects of the failure of the officer to comply with the prerequisites are as provided in subsection 7.

4. Blood-alcohol level. The following percentages by weight of alcohol in the defendant's blood have the following evidentiary effect.

A. If there was, at the time alleged, 0.05% or less by weight of alcohol in the ~~defendant's~~ blood of a defendant who was 21 years of age or older at the time of arrest, it is prima facie evidence that the defendant was not under the influence of intoxicating liquor.

B. If there was, at the time alleged, in excess of 0.05% but less than 0.08% by weight of alcohol in the ~~defendant's~~ blood of a defendant who was 21 years of age or older at the time of the arrest, it is relevant evidence, but it is not to be given prima facie effect in indicating whether or not the defendant was under the influence of intoxicating liquor within the meaning of this section, but that fact may be considered with other competent evidence in determining whether or not the defendant was under the influence of intoxicating liquor.

C. For purposes of evidence in proceedings other than those arising under section 7406, subsection 3; section 7801, subsection 9; section 7827, subsection 9; or section 7857, subsection

10, it is presumed that a person was under the influence of intoxicating liquor when that person has ~~a blood-alcohol level of 0.08% or more by weight;~~

(1) For a person 21 years of age or older, a blood-alcohol level of 0.08% or more by weight; and

(2) For a person less than 21 years of age, any amount of alcohol in the blood.

D. Percent by weight of alcohol in the blood is based upon grams of alcohol per 100 milliliters of blood.

5. Administration of tests. Persons conducting analyses of blood ~~or~~, breath or urine for the purpose of determining the blood-alcohol level or drug concentration must be certified for ~~this~~ each purpose by the Department of Human Services under certification standards set by that department.

Only a duly licensed physician, registered physician's assistant, registered nurse or a person certified by the Department of Human Services under certification standards set by that department, acting at the request of a law enforcement officer, may draw a specimen of blood to determine the blood-alcohol level or drug concentration of a person who is complying with the duty to submit to a ~~blood-alcohol~~ chemical test. This limitation does not apply to the taking of breath or urine specimens. When a person draws a specimen of blood at the request of a law enforcement officer, that person may issue a certificate that states that the person is in fact a duly licensed or certified person as required by this subsection and that the person followed the proper procedure for drawing a specimen of blood to determine the blood-alcohol level or drug concentration. That certificate, when duly signed and sworn to by the person, is admissible as evidence in any court of the State. It is prima facie evidence that the person was duly licensed or certified and that the person followed the proper procedure for drawing a specimen of blood ~~to determine the blood-alcohol level for chemical testing~~, unless, with 10 days' written notice to the prosecution, the defendant requests that the person testify as to licensure or certification, or the procedure for drawing the specimen of blood.

A law enforcement officer may take a sample specimen of the breath or urine of any person whom the officer has probable cause to believe hunted wild animals or wild birds or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs and who is complying with the duty to submit to and complete a ~~blood-alcohol~~ chemical test. The sample specimen must 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 or drug concentration of that sample.

Only equipment approved by the Department of Human Services may be used by a law enforcement officer to take a sample specimen of the defendant's breath or urine for submission to the Department of Human Services or a person certified by the Department of Human Services for the purpose of conducting tests of the sample specimen to determine the blood-alcohol level or drug concentration of that sample. Approved equipment must have a stamp of approval affixed by the Department of Human Services. Evidence that the equipment was in a sealed carton bearing the stamp of approval must be accepted in court as prima facie evidence that the equipment was approved by the Department of Human Services for use by the law enforcement officer to take the sample specimen of the defendant's breath or urine.

As an alternative to the method of breath testing described in this subsection, a law enforcement officer may test the breath of any person whom the officer has probable cause to believe hunted wild birds or wild animals or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor, by use of a self-contained, breath-alcohol testing apparatus to determine the blood-alcohol level, provided the testing apparatus is reasonably available. The procedures for the operation and testing of self-contained, breath-alcohol testing apparatuses must be as provided by rule adopted by the Department of Human Services. The result of any such test must be accepted as prima facie evidence of the blood-alcohol level in any court.

Approved self-contained, breath-alcohol testing apparatuses must have a stamp of approval affixed by the Department of Human Services after periodic testing. That stamp of approval is valid for a limited period of no more than one year. Testimony or other evidence that the equipment was bearing the stamp of approval must be accepted in court as prima facie evidence that the equipment was approved by the Department of Human Services for use by the law enforcement officer to collect and analyze a sample specimen of the defendant's breath.

Failure to comply with any provision of this subsection or with any rule adopted under this subsection does not, by itself, result in the exclusion of evidence of blood-alcohol level or drug concentration, unless the evidence is determined to be not sufficiently reliable.

Testimony or other evidence that any materials used in operating or checking the operation of the equipment were bearing a statement of the manufacturer or of the

Department of Human Services must be accepted in court as prima facie evidence that the materials were of a composition and quality as stated.

A person certified by the Maine Criminal Justice Academy, under certification standards set by the academy, as qualified to operate approved self-contained, breath-alcohol testing apparatuses may operate those apparatuses to collect and analyze a sample specimen of a defendant's breath.

7. Evidence. The percentage by weight of alcohol in the defendant's blood at the time alleged and the concentration of drugs at the time alleged, as shown by the chemical analysis of the defendant's blood ~~or~~, breath or urine or by results of a self-contained, breath-alcohol testing apparatus any test authorized by subsection 5 is admissible in evidence.

When a person, certified under subsection 5, conducts a chemical analysis of blood ~~or~~, breath or urine to determine blood-alcohol level or drug concentration, the person may issue a certificate stating the results of the analysis. That certificate, when duly signed and sworn to by the certified person, is admissible in evidence in any court of the State. It is prima facie evidence that the person taking a specimen of blood or urine was a person authorized by subsection 5; that the equipment, chemicals and other materials used in the taking of the blood or urine 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 5 to be approved by the Department of Human Services were in fact approved; that the sample tested by the person certified under subsection 5 was in fact the same sample taken from the defendant; and that the drug concentration or percentage by weight of alcohol in the defendant's blood was, at the time the blood ~~or~~, breath or urine 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 any of the matters as to which the certificate constitutes prima facie evidence. The notice must specify those matters concerning which the defendant requests testimony.

A person certified under subsection 5 as qualified to operate a self-contained, breath-alcohol testing apparatus to determine the blood-alcohol level may issue a certificate stating the results of the analysis. That certificate, when duly signed and sworn to by the certified person, is admissible in evidence in any court of the State. It is prima facie evidence that the percentage by weight of alcohol in the defendant's blood was, at the time the breath sample was taken, as stated in the certificate, unless, with 10 days' written notice to the prosecution, the defendant requests that the operator or other qualified witness testify as to the results of the analysis.

Transfer of sample specimens to and from a laboratory for purposes of analysis is by certified or registered mail and, when so made, is deemed to comply with all requirements regarding the continuity of custody of physical evidence.

The failure of a person to comply with the duty to submit to and complete a blood-alcohol chemical test under section 7408, ~~7802~~ 7805, 7828 or 7860 is admissible in evidence on the issue of whether that person was under the influence of intoxicating liquor or drugs. If the law enforcement officer having probable cause to believe that the person hunted wild animals or wild birds or operated or attempted to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs fails to give either of the warnings required under subsection 2, the failure of the person to comply with the duty to submit to a blood-alcohol chemical test is not admissible, except when a test was required pursuant to subsection 11. If a failure to submit to and complete a blood-alcohol chemical test is not admitted into evidence, the court may inform the jury of the fact that no test result is available.

If a test result is not available for a reason other than failing to comply with the duty to submit to and complete a blood-alcohol chemical test, the unavailability and the reason are admissible in evidence.

10. Accidents and officer's duties. The law enforcement officer has the following duties.

A. After a person has been charged with hunting wild animals or wild birds or with operating or attempting to operate a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs or with an excessive blood-alcohol level, the investigating or arresting officer shall investigate to determine whether the charged person has any previous convictions of a violation of section 7406, subsection 3; section 7801, subsection 9; section 7827, subsection 9; or section 7857, subsection 10 or adjudications for failure to comply with the duty to submit to and complete a blood-alcohol chemical test under section 7408, ~~7802~~ 7805, 7828 or 7860. As part of that investigation, the officer shall review the records maintained by the courts, the State Bureau of Identification, the Secretary of State, including telecommunications of records maintained by the Secretary of State, or the Department of Inland Fisheries and Wildlife.

B. A law enforcement officer may arrest, without a warrant, any person whom the officer has probable cause to believe hunted any wild animal or wild bird or operated or attempted to operate a watercraft, snowmobile or ATV while

under the influence of intoxicating liquor or drugs if the arrest occurs within a period following the offense reasonably likely to result in the obtaining of probative evidence ~~of blood-alcohol level that the person was under the influence of intoxicating liquor or drugs.~~

11. Fatalities. Notwithstanding any other provision of this section, any person hunting wild animals or wild birds who is involved in a hunting accident or any operator of a watercraft, snowmobile or ATV who is involved in a watercraft, snowmobile or ATV accident that results in the death of any person must submit to and complete ~~a test~~ chemical tests to determine that person's blood-alcohol level or other chemical use by analysis of blood ~~or~~ breath or urine. A law enforcement officer may determine which ~~type of test types of tests~~ type of test will be administered. The ~~result of a test~~ results of tests taken pursuant to this subsection ~~is~~ are not admissible at trial unless the court is satisfied that probable cause exists, independent of the test ~~result~~ results, to believe that the hunter or operator was under the influence of intoxicating liquor or drugs or had an excessive blood-alcohol level.

12. Aid in enforcement among municipalities. Except as otherwise prohibited by municipal charter or ordinance, municipalities may, in the manner provided by Title 30-A, section 2674, enter into agreements regarding mutual aid in enforcing laws governing the hunting of wild animals or wild birds while under the influence of intoxicating liquor or drugs or the operation of a watercraft, snowmobile or ATV while under the influence of intoxicating liquor or drugs.

Sec. 14. 12 MRSA §7912, sub-§13 is enacted to read:

13. Reporting; immunity. Immunity from certain criminal and civil liabilities for the act of good faith reporting by certain health care professionals on accidents that the reporting person reasonably believes involved a person who was hunting or operating a snowmobile, ATV or watercraft while under the influence of intoxicating liquor or drugs is set forth in Title 29-A, section 2405.

Sec. 15. 15 MRSA §3103, sub-§1, ¶E, as amended by PL 1989, c. 599, §6, is further amended to read:

E. Offenses involving hunting or the operation or attempted operation of a watercraft, ATV or snowmobile while under the influence of intoxicating liquor or drugs, as defined in Title 12, section 7406, subsection 3; Title 12, section 7801, subsection 9, and; Title 12, section 7827, subsection 9; and Title 12, section 7857, subsection 10, respectively, and offenses involving failing to aid an injured person or to

report a hunting accident as defined in Title 12, section 7406, subsection 15; and

Sec. 16. 29-A MRSA §2405, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Persons who may report. If, while acting in a professional capacity, a medical or osteopathic physician, resident, intern, emergency medical services person, medical examiner, physician's assistant, dentist, dental hygienist, dental assistant or registered or licensed practical nurse knows or has reasonable cause to believe that a person has been operating a motor vehicle, hunting or operating a snowmobile, all-terrain vehicle or watercraft while under the influence of intoxicants and that motor vehicle, snowmobile, all-terrain vehicle or watercraft or a hunter has been involved in an accident, that person may report those facts to a law enforcement official.

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

Effective April 11, 1996.

CHAPTER 680

S.P. 551 - L.D. 1510

An Act to Make Comprehensive Changes to the Sex Offender Laws

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 15 MRSA §812, sub-§2, as enacted by PL 1981, c. 685, is amended to read:

2. Notification to victims and law enforcement officers. Before submitting a negotiated plea to the court, the attorney for the State shall advise the ~~victim or victims, if available, and~~ the relevant law enforcement officers of the details of the plea agreement reached in any prosecution where the defendant was originally charged with murder, a Class A, B or C crime or a violation of Title 17-A, chapter 9,