

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

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April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
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JULY 9, 1998

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
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11. Special education tuition and costs for out-of-district placement adjustment. A school administrative unit ~~which that~~ places a student in an out-of-district placement ~~shall, in a regional program established consistent with section 7253 or in a regional program recognized by the department prior to July 1, 1997~~ must receive an adjustment equal to the amount, if any, by which the tuition, treatment and room and board costs for an approved out-of-district special education placement in the year of allocation exceeds 3 times the secondary foundation per pupil operating rate for that year, or a prorated amount if the placement is less than a full year. State payments to school administrative units pursuant to this subsection ~~shall~~ must be made during the year of allocation. The funds for the adjustment ~~shall be~~ are limited to the amount appropriated by the Legislature for that purpose, and the department is authorized to prorate payments to units if the amount appropriated is insufficient to make full payments to all units.

See title page for effective date.

CHAPTER 737

S.P. 782 - L.D. 2109

An Act to Reduce Motor Vehicle Fatalities and Injuries among Young Drivers

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

Sec. 1. 29-A MRSA §1256, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Educational need. A person seeking to qualify for a special restricted license based on educational need must file an application. If the applicant qualifies under paragraph A, after passing an examination for operation of a motor vehicle as provided in section 1301, a special restricted license must be issued to the applicant. ~~A person who is between the ages of 16 and 17 is not required to complete a driver education course to qualify for a restricted license based on educational need.~~

A. An application must include:

- (1) A signed notarized statement from the applicant and the applicant's parent or guardian that:
 - (a) No readily available alternative means of transportation exists; and
 - (b) Use of a motor vehicle is necessary for transportation to and from a

public secondary school, a private secondary school approved for attendance purposes by the Commissioner of Education or an applied technology center or region that the applicant is attending;

- (2) A verification of school attendance; and
- (3) A statement by the principal of the school of the lack of a readily available alternative means of transportation.

B. This license only authorizes the holder to operate a motor vehicle between the holder's residence and school.

Sec. 2. 29-A MRSA §1304, sub-§1, ¶ A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. A person who is 15 years of age or older ~~and has completed a course in driver education~~ may apply for an instruction permit, ~~except that a person who is 15 years of age or older and has not attained 18 years of age must complete a course in driver education before applying for an instruction permit.~~

Sec. 3. 29-A MRSA §1304, sub-§1, ¶E, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

E. Unless the permittee is operating a motorcycle or motor-driven cycle, the permit requires the permittee to be accompanied by a licensed operator who:

- (1) ~~Has at least one year of driving experience~~ held a valid license for 2 consecutive years;
- (2) Is at least ~~18~~ 20 years of age; and
- (3) Is occupying a seat beside the driver.

Sec. 4. 29-A MRSA §1304, sub-§1, ¶G, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 5. 29-A MRSA §1304, sub-§1, ¶H is enacted to read:

H. A person under 21 years of age may not apply for a license unless:

- (1) A period of 3 months has passed from the date the person was issued an instruction permit; and

(2) The person has completed a minimum of 35 hours of driving, including 5 hours of night driving, while accompanied by a parent, guardian or licensed driver at least 20 years of age. The parent or guardian, or a spouse or employer pursuant to section 1302, subsection 1, paragraphs B and C, must certify the person's driving time on a form prescribed by the Secretary of State.

Sec. 6. 29-A MRSA §1351, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Driver education required for certain minors. Except to operate a moped only, a license may not be issued to a person under ~~47~~ 18 years of age unless that person presents a certificate of successful completion of an approved driver education course and examination.

Sec. 7. 29-A MRSA §2081, sub-§4, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. ~~The~~ Unless the vehicle is operated by a person under 21 years of age, the requirements do not apply to a passenger over one year of age when the number of passengers exceeds the vehicle seating capacity and all of the seat belts are in use.

Sec. 8. 29-A MRSA §2411, sub-§5, ¶A, as repealed and replaced by PL 1995, c. 368, Pt. AAA, §8, is amended to read:

A. For a person having no previous OUI offenses within a 10-year period:

- (1) A fine of not less than \$400, except that if the person failed to submit to a test, a fine of not less than \$500;
- (2) A court-ordered suspension of a driver's license for a period of 90 days; and
- (3) A period of incarceration as follows:
 - (a) Not less than 48 hours when the person:
 - (i) Was tested as having a blood-alcohol level of 0.15% or more;
 - (ii) Was exceeding the speed limit by 30 miles per hour or more;
 - (iii) Eluded or attempted to elude an officer; or

(iv) Was operating with a passenger under ~~46~~ 21 years of age; and

(b) Not less than 96 hours when the person failed to submit to a test at the request of a law enforcement officer;

Sec. 9. 29-A MRSA §2411, sub-§5, ¶E, as repealed and replaced by PL 1995, c. 368, Pt. AAA, §8, is amended to read:

E. If a law enforcement officer failed to provide the warnings required by section 2521, subsection 3, the increase in minimum penalties required because of a refusal to submit to a test is not mandatory; ~~and~~

Sec. 10. 29-A MRSA §2411, sub-§5, ¶F, as enacted by PL 1995, c. 368, Pt. AAA, §8, is amended to read:

F. For a person sentenced under paragraph B, C or D, the court shall order the defendant to participate in the alcohol and drug program for multiple offenders. The court may waive the multiple offender intervention program under Title 5, section 20073, subsections 4 and 5, if the court finds that the defendant has completed a residential alcohol or drug treatment program, or its equivalent, subsequent to the date of the offense; ~~and~~

Sec. 11. 29-A MRSA §2411, sub-§5, ¶G is enacted to read:

G. The court shall order an additional period of license suspension of 275 days for a person sentenced under paragraph A, B, C or D if the person was operating the motor vehicle at the time of the offense with a passenger under 21 years of age.

Sec. 12. 29-A MRSA §2451, sub-§5 is enacted to read:

5. Additional period of suspension for transporting passengers under 21 years of age. Unless a court orders an additional period of license suspension of 275 days pursuant to section 2411, subsection 5, paragraph G, the Secretary of State shall impose an additional suspension period of 275 days for any failure to submit to a chemical test or for OUI if the person was operating the motor vehicle at the time of the offense with a passenger under 21 years of age.

Sec. 13. 29-A MRSA §2453, sub-§6, ¶B, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

Sec. 14. 29-A MRSA §2471, sub-§2, ¶¶A to C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

- A. For ~~30~~ 60 days on the 1st offense;
- B. For ~~60~~ 90 days on the 2nd offense; and
- C. To the 2nd birthday following the date of issue or for ~~90~~ 120 days, whichever is longer, on the 3rd offense.

Sec. 15. 29-A MRSA §2472, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Licensee not yet 21 years of age. A license issued to a person who has not yet attained the age of 21 years is a provisional license for a period of ~~one year~~ 2 years following the date of issue or until the holder attains 21 years of age, whichever occurs last. That license remains in force as a nonprovisional license to the next normal expiration date. A license issued by another jurisdiction to a person who has not yet attained the age of 21 years is a provisional license for the purpose of operating a motor vehicle within this State.

Sec. 16. 29-A MRSA §2472, sub-§2, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

2. Suspension terms for moving violations. If a person who has not yet attained the age of 21 years is convicted or adjudicated of a moving motor vehicle violation that occurred within the first year from the date of issue of ~~the a~~ a juvenile provisional license issued prior to August 1, 1998 or within 2 years from the date of issue of a juvenile provisional license issued after July 31, 1998, the Secretary of State shall suspend the license:

- A. For ~~30~~ 60 days on the 1st offense;
- B. For ~~60~~ 90 days on the 2nd offense; and
- C. To the 2nd birthday following the date of issue or for ~~90~~ 120 days, whichever is longer, on the 3rd offense.

A person whose juvenile provisional license is suspended may request a hearing pursuant to section 2483.

Sec. 17. 29-A MRSA §2472, sub-§3, as amended by PL 1995, c. 26, §1, is further amended to read:

3. Suspension for OUI conviction or certain blood-alcohol level. The Secretary of State shall suspend ~~for a period of at least one year~~, without

preliminary hearing, a juvenile provisional license of a person who:

- A. Receives an OUI conviction; or
- B. Operates a motor vehicle with any amount of alcohol in the blood.

Sec. 18. 29-A MRSA §2472, sub-§3-A is enacted to read:

3-A. Juvenile provisional license; suspension for OUI conviction or certain blood-alcohol level. Unless a longer period of suspension applies, the Secretary of State shall suspend, without a preliminary hearing, a juvenile provisional license pursuant to subsection 3 for the following periods:

- A. One year for a first offense; and
- B. Two years for a 2nd offense.

If the Secretary of State determines that the person operated the motor vehicle at the time of the offense with a passenger under 21 years of age, an additional suspension period of 180 days must be imposed.

Sec. 19. 29-A MRSA §2472, sub-§4, as amended by PL 1995, c. 26, §2, is further amended to read:

4. Duty to submit to test. A person under 21 years of age who operates a motor vehicle shall submit to a chemical test if there is probable cause to believe that person has operated a motor vehicle with any amount of alcohol in the blood. The provisions of subchapter IV apply, except the suspension ~~must be~~ for a period of one year, is:

- A. Eighteen months for the first refusal; and
- B. Thirty months for a 2nd or subsequent refusal.

If the Secretary of State determines that the person operated the motor vehicle at the time of the offense with a passenger under 21 years of age, an additional suspension period of 180 days must be imposed.

Sec. 20. 29-A MRSA §2472, sub-§6, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

6. Restoration of license. If a person's license has been suspended under subsection 3 for a first offense, the Secretary of State may issue a license if:

- A. One half of the suspension period has expired; and
- B. The Secretary of State has received notice that the person has completed the alcohol and drug program of the Office of Substance Abuse

as provided in Title 5, section 20071, subsection 4-B.

A 2nd or subsequent offender may be issued a license following the completion of the period of suspension provided the Secretary of State has received notice that the person has completed the alcohol and drug program of the Office of Substance Abuse as provided in Title 5, section 20071, subsection 4-B.

Sec. 21. 29-A MRSA §2503, sub-§1, as amended by PL 1995, c. 368, Pt. AAA, §25, is further amended to read:

1. Administrative suspension; work-restricted license. On receipt of a petition for a work-restricted license from a person under suspension pursuant to section 2453, ~~2457, subsection 1, paragraph B~~, or section 2472, subsection 3, paragraph B for a first offense, the Secretary of State may stay a suspension during the statutory suspension period and issue a work-restricted license, if the petitioner shows by clear and convincing evidence that:

A. As determined by the Secretary of State, a license is necessary to operate a motor vehicle:

(1) Between the residence and a place of employment or in the scope of employment, or both; or

(2) Between the residence and an educational facility attended by the petitioner if the suspension is under section 2472, subsection 3, paragraph B for a first offense;

B. No alternative means of transportation is available; and

C. The petitioner has not, within 10 years, been under suspension for an OUI offense or pursuant to section 2453.

Sec. 22. Application. That section of this Act that repeals the Maine Revised Statutes, Title 29-A, section 1304, subsection 1, paragraph G applies to permits that are issued after August 1, 1998. A person who filed an application for an instruction permit or driver's license with the Secretary of State before August 1, 1998, was 17 years of age at the time of application and had not completed an approved driver education course may be issued a license by the Secretary of State. That section of this Act that amends Title 29-A, section 2472, subsection 1 applies to licenses issued on or after August 1, 1998. Provisional licenses issued under Title 29-A, section 2472, subsection 1 prior to July 1, 1998 are provisional licenses for a period of one year.

See title page for effective date.

CHAPTER 738

S.P. 585 - L.D. 1748

An Act to Modernize Maine's Fuel Tax Laws

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

Sec. 1. 36 MRSA §2902, sub-§§5 and 6 are enacted to read:

5. Terminal. "Terminal" means a storage and distribution facility for internal combustion engine fuel supplied by a pipeline or marine vessel, or both, that has been registered as a qualified terminal by the Internal Revenue Service.

6. Wholesaler. "Wholesaler" means a person that owns, operates or otherwise controls a terminal or a person that holds the internal combustion engine fuel inventory position in a terminal when that person has a contract with the terminal operator for the use of storage facilities and terminal services for fuel at the terminal.

Sec. 2. 36 MRSA §2903, sub-§1, as amended by PL 1993, c. 414, Pt. E, §1, is repealed and the following enacted in its place:

1. Excise tax imposed. An excise tax is imposed on internal combustion engine fuel used or sold within this State, including sales to the State or a political subdivision of the State, at the rate of 19¢ per gallon, except that the rate is 3.4¢ per gallon on internal combustion engine fuel, as defined in section 2902, bought or used for the purpose of propelling jet or turbojet engine aircraft.

Sec. 3. 36 MRSA §2903, sub-§2, as enacted by PL 1983, c. 852, §4, is repealed.

Sec. 4. 36 MRSA §2903, sub-§§3 and 4 are enacted to read:

3. Legal incidence of tax. Internal combustion engine fuel may be taxed only once under this section. The tax imposed by this section is declared to be a levy and assessment on the ultimate consumer and other persons levied and assessed pursuant to this chapter are agents of the State for the collection of the tax. The distributor that first receives the fuel in this State is primarily responsible for paying the tax except when the fuel is sold and delivered to a licensed exporter wholly for exportation from the State or to another distributor in the State, in which case the purchasing distributor is primarily responsible for paying the tax.