

MAINE STATE LEGISLATURE

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2 D. Is qualified as a driver under the motor carrier safety
4 regulations of the Federal Highway Administration, if that
person or that person's employer is subject to those
regulations;

6 E. Passes an examination of the person's ability to operate
8 the specific vehicle that will be driven as a school bus or
a vehicle of comparable type;

10 F. Has not had a license revoked pursuant to chapter 23,
12 subchapter V, within the preceding 6-year period; and

14 G. Has not received an OUI conviction, as defined in
16 section 2401, subsection 9, within the preceding 6-year
period.

18 2. Current endorsement holders. The Secretary of State
20 shall suspend or revoke a school operator's endorsement as
provided in section 2452.

22 3. Annual physical. The applicant must pass an annual
physical examination at the cost of the employer.

24 4. Safety and driver training. The Department of Education
26 shall, within available resources, develop, certify and
28 administer regional school bus driver training programs and
assist school administrative units in school bus safety and
driver training.

30 5. Fee. A fee of \$10 must accompany the initial
32 application. The fee for a subsequent examination is \$5.

34 **§2304. School bus seating; doors; standing prohibited**

36 1. Seating. A school bus must meet the following seating
requirements.

38 A. The manufacturer's specified seating capacity is
40 determined by dividing the linear width of each seat by 13
and then rounding the quotient down to the nearest whole
number.

42 B. The maximum seating capacity must be the following
44 percentages of the manufacturer's specified seating capacity:

46 (1) Grades 9 to 12, 85%;

48 (2) Grades kindergarten to 12, 95%;

50 (3) Grades kindergarten to 8, 100%; or

2 (4) If at least 15 inches of seat width per student,
3 100%.

4 C. There may not be auxiliary seating accommodations such
5 as temporary or jump seats.

6 D. Seats must face the front of the bus and be divided by a
7 center aisle at least 12 inches wide.

8 E. Seating capacity must be displayed in a manner
9 prescribed by the Commissioner of Education.

10 2. Doors. A school bus must be equipped with at least 2
11 doors as follows:

12 A. One door on the right side near the front for ordinary
13 exits and entrances; and

14 B. A 2nd door located in the center of the rear or if the
15 engine makes that impossible, on the left side in the center
16 or to the rear of center. The 2nd door must be free of
17 obstruction, clearly marked as an emergency exit, and
18 constructed to open from inside and outside.

19 3. Standing passengers. The operator of a school bus may
20 not permit any passengers to stand when the bus is in motion on a
21 public way.

22 4. Safety seat belts. The operator and passengers in
23 school buses equipped with safety seat belts shall wear those
24 belts when the vehicle is in motion.

25 **§2305. School bus construction; fire extinguisher**

26 1. Access. A school bus must be constructed to permit the
27 operator access to the passenger compartment without leaving the
28 vehicle.

29 2. Exhaust pipe. The exhaust pipe must be entirely outside
30 the passenger compartment of a school bus.

31 3. Fuel tank filler, vent, drain openings. The fuel tank
32 filler, vent and drain openings must be outside the school bus
33 body.

34 4. Fire extinguisher. A school bus must have at least one
35 dry chemical fire extinguisher:

36 A. Of at least 2 1/2 pound capacity;

2 B. Mounted in automotive type manufacturer's extinguisher
3 bracket;

4 C. Located in the operator's compartment in full view of
5 and readily accessible to the operator; and

6 D. Having an Underwriters' Laboratories rating of not less
7 than 10-B: C.

10 **§2306. School buses to stop at railroad track crossings**

11 1. Full stop. The operator of a school bus shall come to a
12 full stop before crossing a railroad track at a point not more
13 than 50 feet nor less than 15 feet from the nearest rail.

14 2. Ensure no train. The operator shall ascertain beyond a
15 reasonable doubt that no train, engine or conveyance is
16 approaching on the track before proceeding to cross.

17 3. Violation. A person commits a Class E crime if that
18 person, while operating a school bus, fails to stop or yield the
19 right-of-way as required by this section.

20 4. Suspension. On conviction of failure to stop or yield
21 to a train, an operator's permit to operate a school bus must be
22 revoked by the Secretary of State for a period of not less than 2
23 years.

24 **§2307. School bus inspection**

25 1. Biennial inspection. Notwithstanding chapter 15, a
26 school bus must be inspected by an official inspection station
27 designated by the Chief of the State Police as a school bus
28 inspection station, during each August and February.

29 2. Additional inspection. In addition to inspection under
30 subsection 1, between September 1st and November 30th and between
31 March 1st and May 31st a school bus inspection must be conducted
32 by the State Police.

33 3. Other dates. A school bus requiring inspection during a
34 month other than August and February that satisfies the
35 inspection requirements must be issued the school bus inspection
36 sticker that expires the next August or February, whichever is
37 earlier.

38 4. Fee. The operator of an official school bus inspection
39 station is entitled to a fee of \$8 for each school bus

inspected. The fee does not include labor or material used in correction of faults.

§2308. Overtaking and passing school buses

1. Receiving or discharging passengers. A school bus operator shall activate flashing lights at least 100 feet before a stop is made to receive or discharge passengers. These lights must be continually displayed until after the bus has received or discharged passengers.

2. Stopping. The operator of a vehicle on a way or on school property, on meeting or overtaking a school bus from either direction when the bus has stopped with its red lights flashing to receive or discharge passengers, shall stop the vehicle before reaching the school bus. The operator may not proceed until the school bus resumes motion or until signaled by the school bus operator to proceed.

3. Separated roadways. The operator of a vehicle on a way separated by curbing or other physical barrier need not stop on meeting or passing a school bus:

A. Traveling in a lane separated by the barrier from the lane in which that operator is traveling; or

B. On a limited access highway where pedestrians are not permitted to cross the roadway with the school bus stopped in a loading zone.

4. Use of flashing red lights restricted. A school bus operator may not use the system of flashing lights on a school bus for a purpose other than controlling traffic while stopping to receive or discharge school-age persons.

5. Registered owner's liability for vehicle illegally passing a school bus. A person who is a registered owner of a vehicle at the time that vehicle is involved in a violation of subsection 2 commits a traffic infraction. For purposes of this subsection, "registered owner" includes a person issued a dealer or transporter registration plate.

A. The operator of a school bus who observes a violation of subsection 2 may report the violation to a law enforcement officer. If a report is made, the operator shall report the time and the location of the violation and the registration plate number and a description of the vehicle involved. The officer shall initiate an investigation of the reported violation and, if possible, contact the registered owner of

2 the motor vehicle involved and request that the registered
3 owner supply information identifying the operator.

4 B. The investigating officer may cause the registered owner
5 of the vehicle to be served with a summons for a violation
6 of this subsection.

8 C. Except as provided in paragraph D, it is not a defense
9 to a violation of this subsection that a registered owner
10 was not operating the vehicle at the time of the violation.

12 D. The following are defenses to a violation of this
13 subsection.

14 (1) If a person other than the owner is convicted of
15 operating the vehicle at the time of the violation in
16 violation of subsection 2, then the registered owner
17 may not be found in violation of this subsection.

20 (2) If the registered owner is a lessor of vehicles
21 and at the time of the violation the vehicle was in the
22 possession of a lessee, and the lessor provides the
23 investigating officer with a copy of the lease
24 agreement containing the information required by
25 section 2308, subsection 5, then the lessee and not the
26 lessor may be charged under this subsection.

28 (3) If the vehicle is operated using a dealer or
29 transporter registration plate and at the time of the
30 violation the vehicle was operated by any person other
31 than the dealer or transporter, and if the dealer or
32 transporter provides the investigating officer with the
33 name and address of the person who had control over the
34 vehicle at the time of the violation, then that person
35 and not the dealer or transporter may be charged under
36 this subsection.

38 (4) If a report that the vehicle was stolen is given
39 to a law enforcement officer or agency before the
40 violation occurs or within a reasonable time after the
41 violation occurs, then the registered owner may not be
42 charged under this subsection.

44 E. Notwithstanding subsection 6, a person who violates this
45 subsection commits a traffic infraction.

46 6. Penalty. A violation of this section is a Class E crime
47 which, notwithstanding Title 17-A, section 1301, is punishable by
48 a \$250 minimum fine for the first offense and a mandatory 30-day

suspension of a driver's license for a 2nd offense occurring within 3 years of the first offense.

§2309. Exemptions from subchapter

A vehicle with a carrying capacity of 20 or fewer passengers used to transport children to day care or head start facilities is exempt from this subchapter.

§2310. Other permitted uses for buses

A bus, integrally constructed, with a carrying capacity of 40 or more passengers, operated by a motor carrier holding an operator's permit issued by the Bureau of State Police may be used for school activities other than conveying children to and from home and school.

§2311. Rules

The Commissioner of Education may adopt or amend rules consistent with this Title and in accordance with the Maine Administrative Procedure Act, concerning school bus construction, equipment and operation.

CHAPTER 21

WEIGHT, DIMENSION AND PROTECTION OF WAYS

SUBCHAPTER I

WEIGHT

§2351. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Axle weight. "Axle weight" means the weight of an axle plus the weight of the load carried by the axle.

2. Gross vehicle weight. "Gross vehicle weight" or "GVW" means the actual total weight of the vehicle and load.

3. Gross vehicle weight rating. "Gross vehicle weight rating" or "GVWR" means the weight of the vehicle and load as determined by the final stage manufacturer, as it appears on the vehicle.

2 4. Interstate Highway System. "The Interstate Highway
System" has the same definition as in the United States Highway
Act of 1956.

4
6 5. Registered weight. "Registered weight" means the gross
vehicle weight specified on the vehicle's registration
certificate.

8
10 §2352. Maximum operational weight

12 Except as allowed by specific exception in sections 2357,
2365 and 2382, a vehicle may not be operated on a public way if
the weight exceeds:

14
16 1. Maximum. A gross vehicle weight of 90,000 pounds,
except as provided in section 2354, subsection 2;

18 2. Registered weight. Registered weight with a tolerance
of 500 pounds or 2 1/2% over the registered weight, whichever is
greater;

22 3. Configuration weight. The weight limits on axle
configurations; or

24
26 4. Axle. The axle weight limit as provided in this
subchapter.

28 §2353. Weight limits

30 1. Weight limits. Except as provided in section 2355, the
following gross vehicle weight limits apply to vehicles operating
on a public way:

34 A. For a 2-axle vehicle, 34,000 pounds;

36 B. For a 3-axle vehicle or combination of vehicles, 54,000
pounds;

38 C. For a 4-axle vehicle or combination of vehicles and,
40 except as provided by section 2364, for single unit vehicles
of 5 or more axles, 69,000 pounds; and

42 D. Except as provided in section 2354, subsections 1 and 2,
44 section 2357, subsection 4 and section 2365 for combination
vehicles with 5 or more axles, 80,000 pounds.

46
48 2. Weight reductions. The maximum gross vehicle weight
permitted for combination vehicles having:

2 A. Four axles is reduced by 1,000 pounds for each foot the
4 distance is less than 18 feet between the centers of the
extreme axles, excluding the steering axle, measured to the
nearest foot; or

6 B. Five or more axles is reduced by 2,000 pounds for each
8 foot the distance is less than 24 feet between the centers
of the extreme axles, excluding the steering axle, measured
to the nearest foot.

10 3. Exception. Subsection 2 does not apply to vehicles
12 operated on the Interstate Highway System.

14 4. Axle weight limits. The following axle weight limits
16 apply.

18 A. Except as provided in section 2355, a vehicle may not be
operated with a gross weight exceeding:

20 (1) On a single-axle unit, 22,400 pounds;

22 (2) On a tandem-axle unit, 38,000 pounds; or

24 (3) On a tri-axle unit, 48,000 pounds.

26 B. A single axle of a tandem-axle unit may not support more
28 than 60% of the total weight supported by that tandem-axle
unit, unless neither axle exceeds the weight legally allowed
on a single-axle unit of that vehicle.

30 C. A single axle of a tri-axle unit may not support more
32 than 40% of the total weight supported by that tri-axle unit.

34 D. The maximum gross weight of a vehicle or axle may not be
36 increased by the addition of an axle unless it supports at
least 50% of the added weight permitted by its addition.

38 E. A single-axle unit is one axle or 2 axles less than 4
40 feet apart. Two or more axles at least 4 feet and not more
than 8 feet apart are a tandem-axle unit. Three axles
42 measuring more than 8 feet and less than 12 feet between the
first and 3rd axles are a tri-axle unit. If a single-axle
44 unit is closer than 10 feet, or 9 feet in the case of a
steering axle, to the nearest axle of a tri-axle unit, the 4
axles are a tri-axle unit.

46 5. Maximum tire weight. Notwithstanding any other
48 provision of this Title, a vehicle may not be operated when the
load on the road surface is greater than 600 pounds per inch of
50 tire width, manufacturer's rating, except farm trucks

2 transporting potatoes directly from the fields to the place of
3 storage or to a processing facility during the potato harvesting
4 season.

5 A tractor, the propulsive power of which is exerted not through
6 wheels resting on the ground but by means of a flexible band or
7 chain known as a movable track, is not subject to this subsection
8 if the portions of track in contact with the surface of the way
9 present plane surfaces.

10 6. Exemption. A vehicle modified for the purpose of
11 plowing snow is exempt from the weight limits imposed by this
12 chapter when equipped with a snowplow and wing or wings and
13 engaged in plowing snow or in ice control. A vehicle modified
14 for the purpose of plowing snow is exempt from the maximum tire
15 weight provisions of subsection 5 at all times. Any
16 fire-fighting vehicle with its proper equipment that meets the
17 National Fire Protection Association standards is exempt from the
18 gross and axle weight limits imposed by this chapter. Any
19 vehicle engaged in emergency maintenance of a public way is
20 exempt from the weight limits imposed by this chapter.

21 **§2354. Six-axle limits**

22 Notwithstanding this subchapter, a combination vehicle
23 consisting of a 3-axle truck tractor with a tri-axle semitrailer
24 may be operated with a maximum gross vehicle weight of:

25 1. 90,000 pounds. Ninety thousand pounds, as long as:

26 A. The vehicle is registered for at least 90,000 pounds or
27 the maximum allowable registered weight in its home
28 jurisdiction; and

29 B. If the maximum allowable registered weight in the home
30 jurisdiction is less than 90,000 pounds, the vehicle has a
31 permit authorizing that operation in this State. The annual
32 fee for the permit is \$105. The permit may be issued for a
33 period of 3 months or more on a monthly prorated basis, but
34 may not exceed the expiration date of the annual
35 registration.

36 The maximum gross vehicle weight permitted is reduced by 2,000
37 pounds for each foot the distance is less than 32 feet between
38 the extreme axles, excluding the steering axle, measured to the
39 nearest foot; or

40 2. 100,000 pounds. One hundred thousand pounds, as long as
41 the vehicle meets the requirements of subsection 1 and these
42 additional requirements:

2 A. The distance between the extreme axles, excluding the
4 steering axle, is not less than 36 feet as measured to the
 nearest foot;

6 B. The minimum distance between the steering axle and the
8 first axle of the tandem-axle group is at least 10 feet as
 measured to the nearest foot;

10 C. The maximum weight on the:

12 (1) Tandem axle does not exceed 41,000 pounds; and

14 (2) Tri-axle does not exceed 50,000 pounds;

16 D. All brakes, axles and suspensions are certified for
18 weight capacity by a final stage manufacturer. The
20 certification must be presented before the permit is
 issued. The certification must be affixed to or carried in
 the vehicle and presented on request to a state police
 officer; and

22 E. A general commodity permit is obtained. The permit must
24 be carried in the vehicle at all times. The fee for an
26 annual permit is \$252; a 3-month permit is \$75; and a permit
28 for a period of 4 months or more is \$21 per month. A permit
 may be transferred to another vehicle for an additional fee
 of \$2.

30 The permit may be obtained from a branch office of the
32 Secretary of State, Bureau of Motor Vehicles, or from an
34 agent appointed by the Secretary of State. A municipal
 agent may charge an additional \$1 and may retain that sum as
 compensation.

36 Revenue from the permit fee must be expended for the
38 enforcement of truck weight regulations.

40 Nothing contained in this subsection applies to vehicles using
 the Interstate Highway System as defined in the Federal Aid
 Highway Act of 1956.

42 For vehicles operating under this subsection gross vehicle weight
44 violations are determined on the basis of 90,000 pounds.

46 For all vehicles manufactured, modified or retrofitted with
48 liftable or variable load suspension axles after October 30,
50 1991, liftable or variable load suspension axles are permitted
 only under the following conditions: only one liftable or
 variable load axle may be present on the truck tractor and only

one liftable or variable load axle may be present on the semitrailer; liftable or variable load axles must be located on the vehicle so that they are legally part of the tandem axle group or tri-axle group as appropriate; and the axle weight rating of liftable or variable load axles must conform to the expected loading of the suspension and must be 20,000 pounds or more.

§2355. Interstate Highway System weight limits

1. Maximum weight. Notwithstanding section 2353, subsections 1 and 2, a vehicle may be operated on the Interstate Highway System with maximum weights permitted by this subsection if the weight does not exceed 80,000 pounds or the following formula, whichever is less.

$$W = 500 \left(\frac{LN}{N-1} + 12N + 36 \right)$$

W = overall gross weight on any group of 2 or more consecutive axles to the nearest 500 pounds

L = overall distance in feet between the extreme of any group of 2 or more consecutive axles

N = number of axles in group under consideration.

2. Axle limits. Notwithstanding sections 2353 and 2357, on the Interstate Highway System, the weight may not exceed:

A. On a single-axle unit:

(1) When the GVW is 73,280 pounds or less, 22,000 pounds; or

(2) When the GVW exceeds 73,280 pounds, 20,000 pounds;

B. On a tandem-axle unit, 34,000 pounds; and

C. On axles groups containing 2 or more axles, the maximum determined by the formula in subsection 1.

3. Three-axle truck. A 3-axle truck with brakes on all wheels, with a GVW of 48,000 pounds or less, may be operated on the Interstate Highway System when hauling:

A. Forest products or raw ore from the mine or quarry to a place of processing, with a distance between extreme axles of not less than 18 feet; or

2 B. Construction materials, with a distance between extreme
3 axles of not less than 16 feet.

4 §2356. Operation of commercial vehicle exceeding registered
5 weight

6
7 1. Operation prohibited. A person commits a Class E crime
8 if that person operates a vehicle in excess of its registered
9 weight on a public way.

10
11 2. Prima facie evidence. Operation of a vehicle is prima
12 facie evidence that the operation was caused by the person
13 holding the permit or certificate for that vehicle from the
14 Secretary of State.

15
16 3. Exception. An operator who is employed by a carrier
17 holding a permit or certificate and who has not participated in
18 loading the vehicle is not subject to a penalty.

19
20 4. Penalty. Notwithstanding Title 17-A, section 4-B,
21 except as provided in subsection 5, the fine for a violation of
22 subsection 1 must be 1/2 of the difference in the registration
23 fees for the actual weight and the registered weight of the
24 vehicle. Except as provided in subsection 5, the minimum fine
25 for a violation of this section is \$25.

26
27 5. Reduced penalty. If a short-term registration has been
28 issued to a vehicle operated in violation of subsection 1, the
29 short-term registration fee paid is credited against up to 50% of
30 the fine if the following conditions are met:

31 A. The short-term registration was issued in the
32 registration year during which the violation occurred and
33 prior to the violation;

34 B. The short-term registration was for a weight equal to or
35 in excess of the actual weight; and

36 C. The short-term registration is provided to the court.

37
38 If an adequate short-term registration expired 10 days or less
39 prior to the violation of subsection 1 and the short-term
40 registration is provided to the court, the maximum fine for a
41 violation is \$25.

42
43 6. Private ways exempted. This section does not apply to
44 operating on private ways.

45 §2357. Weight tolerance for certain vehicles

2 1. Vehicles included. The following vehicles qualify for
4 the weight tolerances of this section:

6 A. A vehicle loaded entirely with building materials that
8 absorb moisture during delivery originating and terminating
10 within the State, bark, sawdust, firewood, sawed lumber,
12 dimension lumber, pulpwood, wood chips, logs, soil,
14 unconsolidated rock material including limestone, bolts,
16 farm produce, road salt, manufacturer's concrete products,
18 solid waste or incinerator ash;

20 B. Dump trucks or transit-mix concrete trucks, carrying
22 highway construction materials;

24 C. A vehicle loaded with a majority of products requiring
26 refrigeration, whether by ice or mechanical equipment; or

28 D. A vehicle loaded with raw ore from the mine or quarry to
30 a place of processing.

32 2. Tolerance. A vehicle qualifying under this section is
34 not in violation if its gross vehicle weight does not exceed 110%
36 of the maximum gross vehicle weight established in section 2353,
38 subsection 1 and the maximum axle loads do not exceed:

40 A. For a single-axle unit, 24,200 pounds;

42 B. For a tandem-axle unit, 46,000 pounds;

44 C. For a tri-axle unit, 54,000 pounds; and

46 D. On the tri-axle unit of a 4-axle single-unit vehicle
48 hauling forest products, 64,000 pounds.

50 3. Axle limits. Notwithstanding subsection 2, the
52 tandem-axle unit limit for a vehicle with a combination of 5 or
54 more axles may not exceed 44,000 pounds.

56 4. Six-axle combination. Notwithstanding subsection 2, a
58 6-axle combination vehicle, consisting of a 3-axle truck tractor
60 operating in combination with a tri-axle semitrailer may not
62 exceed 100,000 pounds. The distance between the extreme axles of
64 a vehicle under this subsection, excluding the steering axle,
66 must be at least 32 feet.

68 If a truck tractor is registered in a jurisdiction where the
70 maximum allowable registered weight is less than 90,000 pounds,
72 the vehicle must have a permit authorizing operation in this
74 State. The annual fee for the permit is \$105. The permit may be

2 issued for a period of 3 months or more on a monthly prorated
3 basis, but may not exceed the expiration date of the annual
4 registration.

5 5. Application. The tolerances provided under this section
6 only apply when a vehicle:

7 A. Is actually transporting the listed commodities; and

8 B. Is registered for at least the maximum legal weight for
9 its configuration allowed under section 2353.

10 6. Seals. If a seal is required on a vehicle, the State
11 Police shall record the numbers of the old seal and the new seal.

12 7. Penalty calculation; fine base. When a weight tolerance
13 established in this section is exceeded, the difference between
14 the actual weight and the fine base for the tolerance must be
15 used as the basis for determining the percentage of overload in
16 section 2360 and the tolerance must be disregarded. The fine
17 base for tolerances described in subsection 2 is the appropriate
18 limit in section 2353 and 90,000 pounds is the appropriate limit
19 for the 6-axle combination vehicle described in subsection 4.

20 8. Interstate Highway System. This section does not apply
21 to a vehicle operated on the Interstate Highway System.

22 **§2358. Weighing of vehicles**

23 A state police officer may require a motor vehicle or
24 combination of vehicles described in this chapter to stop and
25 submit to weighing. The following provisions apply to the
26 weighing of vehicles.

27 1. Travel to public scales. If scales are not available,
28 the officer may require that an operator of a vehicle go to the
29 nearest public scales capable of weighing the vehicle, if the
30 travel does not increase by more than 5 miles the distance that
31 the operator may reasonably travel to reach its destination.

32 2. Weighing points. The Chief of the State Police may
33 designate weighing points where public stationary scales are
34 located.

35 A weighing point must have signs:

36 A. Not less than 500 feet from approaching traffic;

37 B. Bearing the words "State Police Truck Check - All Trucks
38 Stop"; and

2 C. Displaying flashing yellow lights, which must operate
3 when the weighing station is open.

4 The placement of signs is prima facie evidence that these signs
5 were displayed in accordance with this section.

6 An operator of a vehicle subject to GVW restrictions who fails to
7 stop at the weighing point when the signs are operating, unless
8 otherwise directed by a state police officer, commits a traffic
9 infraction for which a forfeiture not to exceed \$500 may be
10 adjudged.

11 3. Designating officers. The Chief of the State Police may
12 designate certain state police officers to examine loads and
13 replace seals as provided by this section.

14 4. Required stops. On direction of a state police officer,
15 an operator must drive the vehicle onto the scales for weighing
16 and permit examination of the registration certificate and the
17 load.

18 5. Seals. When examination requires the breaking of a seal
19 previously placed on a vehicle, a new seal must be placed on it.

20 The officer shall make a complete record and forward it to the
21 Chief of the State Police.

22 A seal on a truck having an exposed refrigeration unit may not be
23 broken.

24 6. Unloading excess. When an officer determines that a
25 vehicle exceeds the permitted weight, the officer must require
26 the operator to stop the vehicle in a designated place.

27 The vehicle may not proceed until the operator has reduced the
28 weight to permitted limits; except that if the excess weight does
29 not exceed 2,000 pounds, an officer may permit the vehicle to
30 proceed without unloading. The officer may summons the owner or
31 driver of that vehicle.

32 An officer, the State or a political subdivision is not
33 responsible for loss or damage to a vehicle or its contents as a
34 result of unloading.

35 7. Out-of-service sticker. If the weight exceeds the
36 maximum allowable gross vehicle weight by 20% or more, the
37 officer shall affix an out-of-service sticker to the windshield
38 until the vehicle is brought into compliance.

The vehicle may not be moved until it is brought into compliance.

When a vehicle is brought into compliance, an officer may attest to compliance by signing the out-of-service sticker.

A person commits a Class E crime if that person moves a vehicle with an out-of-service sticker that has not been signed by an officer attesting to compliance.

An owner or operator who fails to have the out-of-service sticker attested or who fails to return the attested sticker or portion to the Bureau of State Police within 15 days of issuance commits a traffic infraction.

8. Allowable movement. Notwithstanding this section, a state police officer may allow a vehicle to be operated a reasonable distance to a more appropriate location for unloading or parking.

9. Fees. Subject to the provisions of Title 5, chapter 375, subchapter IV, the operator of a vehicle registered in this State found to violate section 2352 shall pay to the officer weighing the vehicle the difference between the annual registration fee for the actual weight of the vehicle and the annual registration fee previously paid prior to proceeding.

The operator of a foreign-registered vehicle found to be in violation of section 2352, subsection 2 must obtain a trip permit for a fee of \$25 before the vehicle may proceed. The trip permit is valid for 72 hours. The Secretary of State shall notify the violator's home jurisdiction of the violation of section 2352.

The payment of a fee under this section does not preclude the imposition of fines or penalties. Upon payment of the fee, the officer shall give the operator a temporary registration certificate. Fees collected must be returned to the Secretary of State at least biweekly. These fees accrue to the Highway Fund.

10. Records. A state police officer shall keep a complete record of each vehicle weighed.

The records must include information as to the general type of load carried.

The officer shall send a copy of each record, prior to the close of the month following the weighing, to the Chief of the State Police.

The Chief of the State Police shall prepare and furnish the forms for these records.

2 §2359. Prima facie evidence

4 For the purposes of this Title, weights as indicated by a
6 stationary or portable scale approved by the Department of
8 Transportation and tested within 12 calendar months prior to the
time of use by a person and method approved by the Department of
Transportation are considered accurate.

10 §2360. Excess vehicle weight

12 1. Violation of weight provision. A person who operates or
14 causes operation of a motor vehicle in violation of a weight
provision for any axle or group of axles or gross vehicle weight
commits a traffic infraction.

16 2. Penalty. Notwithstanding section 101, subsection 85, a
18 person who is guilty of excessive vehicle weight must be punished
20 by a fine in accordance with this section. When both gross and
axle weight limits are exceeded, the penalty imposed must be for
the violation that results in the higher fine.

22 3. Schedule of fines. The fine must be based on the
24 amount of gross vehicle weight or axle weight in excess of the
limits prescribed in sections 2352 to 2355.

26 This schedule is cumulative:

<u>Percent over allowed basic</u>	<u>Fine for</u>
<u>weight</u>	<u>each percent</u>
<u>1-10%</u>	<u>\$10 for each percent</u>
<u>11-20%</u>	<u>\$100 + \$15 for each percent</u>
	<u>over 10%</u>
<u>21-30%</u>	<u>\$250 + \$20 for each percent</u>
	<u>over 20%</u>
<u>31-40%</u>	<u>\$450 + \$25 for each percent</u>
	<u>over 30%</u>
<u>41-50%</u>	<u>\$700 + \$30 for each percent</u>
	<u>over 40%</u>
<u>more than 50%</u>	<u>\$1,000 + \$10 for each</u>
	<u>percent over 50%</u>

48 4. Minor gross weight violations. It is not a violation if
50 the allowable gross vehicle weight is exceeded by less than 500

2 pounds multiplied by the number of axles less one. If the
3 allowable gross weight is exceeded by more than 500 but less than
4 1,000 pounds multiplied by the number of axles less one, the fine
5 is reduced by 50%.

6 5. Minor axle weight violations. It is not a violation if
7 the allowable weight on an axle or group of axles is exceeded by
8 less than 1,000 pounds. If the excess is less than 1,000 pounds
9 plus 500 pounds multiplied by the number of axles in the axle
10 group, the fine is reduced by 66%. If the excess is less than
11 1,000 pounds plus 1,000 pounds multiplied by the number of axles
12 in the axle group, the fine is reduced by 50%.

14 6. Axle overweight not exceeding 5%. It is not a violation
15 if, before any redistribution of load under subsection 7, the
16 gross vehicle weight is not exceeded and the weight of a
17 single-axle unit, tandem-axle unit or tri-axle unit is not more
18 than 105% of the allowable weight for that axle unit.

20 7. Redistribution of load. Notwithstanding any other
21 provisions of this section, when an officer determines that a
22 vehicle that is within the gross vehicle weight limit is in
23 violation of an axle weight limit, the officer shall permit the
24 operator to redistribute the load once before proceeding. If
25 redistribution brings the vehicle into compliance with axle
26 limits, then the fine is reduced as follows:

28 A. If the violation is less than 2,000 pounds, no penalty;

30 B. If the violation is less than 3,000 pounds, by 66%; and

32 C. If the violation is less than 4,000 pounds, by 50%.

34 8. Multiple reductions. If multiple waivers or reductions
35 of fines may apply, the subsection that gives the smallest fine
36 applies. Reductions may not be combined.

38 9. Minimum fine. For a vehicle using the Interstate
39 Highway System, the minimum fine for a gross vehicle weight or
40 axle weight violation is \$20, which may not be waived, and cost
41 of court. For a vehicle on all other highways, the minimum fine
42 for a gross vehicle weight or axle weight violation is \$10.

44 10. Application. Subsections 4 to 7 do not apply to travel
45 on the Interstate Highway System.

46 **§2361. Aggravated excessive vehicle weight violations**

48 1. Traffic infraction. A person who operates or causes
49 operation of a motor vehicle exceeding the maximum allowable
50 weight shall be fined not more than \$200 for each violation.

gross vehicle weight limit by 20% or more commits a traffic
infraction except as provided in section 2363.

2. Penalty. Notwithstanding section 101, subsection 85, a
fine equal to the applicable gross weight fine, increased by 50%
for the first offense, and by 100% for the 2nd or subsequent
offense during a 12-month period, is imposed. In the event that
a larger fine would be due for an axle violation under section
2361, that larger fine must be imposed.

3. Prior offenses. A state police officer shall
investigate to determine whether the charged person has been
adjudicated under provisions of this section, including an
inquiry of the Secretary of State.

An offense that occurs with the same vehicle within a 12-month
period following a previous adjudication for a violation is a 2nd
or subsequent offense.

A previous adjudication has occurred within the 12-month period
if the date of docket entry of the adjudication is 12 months or
less from the date of the new conduct that is a violation.

If the person being prosecuted has the same name and date of
birth as a person who has a previous adjudication, then there is
a presumption that they are the same person.

§2362. Repeat offender

1. Record keeping. The Secretary of State must maintain a
record of aggravated excessive vehicle weight violations.

2. Suspension for repeat offenders. If the record
maintained by the Secretary of State shows that a vehicle has
been operated in violation of section 2361 3 or more times during
a 12-month period, then the Secretary of State shall suspend the
registration plates and certificate of that vehicle, or, for a
foreign-registered vehicle, the right to operate in this State.

3. Length of suspension. The term of suspension for the
3rd offense is 30 days and, for the 4th and subsequent offenses,
60 days.

4. Criminal penalty. Notwithstanding section 2361, a 3rd
or subsequent violation of section 2361 within a 12-month period
is a Class E crime, but the fine specified in section 2361 and
the suspension specified in this section apply.

§2363. Refusal to permit weighing

2 1. Violation. An operator or owner commits a Class E crime
if that person refuses to permit the weighing of a vehicle as
provided in this subchapter.

4 2. Fine. Notwithstanding Title 17-A, a fine of not more
6 than \$1,500 may be imposed. The fine accrues to the Highway Fund.

8 **§2364. Six-axle single unit truck**

10 A 6-axle single unit truck may be operated, or caused to be
operated, if:

12 1. General road limit. The general road limit for this
14 vehicle is 54,000 pounds gross vehicle weight when the vehicle
operates as a 3-axle single unit vehicle; 69,000 pounds when the
16 vehicle operates as a 4-axle or 5-axle single unit vehicle; and
18 77,200 pounds gross vehicle weight when the vehicle operates as a
6-axle single unit vehicle;

20 2. Axle distance. Axle distances as measured from axle
center to axle center, numbering the axles beginning with the
22 steering axle and moving rearward on the vehicle, are as follows:

<u>Axle to axle</u>	<u>At least</u>	<u>But not more than</u>
<u>Steering to axle 2</u>	<u>13 ft. 7 in.</u>	<u>14 ft. 1 in.</u>
<u>Axle 2 to axle 3</u>	<u>4 ft. 3 in.</u>	<u>4 ft. 9 in.</u>
<u>Axle 3 to axle 4</u>	<u>4 ft.</u>	<u>5 ft. 3 in.</u>
<u>Axle 4 to axle 5</u>	<u>4 ft. 3 in.</u>	<u>4 ft. 9 in.</u>
<u>Axle 5 to axle 6</u>	<u>5 ft.</u>	<u>5 ft. 6 in.</u>
<u>Steering to axle 6</u>	<u>Not applicable</u>	<u>32 ft. 10 in.</u>

44 The distance between the front bumper and the rear bumper of the
46 vehicle may not exceed 41 feet;

48 3. Lifiable axles. Axles 2, 5 and 6 of the vehicle may be
lifiable axles. Axles 2 and 6 must be self-steering axles of a
type that has been approved by the Department of Transportation;

2 4. Four-tiered axles. All axles must be 4-tired axles
except the steering axle and axle 2;

4 5. Certified weight capacity. All brakes, axles and
suspensions must be certified with respect to weight capacity by
6 a final stage manufacturer. The final stage manufacturer must
also certify that the vehicle's axle spacings and interlock
8 devices met the requirements of this paragraph at the time of
manufacture. The certification must be filed with the Secretary
10 of State on forms prescribed by the Secretary of State. A copy
of the certification must be carried in the vehicle at all times;

12 6. Operation as a 3-axle single unit vehicle. When
14 operating as a 3-axle single unit vehicle:

16 A. All provisions of this Title appropriate for a 3-axle
single unit truck with rear tandem axle apply;

18 B. When commodities permitted by section 2357 are carried,
20 gross weight and axle weights must be those specified for
3-axle vehicles for the specific commodities carried; and

22 C. The basic weight used to calculate fines is a gross
24 vehicle weight road limit of 54,000 pounds or the axle
weight limits provided by this section, as appropriate. If
26 there are 2 or more weight violations, only the largest fine
applies;

28 7. Operation as a 4-axle or 5-axle single unit vehicle.
30 When operating as a 4-axle or 5-axle single unit vehicle:

32 A. Axle 5 must be fully lowered and in contact with the
ground at all times;

34 B. All provisions of this Title appropriate for a 4-axle
36 single unit truck with rear tri-axle apply, using the
tri-axle group limits for axles 2 to 5;

38 C. When commodities permitted by section 2357 are carried,
40 gross weight and axle weights are those specified for 4-axle
or 5-axle vehicles for the specific commodities carried, as
42 appropriate; and

44 D. The basic weight used to calculate fines is a gross
vehicle weight road limit of 69,000 pounds or the axle
46 weight limits provided by this section, as appropriate. If
there are 2 or more weight violations, only the largest fine
48 applies;

2 8. Operation as a 6-axle single unit vehicle. When
operating a 6-axle single unit vehicle:

4 A. The vehicle must be registered for at least 77,200
pounds;

6 B. Only forest products may be carried;

8 C. All liftable axles must be in contact with the ground
10 except that axles 2 and 6 may be temporarily lifted when
12 necessary during cornering operations. Immediately
14 following this cornering operation, the axles must be
16 lowered to full contact with the ground. Axles 2 and 6, if
18 liftable, must be fitted with interlock devices that prevent
20 the operator from lifting the axle or axles when the vehicle
22 speed exceeds 15 miles per hour. The devices must be
designed to permit the axle-lifting operation only in the
low range in a 2-range transmission or in either the low or
medium range in a 3-range transmission. The devices must
also be designed to automatically lower axles 2 and 6 to
normal contact with the ground when the transmission is
shifted from the applicable ranges under this division;

24 D. The maximum permitted gross vehicle weight is 85,000
pounds;

26 E. The maximum weight of the steering axle may not exceed
28 15,600 pounds and the maximum weight of each of the other
axles of the vehicle may not exceed 15,000 pounds;

30 F. The following forgiveness provisions are granted on the
32 gross vehicle weight and axle weight limits:

34 Gross vehicle weight

36 <u>85,001 lbs. to 87,499 lbs.</u>	<u>Fine waived</u>
<u>87,500 lbs. to 89,999 lbs.</u>	<u>Fine reduced</u>
	<u>50%</u>
38 <u>90,000 lbs. or more</u>	<u>Full fine</u>

40 Axle weight

42 <u>Steering axle</u>	<u>No forgiveness</u>
	<u>granted</u>

46 Axles 2 to 6:

48 <u>15,001 lbs. to 15,999 lbs.</u>	<u>Fine waived</u>
<u>16,000 lbs. to 16,499 lbs.</u>	<u>Fine reduced</u>
	<u>2/3</u>
50 <u>16,500 lbs. to 16,999 lbs.</u>	<u>Fine reduced</u>

17,000 lbs. or more

50%

Full fine

No other tolerances or forgivenesses apply; and

G. The basic weight used to calculate fines is a gross vehicle weight road limit of 77,200 pounds or the axle weight limits enumerated in paragraph E, as appropriate. If there are 2 or more weight violations, the largest fine only applies; and

9. Application. Nothing contained in this section is applicable to vehicles operating on the Interstate Highway System, as defined in the Federal Aid Highway Act of 1956.

\$2365. Four-axle single unit truck in combination with 2-axle trailer

A combination vehicle consisting of a 4-axle single unit truck operating in combination with a 2-axle trailer may be operated, or caused to be operated, with a maximum gross weight of 94,000 pounds if:

1. Registration. The trailer unit is registered for a minimum of 28,000 pounds gross weight and the combined registered weight of the truck and trailer unit is at least 85,000 pounds gross weight;

2. Special commodities. Only those commodities specified in section 2357, subsection 1 are being carried when a vehicle is being operated at a gross vehicle weight exceeding 80,000 pounds:

3. Single axle weights. The following single axle weights are not exceeded:

A. For a steering axle, the limit is the lesser of 14,000 pounds or the weight limit provided by this chapter;

B. For 2 to 4 truck axles, the limit is 20,000 pounds for each axle; or

C. For trailer axles, the limit is 18,000 pounds for each axle;

4. Tri-axle gross weight. The gross weight of the tri-axle, which is the sum of the weight of the 2nd, 3rd and 4th axles of the truck, does not exceed 50,000 pounds;

2 5. Lifiable axles. When operating at a gross vehicle
3 weight exceeding 88,000 pounds, all liftable axles of the vehicle
4 are in full contact with the ground at all times;

6 6. Percent over basic weight. The "percent over basic
7 weight" used to calculate fines for weight violations by the
8 vehicle are based upon a gross vehicle weight limit of 85,000
9 pounds or upon the axle weight limits enumerated in subsections 3
10 and 4, as appropriate;

12 7. Vehicle dimensions. The following vehicle dimensions
13 are met:

	<u>At Least</u>	<u>Not to Exceed</u>
14		
15		
16	<u>Overall Vehicle</u>	
17	<u>Length</u>	<u>65 ft. 0 in.</u>
18	<u>Axle 1 to Axle 6</u>	<u>58 ft. 10 in.</u>
19	<u>Axle 1 to Axle 2</u>	<u>18 ft. 4 in.</u>
20	<u>Axle 2 to Axle 3</u>	<u>5 ft. 0 in.</u>
21	<u>Axle 3 to Axle 4</u>	<u>5 ft. 0 in.</u>
22	<u>Axle 4 to Axle 5</u>	<u>17 ft. 6 in.</u>
23	<u>Axle 5 to Axle 6</u>	<u>20 ft. 7 in.</u>

24 Axle distances are measured from axle center to axle center; and

26 8. Certification of brakes, axles and suspensions. All
27 brakes, axles and suspensions of both the truck and trailer units
28 are certified with respect to weight capacity by a final stage
29 manufacturer. Separate certifications for the truck and trailer
30 units must be filed with the Secretary of State on forms
31 prescribed by the Secretary of State. A copy of the
32 certification for each unit must be carried in the vehicle at all
33 times.

35 Nothing contained in this section is applicable to vehicles
36 operating on the Interstate Highway System, as defined in the
37 Federal Aid Highway Act of 1956.

40 SUBCHAPTER II

42 DIMENSION

44 §2380. Height and width restrictions

46 1. Maximum width. A vehicle that is wider than 102 inches
47 over all may not be operated on a public way or bridge.

48 2. Maximum height. A vehicle with a permanent or temporary
49 structural part more than 13 feet, 6 inches in height measured
50

2 vertically from a level ground surface may not be operated on a
public way or bridge.

4 A load may extend 6 inches above the maximum permissible
structural height of a vehicle.

6 A vehicle may not be operated over a section of a way or bridge
8 that does not provide adequate overhead clearance.

10 3. Reflecting mirrors. A portion of a vehicle or load,
12 except a reflecting mirror, may not project beyond the side of
that vehicle to make a total width greater than specified in this
14 section.

16 4. Hay. Notwithstanding subsection 1, rolled baled hay may
be loaded on a vehicle not to exceed 11 feet in width when
18 transported within a 20-mile radius of the farm on which the hay
is harvested or stored. A vehicle used for the transportation of
20 rolled baled hay may not be operated on a public way during
nighttime.

22 5. Wood piled in tiers. If firewood, pulpwood or bolts are
piled in tiers from the front to rear of the vehicle:

24 A. When the load will pitch to the center of the vehicle, a
26 strip of wood or metal 3 inches thick must extend along the
sides of the platform, from front to rear, securely fastened
28 to the platform; or

30 B. The load must be bound from front to rear with 2 chains,
32 wire ropes, steel cable binders or web straps or a
combination:

34 (1) Meeting the specifications of section 2386; and

36 (2) Held firmly in place and properly spaced to secure
38 the load.

40 The vehicle so loaded must carry a solid-boarded tailboard or 5
stakes of sufficient strength evenly spaced to maintain the
42 weight of the load. The load may not at any place be higher than
the tailboard or stakes.

44 6. Liability. A person damaging a bridge or overpass with
46 a vehicle or load in excess of the legal height or width limits
established in this chapter or a posted limit is deemed the
48 proximate cause of all damage and is liable for the costs of all
repairs necessary to restore the structure to its condition prior
to the accident. Officials in charge of the maintenance of a

bridge or overpass may bring a civil action to recover the costs of repairs.

7. Penalty. The penalty for the violation of this section is a fine of not less than \$100 nor more than \$1,000, except that the minimum fine for a violation of a posted bridge height is \$250.

8. Exceptions. This section does not apply to:

A. Snow plows and equipment used exclusively for the removal of snow from public ways;

B. Construction equipment used on way and bridge construction projects; and

C. A load of loose hay, pea vines, cornstalks or other loosely mounded loads that can not damage structures or threaten public safety.

§2381. Moving heavy objects and objects that exceed dimensional limits

1. Prohibition. A person may not move a vehicle or other object over a public way or bridge without obtaining a permit under this section if that vehicle or object exceeds the length, width, height or weight prescribed in this Title or if it has attached to its wheels a flange, rib, clamp or other object likely to injure the surface of the public way or bridge.

2. Exception. This section does not prohibit:

A. The transportation of poles by a tractor and semitrailer without regard to overall length;

B. Overwidth mowing machines, light farm tractors or other lightweight farming vehicles and equipment not customarily operated over public ways, if equipped with lights or reflectors to the front and rear adequately warning, during nighttime, other highway users of the extreme width; or

C. The use of tire chains of reasonable proportions when required for safety because of snow, ice or other slippery conditions.

3. Transporter certificates. This section applies but is not limited to holders of transporter registration certificates.

§2382. Overlimit movement permits

2 1. Overlimit movement permits issued by State. The
3 Secretary of State, acting under guidelines and advice of the
4 Commissioner of Transportation, may grant permits to move
5 nondivisible objects having a length, width, height or weight
6 greater than specified in this Title over a way or bridge
7 maintained by the Department of Transportation.

8 2. Permit fee. The Secretary of State, with the advice of
9 the Commissioner of Transportation, may set the fee for these
10 permits, at not less than \$3, nor more than \$15, based on weight,
11 height, length and width.

12 3. County and municipal permits. A permit may be granted,
13 for a reasonable fee, by county commissioners or municipal
14 officers for travel over a way or bridge maintained by that
15 county or municipality.

16 4. Permits for weight. A vehicle granted a permit for
17 excess weight must first be registered for the maximum gross
18 vehicle weight allowed for that vehicle.

19 5. Special mobile equipment. The Secretary of State may
20 grant a permit, for no more than one year, to move pneumatic-tire
21 equipment under its own power, including Class A and Class B
22 special mobile equipment, over ways and bridges maintained by the
23 Department of Transportation. The fee for that permit is \$15 for
24 each 30-day period.

25 6. Scope of permit. A permit is limited to the particular
26 vehicle or object to be moved and particular ways and bridges.

27 7. Construction permits. A permit for a stated period of
28 time may be issued for loads and equipment employed on public way
29 construction projects, United States Government projects or
30 construction of private ways, when within construction areas
31 established by the Department of Transportation. The permit:

32 A. Must be procured from the municipal officers for a
33 construction area within that municipality;

34 B. May require the contractor to be responsible for damage
35 to ways used in the construction areas and may provide for:

36 (1) Withholding by the agency contracting the work of
37 final payment under contract; or

38 (2) The furnishing of a bond by the contractor to
39 guarantee suitable repair or payment of damages.

2 The suitability of repairs or the amount of damage is to be
3 determined by the Department of Transportation on
4 state-maintained ways and bridges, otherwise by the
5 municipal officers;

6 C. May be granted by the Department of Transportation or by
7 the state engineer in charge of the construction contract;
8 and

10 D. For construction areas, carries no fee and does not come
11 within the scope of this section.

12 8. Gross vehicle weight permits. The following may grant
13 permits to operate a vehicle having a gross vehicle weight
14 exceeding the prescribed limit:

16 A. The Secretary of State, with the consent of the
17 Department of Transportation, for state and state aid
18 highways and bridges within city or compact village limits;

20 B. Municipal officers, for all other ways and bridges
21 within that city and compact village limits; and

24 C. The county commissioners, for county roads and bridges
25 located in unorganized territory.

26 9. Pilot vehicles and state police escorts. Pilot vehicles
27 required by a permit must be equipped with warning lights and
28 signs as required by the Secretary of State with the advice of
29 the Department of Transportation.

32 Warning lights may only be operated and lettering on the signs
33 may only be visible on a pilot vehicle while it is escorting on a
34 public way a vehicle with a permit.

36 The Secretary of State shall require a State Police escort for a
37 single vehicle or a combination of vehicles of 125 feet or more
38 in length or 16 feet or more in width. The Secretary of State,
39 with the advice of the Commissioner of Transportation, may
40 require vehicles of lesser dimensions to be escorted by the State
41 Police.

42 The Bureau of State Police shall establish a fee for State Police
43 escorts.

46 All fees collected must be used to defray the cost of services
47 provided.

2 With the advice of the Commissioner of Transportation and the
3 Chief of the State Police, the Secretary of State shall establish
4 rules for the operation of pilot vehicles.

5 10. Taxes paid. A permit for a mobile home may not be
6 granted unless the applicant provides reasonable assurance that
7 all property taxes, sewage disposal charges and drain and sewer
8 assessments applicable to the mobile home, including those for
9 the current tax year, have been paid or that the mobile home is
10 exempt from those taxes.

11 §2383. Crossing of public way

12 1. Authorization. The following, by a contract with the
13 abutting landowners at the designated crossing, may authorize the
14 crossing of ways by vehicles or objects having an excessive
15 length, width, height or weight:

16 A. The Department of Transportation for state aid highways
17 and other ways maintained by the department;

18 B. Municipal officers for ways within the municipality; and

19 C. The county commissioners for county roads in the
20 unorganized territory.

21 2. Contract. A contract must contain at least the
22 following:

23 A. The term, including a term of years, for which the
24 authorization remains valid;

25 B. Provisions for reimbursement to the authorizing agency
26 for costs of repair or maintenance of the way arising out of
27 the use of the crossing; and

28 C. Other terms and conditions for safety, grading and
29 maintenance.

30 3. Scope. A contract grants authority to use the crossing
31 to the abutting landowners at the point of crossing and to those
32 using the crossing with the landowner's permission.

33 §2384. Regional overdimensional truck permits

34 1. Authorization. The Commissioner of Transportation may
35 enter into a regional overdimensional truck permit agreement.

36 2. Purpose. It is the purpose of this section to:

2 A. Promote and encourage the fullest and most efficient use
4 of the highway system by making uniform, among member
6 jurisdictions, the administration of overdimensional and
8 overweight permits for nondivisible loads on vehicles in
10 interstate operation;

12 B. Enable participating jurisdictions to act cooperatively
14 in the issuance of overdimensional and overweight permits
16 and in the collection of appropriate fees; and

18 C. Establish and maintain the concept of one administering
20 jurisdiction for each permittee based on the rules
22 established under the agreement.

24 3. Principles. The State recognizes that the regional
26 administration of overdimensional and overweight permits for
28 nondivisible loads will promote the more efficient use of the
30 highway system while protecting that system from abuse. The
32 State further recognizes that this agreement will reduce the
34 administrative burdens for both the participating jurisdictions
36 and the permittees by limiting the number of contacts necessary
38 when a motor carrier moves an overdimensional or overweight load
40 interstate.

42 4. Authorization. The Commissioner of Transportation may
44 enter into an agreement, not in conflict with any other sections
46 of this Title or of Title 23, that furthers the intent of this
48 section.

50 5. Fees. The Secretary of State may collect and distribute
52 fees for other participating jurisdictions and receive fees from
54 those jurisdictions collected on behalf of this State.

56 6. Report. The commissioner shall submit a biennial report
58 to the joint standing committee of the Legislature having
60 jurisdiction over transportation matters in January of
62 even-numbered years. The report must outline progress in the
64 expansion and the operation of the agreement.

66 **§2385. Protruding objects and trailers**

68 1. Warning device. A vehicle carrying an object that
70 projects more than 4 feet from the rear must carry, at or near
72 the rear of the object:

74 A. During nighttime, a red light; and

76 B. At all other times, a clean fluorescent cloth at least
78 12 by 12 inches.

2. Logs. During the hours when lights are required, a vehicle carrying logs that project more than 4 feet from the rear of the vehicle must display a red reflector or reflectorized paint on the end of the log projecting furthest to the rear. The reflector or reflectorized paint must be of sufficient size and properly located and maintained so as to reflect, at night on an unlighted highway, the undimmed headlights of a vehicle approaching from the rear for at least 200 feet.

3. Safety chains. A trailer, semitrailer or vehicle being towed must, in addition to the tow bar or coupling device, have a safety chain or steel cable so attached as to prevent breakaway from the towing vehicle.

The chain or steel cable must be made of not less than 1/4-inch wire.

This subsection does not apply to truck tractor and semitrailer units equipped with 5th wheel mechanism.

§2386. Binding of loads

1. Load in excess of 8 feet. A vehicle used to transport a load of long logs, junk or unserviceable motor vehicles, greater than 8 feet in height, must have the load bound by at least 3 securing lines, which may be chains and binders, wire ropes, steel cables, polyester or nylon web straps or any combination.

2. Lower load. If the height of the load is less than 8 feet and more than 30 inches, the load must be bound by at least 2 securing lines.

3. Quality. Chains, ropes or cables may not be less than 3/8 inch in diameter.

4. Webbing. Web straps must have a working strength of not less than 12,000 pounds each. A loss of 25% or more of the width or 25% of the thickness across 1/2 the width at any point makes the straps insufficient.

5. Location. These securing lines must be held firmly in place and properly spaced to secure the load.

§2387. Bridge loads

1. Local authority to limit weight, number or speed. Officials responsible for the repair and maintenance of a bridge may limit the combined weight of vehicle and load or any axle, or the number or speed of vehicles permitted on a bridge to the

limit necessary for the safety of life or property or the maintenance of the bridge.

2. Department of Transportation responsibility. If an official fails to set limits, the Department of Transportation may set limits.

3. Posting. Regulations are in effect when notice is conspicuously posted at each end of a bridge.

4. Advice. Limits must be based on the advice of the Department of Transportation or a registered professional civil engineer retained for the purpose of inspecting and determining the safe capacity of bridges.

In an emergency, the officials may set limits as they may determine proper for the structural capacity or the maintenance of the bridge.

As soon as is reasonably possible, the officials shall seek the advice of the Department of Transportation.

5. Penalty. Violation of a posted bridge weight limit is a traffic violation, for which a forfeiture of \$20 per each full 1,000 pounds plus \$30 per each full 10% over the posted limit may be adjudged.

It is not a violation if the excess weight is less than 500 pounds multiplied by the number of axles less one.

If the violation is for excess weight less than 1,000 pounds multiplied by the number of axles less one, the fine is reduced by 50%.

§2388. Violations; bond; appeals

1. Violation. Except as otherwise provided, an operator who violates a provision of this subchapter commits a traffic infraction for which a forfeiture of not less than \$25 nor more than \$1,000 for each offense may be adjudged.

2. Bond. In granting a permit under this subchapter, an operator may be required to post a satisfactory bond to reimburse for expenses necessarily incurred in repairing damage caused to the way or bridge by the operator's use.

3. Appeals. An appeal in writing may be taken to the Department of Transportation from an order or decision of a municipal official under sections 2380 to 2382, 2387 and 2395.

2 The Department of Transportation may hear and decide the matter
3 in a summary manner, modifying, affirming or vacating the action
4 and may issue any order necessary to carry out its decision.

6 An appeal does not suspend the order or decision of the municipal
7 official unless ordered by the Department of Transportation.

8 An appeal may be taken to the Public Utilities Commission from an
9 action by a railroad corporation under section 2388 in respect to
10 a highway bridge maintained by the corporation. The commission,
11 after notice and hearing, may confirm or modify that action.

12 **§2389. Truck, trailer and combinations; limitations**

14
15 1. Limitation on drawn trailers. Only one trailer or
16 semitrailer may be drawn by a motor vehicle, except that a
17 combination of a truck tractor, semitrailer and full trailer may
18 be operated on the Interstate Highway System and those qualifying
19 federal aid primary system highways designated by the Secretary
20 of the United States Department of Transportation, pursuant to
21 the United States Surface Transportation Assistance Act of 1982,
22 Public Law 97-424, Section 411. "Driveaway" and "towaway"
23 operations, as defined by the Secretary of State, may include a
24 combination of saddlemount vehicles not to exceed 3 units in
25 contact with the road.

26
27 2. Converted semitrailers. A semitrailer converted to a
28 trailer by use of a converter dolly remains a semitrailer for all
29 other purposes in this Title and is considered one vehicle while
30 connected.

32 **§2390. Maximum length limits**

34 1. Trucks and trailers. The following maximum length
35 limits include permanent or temporary structural parts of the
36 vehicle and load, but do not include refrigeration units or other
37 nonload-carrying appurtenances permitted by federal regulation.

38
39 A. A vehicle may not exceed 45 feet, except as provided in
40 this section.

42 B. A combination of truck tractor and full trailer or truck
43 tractor and semitrailer may not exceed 65 feet.

44
45 C. A trailer or semitrailer may be greater than 45 feet but
46 not more than 48 feet in length provided that the distance
47 between the center of the rearmost axle of the truck tractor
48 and the center of the rearmost axle of the trailer or
49 semitrailer does not exceed 38 feet.

2 The interaxle distance maximum limit does not apply on the
4 Interstate Highway System and those qualifying federal aid
6 primary system highways designated by the Secretary of the
 United States Department of Transportation, pursuant to the
 United States Surface Transportation Assistance Act of 1982,
 Public Law 97-424, Section 411.

8 D. The load on a combination vehicle transporting
10 tree-length logs exclusively may extend rearward beyond the
12 body of the vehicle by no more than 8 1/2 feet, as long as
 no more than 25% of the length of the logs extends beyond
 the body.

14 E. A combination of truck tractor and full trailer or
16 semitrailer may be operated on the Interstate Highway System
18 and those qualifying federal aid primary system highways
20 designated by the Secretary of the United States Department
 of Transportation, pursuant to the United States Surface
 Transportation Assistance Act of 1982, Public Law 97-424,
 Section 411, with an overall length in excess of 65 feet, if
 the trailer or semitrailer length does not exceed 48 feet.

22 F. A combination of truck tractor, semitrailer and full
24 trailer, or a combination of truck tractor and 2
26 semitrailers, may be operated on the Interstate Highway
28 System and those qualifying federal aid primary system
30 highways designated by the Secretary of the United States
 Department of Transportation, pursuant to the United States
 Surface Transportation Assistance Act of 1982, Public Law
 97-424, Section 411, with an overall length in excess of 65
 feet, if no semitrailer or trailer length exceeds 28.5 feet.

32 G. A stinger-steered autotransporter may be operated on the
34 Interstate Highway System and those qualifying federal aid
36 primary system highways designated by the Secretary of the
38 United States Department of Transportation, pursuant to the
 United States Surface Transportation Assistance Act of 1982,
 Public Law 97-424, Section 411, with an overall length not
 to exceed 75 feet.

40 H. A combination vehicle designed for and transporting
42 automobiles may be operated with an additional front
44 overhang of not more than 3 feet and rear overhang of not
 more than 4 feet.

46 I. Saddlemount vehicle transporter combinations with up to
48 3 saddlemounted vehicles and one fullmount, with an overall
50 length not exceeding 75 feet, may be operated on the
 Interstate Highway System and those qualifying federal aid
 primary system highways designated by the Secretary of the

United States Department of Transportation, pursuant to the United States Surface Transportation Assistance Act of 1982, Public Law 97-424, Section 411.

J. Notwithstanding any other provision of this subsection, a single semitrailer whose total length exceeds 48 feet but does not exceed 53 feet may be operated in combination with a truck tractor on highways designated by the Commissioner of Transportation if the following conditions are met.

(1) The wheelbase of the semitrailer, measured as the distance from the kingpin to the center of the rearmost axle of the semitrailer, may not exceed 43 feet.

(2) The kingpin setback of the semitrailer, measured as the distance from the kingpin to the front of the semitrailer, may not exceed 3 1/2 feet in length.

(3) The rear overhang of the semitrailer, measured as the distance from the center of the rear tandem axles of the semitrailer to the rear of the semitrailer, may not exceed 35% of the wheelbase of the semitrailer.

(4) The semitrailer must be equipped with a rear underride guard that is of sufficient strength to prevent a motor vehicle from penetrating underneath the semitrailer, extends across the rear of the semitrailer to within an average distance of 4 inches of the lateral extremities of the semitrailer, exclusive of safety bumper appurtenances, and is placed at a height not exceeding 22 inches from the surface of the ground as measured when the semitrailer is empty and is on a level surface.

(5) The semitrailer must be equipped with vehicle lights that comply with or exceed federal standards and reflective material approved by the Commissioner of Transportation that must be located on the semitrailer in a manner prescribed by the commissioner. The semitrailer must display a conspicuous warning on the rear of the semitrailer indicating that the vehicle combination has a wide turning radius.

(6) The semitrailer and the truck tractor used in combination with the semitrailer may not have liftable axles.

(7) The maximum gross weight of the truck tractor and semitrailer combination may not exceed 80,000 pounds or

2 the maximum gross vehicle weight permitted by chapter
3 21, subchapter I, whichever is less.

4 (8) The overall length of the truck tractor and
5 semitrailer combination may not exceed 70 feet,
6 including all structural parts of the vehicle,
7 permanent or temporary, and any load carried on or in
8 the vehicle.

10 (9) Notwithstanding section 2380, the width of the
11 semitrailer must be 102 inches, except that the width
12 of the rear safety bumper and appurtenances to the
13 safety bumper may not exceed 103 inches and except that
14 the width of a flatbed or lowboy semitrailer, measured
15 as the distance between the outer surface edges of the
16 semitrailer's tires, must be at least 96 inches but no
17 more than 102 inches.

18 (10) For semitrailers being operated off the
19 designated routes, a 53-foot semitrailer access permit
20 must be obtained from the Department of
21 Transportation. The permit must apply to a specific
22 motor carrier, specify routing and any other travel
23 conditions and be carried in the truck tractor. Access
24 to service facilities for the purpose of food, fuel,
25 repairs and rest must be permitted only on intersecting
26 crossroads within 1/2 mile of the system of federal aid
27 primary highways designated by the Commissioner of
28 Transportation for 53-foot semitrailer travel.

30 (11) A 53-foot semitrailer permit must be obtained
31 from the Secretary of State. The fee, which is
32 nontransferable and nonrefundable, is \$60 per year for
33 a maximum of 2 years or \$5 per month or portion of a
34 month for a period of from one to 24 months. The
35 Secretary of State shall issue an identification decal
36 of such size and design as the Secretary of State
37 prescribes that must be permanently affixed to the
38 exterior of the semitrailer in a location the Secretary
39 of State specifies and the decal must be at all times
40 visible and legible.

42 (12) This vehicle combination may not transport cargo
43 that has been prohibited for this vehicle combination
44 by the Commissioner of Transportation.

46 The Secretary of State shall adopt rules for the permitting
47 of this vehicle combination.

2 2. Articulated buses. Notwithstanding any other provisions
of this section, articulated buses may be operated or caused to
be operated as long as the following conditions are met:

4
6 A. The total length of the vehicle does not exceed 61 feet,
excluding bumpers;

8 B. The rearmost axle of the vehicle is self-steering;

10 C. The vehicle is equipped with an interlock device to
prevent the vehicle from jackknifing while backing up;

12
14 D. The vehicle is equipped with an audible or visible
signal that indicates to the driver who overrides the
16 interlock device when the vehicle is nearing the jackknife
position; and

18 F. The turntable floor is properly aligned to maintain a
level surface while the vehicle is in operation.

20
22 3. Exemption. Fire department vehicles and disabled motor
vehicles being towed to a repair facility are exempt from length
restrictions.

24
26 4. Rules of access. The Commissioner of Transportation
shall adopt rules consistent with the United States Surface
Transportation Assistance Act of 1982, Public Law 97-424, to
28 ensure reasonable access to vehicles described in subsection 1,
paragraphs E, F, G and I between the Interstate Highway System
30 and those qualifying federal aid primary system highways
designated by the Secretary of the United States Department of
32 Transportation, pursuant to the United States Surface
Transportation Assistance Act of 1982, Public Law 97-424, Section
34 411, and terminals, facilities for food, fuel, repairs and rest
and points of loading and unloading for household goods
36 carriers. The commissioner may issue permits for that travel.

38
40 SUBCHAPTER III

42 PROTECTION OF WAYS

44 §2395. Ways requiring special protection

46 1. Right of the Department of Transportation. The
Department of Transportation may restrict the weight or passage
48 of any vehicle over any way when, in its judgment, such passage
would be unsafe or likely to cause excessive damage to the way or
bridge. Nothing in this Title may be construed to restrict or
50 abridge this right.

2 2. Rules. The Department of Transportation, county
4 commissioners and municipal officers may adopt rules to ensure
6 proper use and prevent abuse of the public ways under their
8 respective jurisdictions whenever those ways require special
 protection. Rules issued pursuant to this section are exempted
 from the provisions of the Maine Administrative Procedure Act,
 Title 5, chapter 375.

10 3. Designation by the Department of Transportation. The
12 Department of Transportation may designate state and state aid
14 highways and bridges over which restrictions on gross weight,
16 speed, operation and equipment apply during periods of the year
18 determined by the Department. It is unlawful for any vehicle to
 travel over public ways with a gross registered weight exceeding
 that prescribed by the Department and traveling with a load other
 than tools or equipment necessary for operation of the vehicle.

20 4. Designation by counties and municipalities. County
22 commissioners and municipal officers may designate public ways
24 other than those in subsection 3 and impose restrictions within
 their respective jurisdictions similar to those made by the
 Department of Transportation under subsection 3.

26 5. Notice. A notice specifying the designated sections of
28 a public way, the periods of closing and prescribed restrictions
30 or exclusions must be conspicuously posted at each end of the
 public way requiring special protection in accordance with this
 section.

32 6. Enforcement. Municipal officers within their respective
34 municipalities have the same power as the State Police in the
36 enforcement of this section and of all rules of the Department of
 Transportation, the county commissioners and the municipal
 officers that pertain to this section. The municipal officers,
 in such cases, serve without compensation.

38 7. Violation. A violation of this section is a traffic
40 infraction punishable by a fine, which may not be suspended, or
 not less than \$250.

42 8. Information on bridges. Whenever necessary, the
44 Department of Transportation may provide to municipal and county
46 officials information concerning the capacity of bridges under
 the jurisdiction of those officials and the advisability of
 posing those bridges.

48 §2396. Certain substances on public ways

2 1. Injurious substances. A person may not place on a way a
3 tack, nail, wire, scrap metal, glass, crockery or other substance
4 that may injure feet, tires or wheels. If a person accidentally
5 places such substance on a way, that person shall immediately
6 make all reasonable efforts to clear the way of that substance.

7 2. Unsecured load. A person may not operate on a public
8 way a vehicle with a load that is not fastened, secured, confined
9 or loaded to reasonably prevent a portion from falling off.

10 For the purposes of this section, "load" includes, but is not
11 limited to, firewood, pulpwood, logs, bolts or other material,
12 but does not include loose hay, pea vines, straw, grain or
13 cornstalks.

14 When the load consists of sawdust, shavings or wood chips, and a
15 reasonable effort has been made to completely cover the load,
16 minor amounts blown from the vehicle while in transit do not
17 constitute a violation.

18 3. Gravel. A load of gravel, sand, crushed stone, rubbish,
19 wood chips, building debris or trash must be covered or otherwise
20 secured or confined to prevent any portion of the load from
21 falling from or spilling out of the vehicle.

22 4. Snow. A person may not place and allow to remain on a
23 public way snow or slush that has not accumulated there naturally.

24 §2397. Menacing or damaging vehicles

25 The Secretary of State may revoke or suspend the certificate
26 of registration of a vehicle that is:

27 1. Menace. So constructed that when in operation the
28 vehicle is a menace to the safety of its occupants or to the
29 public; or

30 2. Damage. So constructed or operated as to cause
31 unreasonable damage to public ways or bridges.

32 CHAPTER 23

33 MAJOR OFFENSES - SUSPENSION AND REVOCATION

34 SUBCHAPTER I

35 GENERAL PROVISIONS

36 §2401. Definitions

2 As used in this chapter, unless the context otherwise
4 indicates, the following terms have the following meanings.

6 1. Alcohol and drug program. "Alcohol and drug program"
8 means the alcohol and other drug education, evaluation and
10 treatment program administered by the Office of Substance Abuse
12 under Title 5, chapter 521, subchapter V.

14 2. Blood-alcohol level. "Blood-alcohol level" means a
16 stated percentage by weight of alcohol in the blood, based on
18 grams of alcohol per 100 milliliters of blood.

20 3. Chemical test. "Chemical test" means a test used to
22 determine blood-alcohol level or drug concentration by analysis
24 of blood, breath or urine.

26 4. Drugs. "Drugs" means scheduled drugs as defined under
28 Title 17-A, section 1101.

30 5. Failure to submit to a test or failed to submit to a
32 test. "Failure to submit to a test" or "failed to submit to a
34 test" means failure to comply with the duty to submit to and
36 complete chemical testing under section 2521.

38 6. Operating. "Operating," in any form, means operating
40 or attempting to operate a motor vehicle.

42 7. OAS. "OAS" means to operate after the Secretary of
44 State or a court has suspended the driver's license.

46 8. OUI. "OUI" means operating under the influence of
48 intoxicants or with an excessive blood-alcohol level under
50 section 2411, 2453, 2454, 2456 or 2472.

9. OUI conviction. "OUI conviction" means a conviction for:

A. A violation of section 2411;

B. A violation of Title 15, section 3103, subsection 1,
paragraph F;

C. Violation of former Title 29, section 1312, subsection
10 or section 1312-B;

D. In a jurisdiction that is a party to the Driver License
Compact established in chapter 11, subchapter V, an offense
described in the compact, section 1454, subsection 1,
paragraph B, or an offense that is similar as provided by
section 1454, subsection 3; or

2 E. In a court of the United States or a court of a state
4 that is not a party to the compact, an offense for which
6 punishment includes the possibility of incarceration,
8 whether or not actually imposed, and the elements of the
10 offense as provided in the law of that jurisdiction include
operation of a motor vehicle while intoxicated, impaired or
under the influence of alcohol, intoxicating liquor, drugs
or with a level of blood-alcohol sufficient for conviction
under the laws of that jurisdiction.

12 10. OUI offender. "OUI offender" means a person who
14 receives an OUI conviction.

16 11. OUI offense. "OUI offense" means an OUI conviction or
suspension for failure to submit to a test.

18 12. OUI suspension. "OUI suspension" means the suspension
20 of a driver's license for an OUI conviction.

22 13. Under the influence of intoxicants. "Under the
24 influence of intoxicants" means being under the influence of
alcohol, a drug other than alcohol, a combination of drugs or a
combination of alcohol and drugs.

26 **§2402. Calculating prior convictions**

28 For purposes of this chapter, a prior conviction or action
30 has occurred within the 6-year period if the date of the action
or the date of the docket entry of conviction is 6 years or less
from the date of the new conduct.

32 **§2403. Period of administrative suspension deducted from**
34 **court-imposed suspension**

36 Except for a suspension for failure to submit to a test, the
38 period of time of an administrative suspension ordered by the
Secretary of State prior to an OUI conviction that arose out of
40 the same occurrence is deducted from the period of time of any
court-imposed suspension. If the suspension is for failure to
42 submit to a test, a period of suspension imposed by the court or
by the Secretary of State for an OUI conviction is consecutive to
the period of suspension imposed for failure to submit to a test.

44 **§2404. Owner liable for damage by impaired operator**
46

48 An owner or person having control over a motor vehicle who,
having knowledge or reason to know that a person under the
50 influence of intoxicants has a blood-alcohol level of .08% or
more by weight of alcohol in the blood, permits that person to

operate that motor vehicle is jointly and severally liable with that person for damages caused by the negligence of the person. This section is not in derogation of, does not limit and does not diminish any cause of action or right of recovery that is or may become available under the common law.

§2405. Optional reporting of drivers operating under the influence of intoxicating liquor or drugs

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, snowmobile, all-terrain vehicle or watercraft while under the influence of intoxicants and that motor vehicle, snowmobile, all-terrain vehicle or watercraft has been involved in an accident, that person may report those facts to a law enforcement official.

2. Immunity from liability. A person participating in good faith in reporting under this section, or in participating in a related proceeding, is immune from criminal or civil liability for the act of reporting or participating in the proceeding.

Nothing in this section may be construed to bar criminal or civil action regarding perjury.

In a proceeding regarding immunity from liability, there is a rebuttable presumption of good faith.

3. Privileged or confidential communications. The physician-patient privileges under the Maine Rules of Evidence and the confidential quality of communication under Title 24-A, section 4224 and Title 32, section 1092-A are abrogated in relation to required reporting or other proceeding.

SUBCHAPTER II

JUDICIAL ACTIONS

Article 1

Offenses

§2411. Criminal OUI

1. Offense. A person commits OUI, which is a Class D crime, if that person operates a motor vehicle:

2 A. While under the influence of intoxicants; or

4 B. While having a blood-alcohol level of 0.08% or more.

6 2. Pleading and proof. The alternatives outlined in
8 subsection 1, paragraphs A and B may be pleaded in the
10 alternative. The State is not required to elect between the
12 alternatives prior to submission to the fact finder.

14 3. Investigation. After a person has been charged with
16 OUI, the officer shall investigate whether the charged person has
18 prior OUI offenses. As part of the investigation, the officer
20 shall make necessary inquiries of the Secretary of State.

22 4. Arrest. A law enforcement officer may arrest, without a
24 warrant, a person the officer has probable cause to believe has
26 operated a motor vehicle while under the influence of intoxicants
28 if the arrest occurs within a period following the offense
30 reasonably likely to result in the obtaining of probative
32 evidence of blood-alcohol level or drug concentration.

34 5. Penalties. The following minimum penalties apply and
36 may not be suspended:

38 A. For a person having no previous OUI offenses within a
40 6-year period:

42 (1) A fine of not less than \$300;

44 (2) A court-ordered suspension of a driver's license
46 for a period of 90 days; and

48 (3) A period of incarceration of not less than 48
50 hours, when the defendant:

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

(b) Was exceeding the speed limit by 30 miles per
 hour or more;

(c) Eluded or attempted to elude an officer;

(d) Failed to submit to a test at the request of
 a law enforcement officer; or

(e) Was operating with a passenger under 16 years
 of age;

2 B. For a person having one previous OUI offense within a
3 6-year period:

4 (1) A fine of not less than \$500;

6 (2) A period of incarceration of not less than 7 days;

8 (3) A court-ordered suspension of a driver's license
9 for a period of one year; and

10 (4) In accordance with section 2416, a court-ordered
11 suspension of the person's right to register a motor
12 vehicle;

14 C. For a person having 2 previous OUI convictions within a
15 6-year period:

16 (1) A fine of not less than \$750;

18 (2) A period of incarceration of not less than 30 days;

20 (3) A court-ordered suspension of a driver's license
21 for a period of 2 years; and

22 (4) In accordance with section 2416, a court-ordered
23 suspension of the person's right to register a motor
24 vehicle;

26 D. For a person having 3 or more OUI convictions within a
27 6-year period the offense is a Class C crime. The minimum
28 penalties specified in paragraph C apply, but the minimum
29 fine is \$1,000; and

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

38 In the determination of an appropriate sentence, failure to
39 submit to a test is an aggravating factor.

40 The court shall give notice of the suspension and take physical
41 custody of the driver's license.

42 The Secretary of State may impose an additional period of
43 suspension under section 2451, subsection 3, or may extend a
44

period of suspension until satisfaction of any conditions imposed pursuant to chapter 23, subchapter III, article 4.

6. Aggravated punishment category. If the State pleads and proves that, while operating a motor vehicle in violation of this section, the operator 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 offense is a Class C crime. The minimum penalties specified in subsection 5 apply, but the minimum period of suspension must be 18 months unless a longer minimum period applies.

7. Surcharge. A surcharge must be charged for a conviction under this section. The surcharge is \$30, except that, when the person operated or attempted to operate a motor vehicle while under the influence of drugs or a combination of liquor and drugs, the surcharge is \$125. For the purposes of collection procedures, the surcharge is considered a fine. Notwithstanding section 2602, this surcharge accrues to the Highway Fund for the purpose of covering the costs associated with the administration and analysis of blood-alcohol tests.

8. Juvenile crime. References in this Title to this section include the juvenile crime in Title 15, section 3103, subsection 1, paragraph F, and the disposition, including a suspension, for that juvenile crime in Title 15, section 3314, subsection 3, except as otherwise provided or except where the context clearly requires otherwise.

§2412. Operating while license suspended or revoked

1. Offense; penalty. A person commits a Class E offense if that person operates a motor vehicle on a public way or in a parking area when that person's license has been suspended or revoked, and that person:

A. Has received written notice of a suspension or revocation from the Secretary of State;

B. Has been orally informed of the suspension or revocation by a law enforcement officer;

C. Has actual knowledge of the suspension or revocation;

D. Has been sent written notice in accordance with section 2458, subsection 4; or

E. Has failed to answer or to appear in court pursuant to a notice or order specified in section 2605 or 2608.

2 2. Exception. This section does not apply to a person
3 whose license to operate or right to apply for or obtain a
4 license or permit has been revoked under the laws in subchapter V
5 governing habitual offenders.

6 3. Minimum mandatory sentences. If the suspension was for
7 an OUI offense, the court shall impose a fine of not less than
8 \$350, a period of incarceration of not less than 7 consecutive
9 days, and a mandatory suspension of license of not less than one
10 year nor more than 3 years consecutive to the original
11 suspension. If the court fails to suspend, the Secretary of
12 State shall impose the minimum one-year suspension and may impose
13 up to 3 years of suspension.

14 For all other suspensions, if the person has one or more prior
15 convictions for violating this section within a 6-year period,
16 the minimum fine is \$200.

17 The minimum mandatory sentence applies only if the offense
18 occurred during the original period of suspension or an extension
19 by the Secretary of State, but not during an extension of the
20 original suspension imposed to compel compliance with conditions
21 for the restoration of a license or for failure to pay a
22 reinstatement fee.

23 4. Juvenile procedures. The requirements under Title 15,
24 section 757 of a separate reading of the allegation and a
25 separate trial do not apply to a proceeding under this subsection.

26 5. Take custody of license. The court shall give notice of
27 the suspension and shall take physical custody of a driver's
28 license as provided in section 2434.

29 **§2413. Driving to endanger**

30 1. Definition. A person commits a Class E crime if, with
31 criminal negligence as defined in Title 17-A, that person drives
32 a motor vehicle in any place in a manner that endangers the
33 property of another or a person, including the operator or
34 passenger in the motor vehicle being driven.

35 2. Allegation of facts. In pleading under this section, it
36 is not necessary to allege specifically the facts that constitute
37 criminal negligence.

38 3. Penalties. In addition to any other penalty, the court
39 shall suspend the driver's license for not less than 30 days nor
40 more than 180 days, which minimum may not be suspended. If the
41 court fails to suspend the license, the Secretary of State shall
42 impose the minimum period of suspension.

2 4. Exception. This section does not apply to the operation
3 of a vehicle:

4 A. In racing events and exhibitions at which the public
5 does not have access to the operating area; or

6 B. On private land to which the public does not have access
7 when used by or with authorization of the landowner.

8 5. Notice. The court shall give notice of the suspension
9 and take physical custody of a driver's license as provided in
10 section 2434.

11 §2414. Refusing to stop for a law enforcement officer

12 1. Definitions. As used in this section, unless the
13 context otherwise indicates, the following terms have the
14 following meanings.

15 A. "Roadblock" means a vehicle, a physical barrier or other
16 obstruction placed on a way at the direction of a law
17 enforcement officer.

18 B. "Signal" includes, but is not limited to, the use of a
19 hand signal, siren or flashing emergency lights.

20 2. Failure to stop. A person commits a Class E crime if
21 that person fails or refuses to stop a vehicle on request or
22 signal of a uniformed law enforcement officer.

23 3. Eluding an officer. A person commits a Class C crime if
24 that person, after being requested or signaled to stop, attempts
25 to elude a law enforcement officer by operating a vehicle at a
26 reckless rate of speed that results in a high-speed chase between
27 the operator's vehicle and a law enforcement vehicle using a blue
28 light and siren.

29 4. Passing a roadblock. A person commits a Class C crime
30 if the person, without authorization, operates or attempts to
31 operate a motor vehicle past a clearly identifiable police
32 roadblock.

33 5. High-speed chase policies. All state, county and
34 municipal law enforcement agencies must adopt written policies on
35 high-speed chases.

36 6. Aggravating factor. A person commits a Class B crime if
37 that person attempts to elude a law enforcement officer or passes
38 or attempts to pass a roadblock and another person suffers

serious bodily injury, as defined in Title 17-A, section 2, subsection 23, as a result.

§2415. Operating while suspended or revoked under another license

A resident or nonresident whose license has been suspended or revoked commits a Class E crime if that person operates a motor vehicle during that suspension or revocation under a license or permit issued by any other jurisdiction. This section does not apply to a person whose license has been revoked under the habitual offender provisions in subchapter V.

§2416. Registration suspension by court

1. Required registration suspension; return of certificate and plates. The court shall suspend the right to register a motor vehicle and all registration certificates and plates issued by the Secretary of State to any person convicted for a violation of section 2411 who has a previous conviction for OUI within the 6-year period defined by section 2402. The Secretary of State shall return the certificate of registration and plates to the defendant when the defendant's license and registration privileges have been restored.

2. Exception for hardship. Notwithstanding subsection 1, if a spouse or other family member regularly using a vehicle subject to suspension of registration establishes to the satisfaction of the court that hardship will result from that suspension, the court need not suspend the registration certificates and plates or the right to register that vehicle.

3. Reissuance of registration. Notwithstanding a court order suspending a registration, the Secretary of State may restore a registration certificate and plates without fee during the remaining term of the registration to a spouse or other family member upon receipt of an affidavit authorizing the spouse or other family member to register the vehicle.

§2417. Suspended registration

A person commits a Class E offense if that person operates or permits another to operate a vehicle when the registration of that vehicle is suspended or revoked.

§2418. Other court suspension of driver's license

1. Court suspension. In addition to or instead of any other penalty provided in this Title, the court may suspend a driver's license for a period not exceeding 60 days.

2 2. Judicial recommendations. A judge may make a
3 recommendation to the Secretary of State on suspension of
4 licenses and certificates of registration as the judge considers
5 to be in furtherance of justice.

6 Article 2

8 Forfeiture

10 §2421. Forfeiture of motor vehicles for OUI

12 1. Forfeiture. After notice and hearing, a motor vehicle
14 must be forfeited to the State when a defendant is:

16 A. The sole owner-operator of that vehicle; and

18 B. Convicted of:

20 (1) OUI; and

22 (2) A simultaneous offense of operating after
24 suspension when the underlying suspension was imposed
25 for a prior OUI conviction.

26 The court shall order the forfeiture unless another person
28 satisfies the court prior to the judgment and by a preponderance
29 of the evidence that the other person had a right to possess that
30 motor vehicle, to the exclusion of the defendant, at the time of
31 the offense.

32 2. Seizure of vehicle of owner-operator. A motor vehicle
34 operated by a sole owner is subject to seizure by a law
35 enforcement officer when:

36 A. The owner-operator operates or attempts to operate that
38 motor vehicle under the influence of intoxicating liquor or
39 drugs or while having 0.08% of alcohol by weight in the
40 blood; and

42 B. The owner-operator is under suspension or revocation as
43 a result of a previous conviction of operating under
44 influence of alcohol or drugs or while having 0.08% of
45 alcohol by weight in the blood.

46 3. Lienholders. A forfeiture of a motor vehicle encumbered
47 by a perfected bona fide security interest is subject to the
48 interest of the secured party if the party did not have knowledge
49 of the act on which the forfeiture is based.

2 4. Preliminary order. At the request of the State, the
3 court may issue, ex parte, a preliminary order to seize or secure
4 a motor vehicle subject to forfeiture and to provide for custody.

5 That order may include an order to a financial institution or to
6 any fiduciary or bailee to impound the vehicle in its possession
7 or control and to release the vehicle only on further order of
8 the court.

9 The court may issue an order only on a showing of probable cause
10 and after criminal complaints of OUI and OAS have been filed
11 against the owner-operator.

12 The application, issuance, execution and return of an order are
13 subject to applicable state law.

14 A law enforcement officer may seize a motor vehicle without court
15 order when:

16 A. The seizure is incident to an arrest with probable cause
17 for an OUI by the sole owner and the officer has probable
18 cause to believe the vehicle is subject to forfeiture; or

19 B. The vehicle has been subject of a prior judgment in
20 favor of the State in a forfeiture proceeding under this
21 section or any other provision of law.

22 5. Reports. An officer, department or agency seizing a
23 vehicle shall file a report of seizure with the Attorney General
24 or a district attorney having jurisdiction over the vehicle. The
25 report must be:

26 A. Filed within 21 days of the date of seizure; and

27 B. Labeled "Vehicle Report" and include, without limitation:

28 (1) A description of the vehicle;

29 (2) The place and date of seizure;

30 (3) The name and address of the owner or operator of
31 the vehicle at the time of seizure; and

32 (4) The name and address of any other person who
33 appears to have an ownership interest in the vehicle.

34 6. Storage of seized motor vehicles. A seized motor
35 vehicle must be held in secure storage by the seizing agency or
36 at the direction of the prosecuting official until disposition of

2 the underlying criminal charges. The State shall assume all
3 costs of storage of a vehicle not forfeited.

4 7. Records of seized motor vehicles. An officer,
5 department or agency having custody of a motor vehicle subject to
6 forfeiture or having disposed of the vehicle shall maintain
7 complete records showing:

8 A. From whom the motor vehicle was received;

10 B. Under what authority the motor vehicle was held,
12 received or disposed of;

14 C. To whom the motor vehicle was delivered; and

16 D. The date and manner of destruction or disposition of the
18 motor vehicle.

19 8. Rules. The Attorney General shall adopt rules in
20 accordance with Title 5, chapter 375, for the disposition to
21 state, county and municipal agencies of forfeited motor vehicles.

22 Article 3

24 Judicial Procedures

26 §2431. Evidentiary rules

28 1. Test results. Test results showing drug concentrations
30 or blood-alcohol level at the time alleged are admissible in
32 evidence. Failure to comply with the provisions of sections 2521
34 and 2523 may not, by itself, result in the exclusion of evidence
36 of blood-alcohol level or drug concentration, unless the evidence
38 is determined to be not sufficiently reliable.

39 2. Analysis of blood, breath and urine. The following
40 provisions apply to the analysis of blood, breath and urine, and
42 the use of that analysis as evidence.

44 A. A person certified in accordance with section 2524
46 conducting a chemical analysis of blood, breath or urine to
48 determine blood-alcohol level or drug concentration may
50 issue a certificate stating the results of the analysis.

B. A person qualified to operate a self-contained,
breath-alcohol testing apparatus may issue a certificate
stating the results of the analysis.

C. A certificate issued in accordance with paragraph A or
B, when duly signed and sworn, is prima facie evidence that:

2 (1) The person taking the specimen was authorized to
3 do so;

4 (2) Equipment, chemicals and other materials used in
5 the taking of the specimen were of a quality
6 appropriate for the purpose of producing reliable test
7 results;

8 (3) Equipment, chemicals or materials required to be
9 approved by the Department of Human Services were in
10 fact approved;

11 (4) The sample tested was in fact the same sample
12 taken from the defendant; and

13 (5) The blood-alcohol level or drug concentration in
14 the blood of the defendant at the time the sample was
15 taken was as stated in the certificate.

16 D. With 10 days written notice to the prosecution, the
17 defendant may request that a qualified witness testify to
18 the matters of which the certificate constitutes prima facie
19 evidence. The notice must specify those matters concerning
20 which the defendant requests testimony. The certificate is
21 not prima facie evidence of those matters.

22 E. A person drawing a specimen of blood may issue a
23 certificate that states that the person is in fact duly
24 licensed or certified and that the proper procedure for
25 drawing a specimen of blood was followed. That certificate,
26 when signed and sworn to by the person, is prima facie
27 evidence of its contents unless, with 10 days' written
28 notice to the prosecution, the defendant requests that the
29 person testify.

30 F. Evidence that the breath or urine sample was in a sealed
31 carton bearing the Department of Human Services' stamp of
32 approval is prima facie evidence that the equipment was
33 approved by the Department of Human Services.

34 G. The results of a self-contained breath-alcohol apparatus
35 test is prima facie evidence of blood-alcohol level.

36 H. Evidence that the self-contained breath-alcohol testing
37 equipment bearing the Department of Human Services' stamp of
38 approval is prima facie evidence that the equipment was
39 approved by the Department of Human Services.

2 I. Evidence that materials used in operating or checking
4 the operation of the self-contained breath-alcohol testing
6 equipment bore a statement of the manufacturer or of the
8 Department of Human Services is prima facie evidence that
10 the materials were of the composition and quality stated.

12 J. Transfer of sample specimens to and from a laboratory
14 for purposes of analysis by certified or registered mail
16 complies with all requirements regarding the continuity of
18 custody of physical evidence.

20 3. Failure as evidence. Failure of a person to submit to a
22 chemical test is admissible in evidence on the issue of whether
24 that person was under the influence of intoxicants.

26 If the law enforcement officer fails to give either of the
28 required warnings, the failure of the person to submit to a
30 chemical test is not admissible, except where a test was required
32 under section 2522.

34 If a failure to submit to a chemical test is not admitted into
36 evidence, the court may inform the jury that no test result is
38 available.

40 If a test result is not available for a reason other than failing
42 to submit to a chemical test, the unavailability and the reason
44 is admissible in evidence.

46 4. Statements by accused. A statement by a person as to
48 name or date of birth, or the name or date of birth contained on
50 a driver's license surrendered by that person, is admissible in a
52 proceeding under this Title.

54 A statement of the person's name or date of birth constitutes
56 sufficient proof by itself, without further proof of corpus
58 delicti.

60 A statement by a defendant that the defendant was the operator of
62 a motor vehicle is admissible in a proceeding under section 2411,
64 if it is made voluntarily and is otherwise admissible under the
66 United States Constitution or the Constitution of Maine. The
68 statement may constitute sufficient proof by itself, without
70 further proof of corpus delicti, that the motor vehicle was
72 operated by the defendant.

74 **§2432. Blood-alcohol level; evidentiary weight**

76 1. Level less than 0.05%. If a person has a blood-alcohol
78 level of 0.05% or less, it is prima facie evidence that that
80 person is not under the influence of alcohol.

2 2. Level greater than 0.05% and less than 0.08%. If a
4 person has a blood-alcohol level in excess of 0.05%, but less
6 than 0.08%, it is relevant evidence, but not prima facie,
 indicating whether or not that person is under the influence of
 intoxicants to be considered with other competent evidence.

8 3. Level of 0.08% or greater. In proceedings other than
10 under section 2411, a person is presumed to be under the
12 influence of intoxicants if that person has a blood-alcohol level
 of 0.08% or more.

14 §2433. Sentencing procedures

16 1. Permissible considerations. Notwithstanding the
18 provisions of Title 15, section 757, in determining the
20 appropriate sentence, the court shall consider whether the
22 defendant operated with a passenger under 16 years of age, the
 record of convictions for criminal traffic offenses,
 adjudications of traffic infractions or suspensions of license
 for failure to submit to a test.

24 In determining the appropriate sentence, the court may rely on
26 oral representations based on records maintained by the courts,
 the State Bureau of Identification or the Secretary of State,
 including telecommunications of records maintained by the
 Secretary of State.

28 If the defendant disputes the accuracy of a representation
30 concerning a conviction or adjudication, the court shall grant a
32 continuance to determine the accuracy of the record.

34 2. Instructions at time of sentencing. At the time of
36 sentencing, the court shall provide the defendant with written
38 instructions prepared by the Division of Driver Education
 Evaluation. The instructions must be written in plain and
 readable language and at a minimum include the following
 explanations:

40 A. The circumstances under which the Secretary of State may
42 suspend a driver's license;

44 B. The different components of the process to have a
46 driver's license restored, including a description of the
 components provided by state agencies and those provided by
 practitioners and counselors not employed by the State;

48 C. The role of the Driver Education Evaluation Program
50 Appeals Board and the circumstances for an appeal to the
 board;

2 D. The differences between the procedures applicable to
4 first offenders and multiple offenders and adults and those
 under 21 years of age;

6 E. When the Secretary of State may stay a suspension and
 grant a work-restricted license or other restricted or
8 provisional license; and

10 F. The conditions of license restoration.

12 **§2434. Notice of suspension by court**

14 The following provisions apply to any conviction for OUI or
 for any offense for which the court suspends a license or
16 registration.

18 1. Notification by court. The court shall inform the
 defendant of the suspension.

20 2. Acknowledgement of receipt of notice. The defendant
22 shall acknowledge this notice in writing on a form provided by
 the court.

24 3. Physical custody of license. Unless the defendant
26 appeals and a stay of execution of the suspension is granted, the
 court shall take physical custody of a license issued by this
28 State or another state, foreign country or province if that
 person is residing or employed in this State. The court may take
30 a license issued by another state, foreign country or province if
 the person is not residing or employed in this State.

32 4. Stay of suspension. The court, on reasonable cause
34 shown, may stay a suspension for a period not to exceed 4 hours
 from the time of sentencing and issue evidence of that stay.

36 5. Forward documents to Secretary of State. The court
38 shall forward the license, a copy of the sentence and the
 acknowledgement of notice to the Secretary of State.

40 6. Order return of certificate and plates. The court shall
42 order the return of the suspended registration certificate and
 plates to the Secretary of State.

44 7. Additional time to surrender license. On reasonable
46 cause shown, the court may allow a person who does not possess
 the license at the time of sentencing up to 96 hours to surrender
48 that license.

2 8. Commencement of suspension. Notwithstanding section
4 2482, subsection 4, the period of suspension commences
6 immediately on announcement of sentence. Two additional days of
8 suspension must be added for each day after the license surrender
10 day that a person fails to surrender the license to the court.

12 9. Waiver of reinstatement fee. On motion and for good
14 cause shown, the court ordering a suspension under section 2605
16 or 2608 may waive the reinstatement fee.

18 10. Failure to sign acknowledgment of notice or surrender
20 license. A person commits a Class E crime if that person refuses
22 to sign the acknowledgement of notice or, without good cause,
24 fails to surrender a license within the period of suspension.

26 §2435. Stay pending appeal

28 If a person's license is suspended as a result of a
30 conviction of a crime other than under section 2411, or is
32 suspended as a result of an adjudication of a traffic infraction
34 and the person appeals from the conviction or adjudication, the
36 execution of a suspension of the person's license must be stayed
38 until disposition on appeal or withdrawal of the appeal, unless
40 good cause is shown why the person should not be allowed to
42 retain a license or right to operate.

44 SUBCHAPTER III

46 ADMINISTRATIVE ACTIONS

48 Article 1

Suspension and Revocation

§2451. Suspensions for OUI

1 1. Recording and notice by Secretary of State. On receipt
3 of an attested copy of the court record of a suspension of a
5 license for OUI, the Secretary of State shall immediately record
7 the suspension and send written notice of the suspension to the
9 person whose license has been suspended.

11 2. Court failure to suspend. If the court fails to suspend
13 a license for the period under this chapter, the Secretary of
15 State shall suspend the license for the specified period and send
17 written notice of the suspension to the person whose license has
19 been suspended.

2 3. Additional suspension. The Secretary of State may
suspend a license of a person, including a juvenile, convicted of
OUI for an additional period of up to 275 days.

4
6 4. Consecutive suspensions. A suspension under this section
is consecutive to a suspension for failure to submit to a test
required by this chapter.

10 §2452. Suspension or revocation of school bus operator
endorsement

12 The Secretary of State shall:

14
16 1. Permanent revocation. Permanently revoke the school bus
operator endorsement of any person convicted of OUI who operated
a school or private school activity bus during the commission of
the offense;

20 2. Suspend for at least 3 years. Suspend for a period of
at least 3 years the school bus operator endorsement of any
person convicted of a first OUI violation. The person whose
school bus operator endorsement has been suspended for a first
OUI violation may petition the Secretary of State to restore the
endorsement after one year of the suspension has been completed.
The petition must include a recommendation from the school
superintendent that the endorsement be restored. The Secretary
of State may grant the petition with any conditions, restrictions
or terms determined to be in the interest of highway safety; and

30
32 3. Suspend for at least 6 years. Suspend for a period of
at least 6 years the school bus operator endorsement of any
person convicted of a 2nd or subsequent OUI violation within a
6-year period as defined by section 2402.

36 This section applies to offenses that occur after the
effective date of this section.

38
40 §2453. Suspension on administrative determination; excessive
blood-alcohol level

42 1. Purpose. The purpose of this section is:

44 A. To provide maximum safety for all persons who travel on
or otherwise use the public ways; and

46
48 B. To remove quickly from public ways those persons who
have shown themselves to be a safety hazard by operating a
motor vehicle with an excessive blood-alcohol level.

2 2. Definition. For the purposes of this section,
3 "operating a motor vehicle with an excessive blood-alcohol level"
4 means operating a motor vehicle with a blood-alcohol level of
5 0.08% or more.

6 3. Suspension. The Secretary of State shall immediately
7 suspend a license of a person determined to have operated a motor
8 vehicle with an excessive blood-alcohol level.

10 4. Drug and alcohol program. The Secretary of State may
11 not suspend a license solely because a person has not
12 satisfactorily completed an alcohol and drug program, as defined
13 in subchapter I. This limitation does not affect statutory
14 restoration authority.

16 5. Stay. If, within 10 days from the effective date of the
17 suspension, the Secretary of State receives a request in writing
18 for a hearing in accordance with section 2483, the suspension is
19 stayed until a hearing is held and a decision is issued.

20 6. Period of suspension. The following periods of
21 suspension apply.

24 A. For any OUI offense, the same suspension period applies
25 as if the person were convicted of OUI.

26 B. If the Secretary of State determines that the person
27 operated the motor vehicle at the time of the offense with a
28 passenger under 16 years of age, an additional suspension
29 period of up to 275 days may be imposed.

32 C. If a person's license is also suspended for an OUI
33 conviction arising out of the same occurrence, the period of
34 time the license has been suspended under this section prior
35 to the conviction must be deducted from the period of time
36 of a court-imposed suspension.

38 D. The period of suspension is a minimum and the Secretary
39 of State may suspend the license for an additional period
40 under section 2451, subsection 3.

42 7. Restoration of license. The Secretary of State may
43 issue a license or permit as follows.

44 A. Restoration of any license or permit to operate, right
45 to operate a motor vehicle and right to apply for or obtain
46 a license suspended under this section must be in accordance
47 with sections 2502 to 2506.

50 8. Hearing. The scope of the hearing must include whether:

2 A. The person operated a motor vehicle with an excessive
3 blood-alcohol level; and

4 B. There was probable cause to believe that the person was
5 operating a motor vehicle with an excessive blood-alcohol
6 level.

8 **§2454. Homicide; revocation of license**

10 The license, permit or right to operate of any person, who,
11 as a result of the person's operation of a motor vehicle in such
12 a manner as to cause the death of any person, is convicted of a
13 criminal homicide, or attempt thereof, or is adjudicated to have
14 committed a juvenile offense of criminal homicide, or attempt
15 thereof, must be revoked immediately by the Secretary of State
16 upon receipt of an attested copy of the court records, without
17 further hearing. In case of an appeal, the license, permit or
18 right to operate must be revoked during the course of the appeal
19 unless the trial court otherwise orders. No person whose
20 license, permit or right to operate a motor vehicle has been so
21 revoked may be licensed again or permitted to operate a motor
22 vehicle for a period of 5 years from the time the license, permit
23 or right to operate is revoked. For the purposes of this section
24 and section 2411, a person is deemed to have been convicted if
25 the person pleads guilty or nolo contendere or is otherwise
26 adjudged or found guilty by a court of competent jurisdiction or
27 in the case of a juvenile offender, a juvenile is deemed to have
28 been adjudicated if the juvenile admits or was otherwise adjudged
29 or found to have committed the juvenile offense by a court of
30 competent jurisdiction.

31 **§2455. Provisions regarding revocation when homicide is alcohol**
32 **or drug related**

33 1. Report by district attorney. The district attorney
34 shall forward a report to the Secretary of State when any person
35 is convicted of a criminal homicide or adjudicated to have
36 committed a juvenile offense of criminal homicide as the result
37 of that person's operation of a motor vehicle when:

38 A. The person was operating under the influence of
39 intoxicating liquor or drugs, or with a blood-alcohol of
40 0.08% or greater;

41 B. The person had not attained the legal drinking age and
42 was operating a motor vehicle while having .02% or more by
43 weight of alcohol in that person's blood;

2 C. There was probable cause to believe that the person was
4 operating under the influence of intoxicating liquor or
drugs and failed to comply with that person's duty to submit
to and complete required chemical testing; or

6 D. There was probable cause to believe that the person had
8 not attained the legal drinking age and was operating a
10 motor vehicle while having .02% or more by weight of alcohol
in that person's blood and failed to comply with the duty to
12 submit to and complete a test to determine blood-alcohol
level.

14 2. Content of report. The report required in subsection 1
must contain all relevant facts that formed the basis for the
16 conviction or adjudication, including chemical test results if
available.

18 3. Alcohol or drug programs. Upon receipt of the report
20 required in subsection 1, the Secretary of State shall require
that the following conditions be met before that person may be
22 licensed or permitted to operate a motor vehicle:

24 A. Satisfactory completion of the Driver Education and
Evaluation Programs of the Office of Substance Abuse;

26 B. When required, satisfactory completion of a substance
28 abuse treatment program or rehabilitation program approved
or licensed by the Office of Substance Abuse; and

30 C. When required, attendance for 2 years at an after-care
32 program approved by the Office of Substance Abuse.

34 4. Alcohol or drug programs following incarceration. Any
of the alcohol or drug programs required in subsection 3 may
36 begin only upon release from a county jail or from a facility
operated by the Department of Corrections.

38 **§2456. Negligently causing death; administrative suspension**

40 1. Suspension. The Secretary of State shall immediately
42 suspend the license of a person who negligently operates a motor
vehicle in a manner as to cause the death of a person:

44 A. While under the influence of intoxicants;

46 B. While having a blood-alcohol level of 0.08% or more; or

48 C. Who subsequently fails to submit to a test subject to
50 penalty under section 2521.

2 2. Period of suspension. The period of suspension is 3
3 years, consecutive to any suspension imposed by the Secretary of
4 State for failure to take a test. If a suspended license is
5 subsequently revoked under section 2454 on charges arising out of
6 the same occurrence, the length of suspension actually served
7 under this section is deducted from the period of revocation
8 imposed pursuant to that section.

9 3. Hearing issues. A person whose license has been
10 suspended under this section may request a hearing pursuant to
11 section 2483. The scope of the hearing must include whether:

12 A. The person operated a motor vehicle;

13 B. The person, at that time, had an excessive blood-alcohol
14 level, or was under the influence of intoxicants or may be
15 penalized for failure to submit to required chemical
16 testing; and

17 C. The person's negligent operation caused the death of
18 another person.

19 4. Civil proceeding. On receipt of a certified copy of the
20 civil tort judgment that the person did not negligently cause the
21 death of the other person, the Secretary of State shall terminate
22 the suspension.

23 **§2457. Conditional license holder; OUI**

24 1. Suspension. The Secretary of State shall suspend for a
25 minimum period of one year, without preliminary hearing, the
26 conditional license issued pursuant to section 2506 of a person
27 who while holding a conditional license:

28 A. Receives an OUI conviction; or

29 B. The Secretary of State determines has operated a motor
30 vehicle while having a blood-alcohol level of 0.05% or more.

31 2. Duty to submit to test. A person who operates a motor
32 vehicle with a conditional license shall submit to a test if
33 there is probable cause to believe that person holds a
34 conditional license and operated a motor vehicle while having a
35 blood-alcohol level of 0.05% or more. The other provisions of
36 subchapter IV apply, except the suspension must be for a period
37 of not less than 2 years.

38 3. Period of suspension. The following provisions apply to
39 suspensions of conditional licenses.

2 A. When a license is also suspended for an OUI conviction
4 arising out of the same occurrence, the duration of the
6 suspension under this section prior to the conviction is
8 deducted from the period of a court-imposed suspension
10 unless suspension was for failure to submit to a test.

12 B. If the suspension is for failure to submit to a test,
14 the period of suspension for an OUI conviction must be
16 consecutive to the period of suspension imposed for refusal.

18 C. If a person is determined to have operated a motor
20 vehicle with a blood-alcohol level of 0.08% or more and both
22 this section and section 2453 apply, the longer period of
24 suspension applies.

26 4. Hearing; stay; issues. If a hearing is requested in
28 accordance with section 2483, the suspension under subsection 1,
30 paragraph B is stayed pending the outcome of the hearing. The
32 scope of the hearing must include whether:

34 A. The person operated a motor vehicle while having 0.05%
36 or more by weight of alcohol in the blood;

38 B. There was probable cause to believe that the person was
40 operating while having 0.05% or more by weight of alcohol in
42 the blood; and

44 C. The person held a conditional license.

46 5. Restoration of license. Following the expiration of the
48 aggregate periods of suspension imposed pursuant to this section
50 otherwise imposed by the Secretary of State and ordered by any
52 court, the Secretary of State may issue a conditional license to
54 the person, subject to the conditions, restrictions or terms the
56 Secretary of State deems advisable, if the Secretary of State has
58 received written notice that the person has satisfactorily
60 completed the alcohol educational program of the Department of
62 Human Services and, when required, has satisfactorily completed
64 an alcohol treatment or rehabilitation program approved or
66 licensed by the Department of Human Services.

68 §2458. Suspension or revocation of license, title, registration
70 or fuel use decal

72 1. Suspension or revocation after hearing. The Secretary
74 of State, after hearing, may suspend or revoke a certificate of
76 title, certificate of registration, license, fuel use decal or
78 operating authority license for any cause considered by the
80 Secretary of State to be sufficient.

2 2. Suspension or revocation without hearing. The Secretary
of State, without preliminary hearing, may suspend or revoke a
4 certificate of title, certificate of registration, license, fuel
use decal or operating authority license of a person on showing
by the Secretary of State's records or other sufficient evidence
6 that the person:

8 A. Has committed an offense for which mandatory suspension
or revocation of license or registration is required;

10 B. Has been convicted or adjudicated for offenses against
12 traffic regulations governing the movement of vehicles with
such frequency as to indicate a disrespect for traffic laws
14 and disregard for the safety of other persons on public ways;

16 C. Is a reckless or negligent driver of a motor vehicle, as
established by the demerit point system authorized by
18 subsection 3, a record of accidents or other evidence;

20 D. Is incompetent to drive a motor vehicle;

22 E. Has permitted an unlawful or fraudulent use of a license;

24 F. Has committed an offense in another state or province
that, if committed in this State, would be grounds for
26 suspension or revocation;

28 G. Has been convicted of failing to stop for a police
officer;

30 H. Has been convicted of reckless driving or driving to
32 endanger under section 2413;

34 I. Has failed to appear in court on the day specified,
either in person or by counsel, after being ordered to do so
36 to answer any violation of chapter 5, subchapter II;

38 J. Has failed to provide sufficient proof of ownership or
other documentation in support of the person's title claim;

40 K. Is subject to action of the Secretary of State pursuant
42 to section 154 or section 668;

44 L. Has failed to provide proof of payment of the use tax
imposed by the United States Internal Revenue Code of 1954,
46 Section 4481, within time periods established by federal
statute and regulations;

2 M. Has violated a provision of the Commercial Motor Vehicle
Safety Act of 1986, Public Law 99-570, Title XII, or rules
4 and regulations promulgated and adopted under that Act; or

6 N. Has failed to surrender a commercial driver's license
that has been suspended or revoked.

8 The Secretary of State is also authorized to suspend any
10 certificate of registration, certificate of title or any license
12 issued to any person without preliminary hearing upon showing by
14 the Secretary of State's records or other sufficient evidence
that the owner of a vehicle or holder of a title certificate has
failed to deliver or assign the certificate of title upon the
request of the Secretary of State.

16 The Secretary of State may suspend all the certificates of
18 registration and all the fuel use identification decals issued by
20 the State to any motor carrier without preliminary hearing upon
22 showing by records or other sufficient evidence that the person
responsible for complying with the payment of reporting
provisions of Title 36, chapter 457, 459 or 463-A has failed to
comply with the provisions in these chapters.

24 3. Demerit point system. For the purpose of identifying
26 reckless or negligent operators and habitual or frequent
28 violators of traffic regulations, the Secretary of State shall
30 adopt rules establishing a uniform system of assigning demerit
points for convictions or adjudications of violations of statutes
or rules governing the operation of motor vehicles, including
violations of Title 17-A, section 360, subsection 1, paragraphs A
and B.

32 The rules must include a designated level of point accumulation
34 that identifies those drivers.

36 The Secretary of State may assess points for convictions or
38 adjudications in other states or provinces of offenses that, if
committed in this State, would be grounds for assessment.

40 Notice of assessment of points must be given when the point
42 accumulation reaches 50% of the number at which suspension is
authorized.

44 Points may not be assessed for violating a provision of this
46 Title or a municipal ordinance regulating standing, parking,
equipment, size or weight.

48 4. Notice of hearing. Upon suspending or revoking a
50 certificate of title, certificate of registration, license or
fuel use decal pursuant to subsection 2, the Secretary of State

shall notify that person of opportunity for hearing as provided in section 2483, except where the suspension or revocation rests solely upon a conviction in court of an offense that by statute is expressly made grounds for that suspension or revocation.

5. Penalty. A person commits a Class E crime if that person, after notice of suspension or revocation, fails to obey an order of the Secretary of State under this section or fails to surrender to the Secretary of State on demand a license, certificate of title, certificate of registration or fuel use decal that has been suspended or revoked by proper authority.

§2459. Suspension for failure to meet family financial responsibility

1. Compliance with support orders. In addition to other qualifications and conditions established by this Title, the right of an individual to hold a motor vehicle operator's license or permit issued by the State is subject to the requirements of Title 19, section 306.

2. Certification of noncompliance. Upon receipt of a written certification from the Commissioner of Human Services, as provided for in Title 19, section 306, subsection 7, that a support obligor who owns or operates a motor vehicle is not in compliance with a court order of support, the Secretary of State shall suspend the license and right to operate and obtain the license of the individual so certified. The Secretary of State may not reinstate an operator's license suspended for noncompliance with a court order of support until the Commissioner of Human Services issues a release that states the obligor is in compliance with a court order of support or the court orders reinstatement.

3. Notice of suspension. Upon suspending an individual's license, permit or privilege to operate under subsection 2, the Secretary of State shall notify the individual of the suspension. A notice of suspension must specify the reason and statutory grounds for the suspension and the effective date of the suspension and may include any other notices prescribed by the Secretary of State. The notice must inform the individual that in order to apply for reinstatement, the individual must obtain a release from the Department of Human Services. The notice must inform the individual that the individual may file a petition for judicial review of the notice of suspension in Superior Court within 30 days of receipt of the notice. Notwithstanding any other provision of law, Title 5, section 9052, subsection 1 does not apply to a notice of suspension issued under this section.

2 4. Temporary license. Upon being presented with a
conditional release issued by the Commissioner of Human Services
4 and at the request of an individual whose operator's license,
permit or privilege to operate has been suspended under this
6 section, the Secretary of State may issue the individual a
temporary license valid for a period not to exceed 120 days.

8 5. Rules. The Secretary of State shall adopt rules to
implement and enforce the requirements of this section.

10 6. Costs. The Department of Human Services shall indemnify
12 the Secretary of State for legal expenses incurred in defending
the Secretary of State's actions to comply with the requirements
14 of this section.

16 7. Agreement. The Secretary of State and the Department of
Human Services may enter into an agreement to carry out the
18 requirements of this section.

20 **§2460. Reciprocity**

22 1. Resident driver's license. The Secretary of State may
suspend a resident driver's license or certificate of
24 registration and plates if the resident has failed to:

26 A. Respond to a traffic citation issued by another state or
province;

28 B. Appear in court in another state or province at the time
30 specified by the court; or

32 C. Comply with a court order issued by another state or
34 province.

36 2. Suspension by another jurisdiction. If the Secretary of
State is notified by another jurisdiction that a resident has had
a license or registration suspended, revoked or annulled, the
38 Secretary of State may suspend license or registration granted to
that person in this State.

40 3. Nonresident violator compacts. The Secretary of State
may enter into and carry out the provisions of a nonresident
42 violator compact with another state or province.

44 **§2461. Suspension for nonresident owner or operator**

46 1. Suspension by Secretary of State. The Secretary of
State may suspend the right of a nonresident owner or operator to
48 operate a vehicle in this State for the same cause and under the
same condition and in the same manner as that action could be
50

taken against a resident owner or operator of a vehicle registered in this State.

2. Effect of suspension. Upon suspension, the right of the nonresident owner or operator to operate a vehicle in this State terminates. The nonresident is subject to the same penalties as a resident who operates without a license or registration.

3. Notice of suspension. Notice of the suspension of a nonresident's right to operate must be sent to the motor vehicle department of the jurisdiction that issued the license or registration.

§2462. Administrative extension of suspension

The Secretary of State may impose an additional period of suspension under section 2451, subsection 3, or may extend a period of suspension until satisfaction of any conditions imposed pursuant to article 4.

Article 2

Provisional license

§2471. Adult provisional license

1. Adult provisional license. An original license issued to a new applicant 21 years of age or older is a provisional license for a period of one year following the date of issue. That license remains in force as a nonprovisional license to the next normal expiration date.

2. Suspension terms. If a person is convicted or adjudicated of a moving motor vehicle violation that occurred during the period of the provisional license, the Secretary of State shall suspend the license:

A. For 30 days on the 1st offense;

B. For 60 days on the 2nd offense; and

C. To the 2nd birthday following the date of issue or for 90 days, whichever is longer, on the 3rd offense.

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

§2472. Juvenile provisional license

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

20 2. Suspension terms for moving violations. If a person who
22 has not yet attained the age of 21 years is convicted or
24 adjudicated of a moving motor vehicle violation that occurred
26 within the first year from the date of issue of the juvenile
28 provisional license, the Secretary of State shall suspend the
30 license:

32 A. For 30 days on the 1st offense;

34 B. For 60 days on the 2nd offense; and

36 C. To the 2nd birthday following the date of issue or for
38 90 days, whichever is longer, on the 3rd offense.

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

44 3. Suspension for OUI conviction or certain blood-alcohol
46 level. The Secretary of State shall suspend for a period of at
48 least one year, without preliminary hearing, a juvenile
50 provisional license of a person who:

52 A. Receives an OUI conviction; or

54 B. Operates a motor vehicle with a blood-alcohol level of
56 0.02% or more.

58 4. Duty to submit to test. A person under 21 years of age
60 who operates a motor vehicle shall submit to a chemical test if
62 there is probable cause to believe that person has operated a
64 motor vehicle with a blood-alcohol level of 0.02% or more. The
66 provisions of subchapter IV apply, except the suspension must be
68 for a period of one year.

70 5. Hearing; stay; issues. If a hearing is requested in
72 accordance with section 2483, the suspension under subsection 3,
74 paragraph B is stayed pending the outcome of the hearing. The
76 scope of a hearing must include whether:

2 A. There was probable cause to believe that the person was
3 under 21 years of age and operated a motor vehicle while
4 having 0.02% or more by weight of alcohol in the blood;

5 B. The person operated a motor vehicle while having 0.02%
6 or more by weight of alcohol in the blood; and

7 C. The person was under 21 years of age.

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

12 A. One half of the suspension period has expired; and

13 B. The Secretary of State has received notice that the
14 person has completed the alcohol and drug program of the
15 Office of Substance Abuse as provided in Title 5, section
16 20071, subsection 4-B.

17 Article 3

18 Administrative Procedures

19 §2481. Administrative procedures for suspension

20 1. Report of officer. A law enforcement officer who has
21 probable cause to believe a person has violated the terms of a
22 conditional driver's license, commercial driver's license or
23 provisional license or committed an OUI offense shall send to the
24 Secretary of State a report of all relevant information,
25 including, but not limited to, the following:

26 A. Information adequately identifying the person charged;

27 B. The ground that the officer had for probable cause to
28 believe that the person violated the terms of a conditional
29 driver's license, commercial driver's license or provisional
30 license or committed an OUI offense;

31 C. A certificate of the results of blood-alcohol tests
32 conducted on a self-contained breath-alcohol testing
33 apparatus; and

34 D. If a person fails to submit to a test, the law
35 enforcement officer's report may be limited to a written
36 statement under oath stating that the officer had probable
37 cause to believe that the person violated the terms of a
38 conditional driver's license, commercial driver's license or
39 provisional license or committed an OUI offense.

provisional license, or committed a OUI offense and failed to submit to a test.

The report must be under oath and on a form approved by the Secretary of State.

If the blood-alcohol test was not analyzed by a law enforcement officer, the person who analyzed the results shall send a copy of that certificate to the Secretary of State.

2. Time. The report must be submitted to the Secretary of State within 72 hours of the offense, excluding Saturdays, Sundays and holidays. If the report is not sent within this time period, the Secretary of State shall impose the suspension, unless the delay has prejudiced the person's ability to prepare or participate in the hearing.

3. Determination. The Secretary of State shall make a determination on the basis of the information required in the report.

This determination is 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.

§2482. Notice of suspension or revocation of license

1. Notification by Secretary of State. Upon determining that a person is subject to license suspension or revocation, the Secretary of State shall immediately notify the person, in writing, that the license has been suspended or revoked. The notice:

A. Must be sent to the last name and address provided under section 1407 or, if the person has not applied for a license, on record with the Secretary of State;

B. Must be sent to the address provided in the report of the law enforcement officer if that address differs from the address of record; or

C. May be served in hand.

2. Notice contents. The notice must clearly state:

A. The reason and statutory grounds for the suspension or revocation;

- 2 B. The effective date of the suspension or revocation;
4 C. The right of the person to request a hearing;
6 D. The procedure for requesting a hearing;
8 E. The date by which that request for a hearing must be
10 made; and
12 F. That a copy of the report of the law enforcement officer
14 and any blood-alcohol test certificate will be provided to
16 the person upon request to the Secretary of State.

18 3. Receipt date. The notice is deemed received 3 days
20 after mailing, unless returned by postal authorities.

22 4. Effective date. A suspension or revocation is effective
24 on the date specified by the Secretary of State on the notice,
26 which may not be less than 10 days after the mailing of the
28 notification of suspension by the Secretary of State.

§2483. Hearing request

30 1. Request for hearing. A person may make a written
32 request for a hearing to review the determination of the
34 Secretary of State. The request must be made within 10 days from
36 the effective date of the suspension.

38 2. Issuance of decision. The Secretary of State shall
40 conduct a hearing and issue a decision within 30 days of receipt
42 of a written request for hearing.

44 3. Delayed requests. If a request is made after the 10-day
46 period and the Secretary of State finds that the person was
48 unable to make a timely request due to lack of actual notice of
50 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 a stay may not
 be granted.

4. Stay. Any stay must continue until a decision is
 issued. Notwithstanding any other provision to the contrary, a
 stay does not apply during a delay caused or requested by the
 petitioner, except that, if the petitioner is unable to attend
 the hearing due to circumstances beyond the petitioner's control,
 the Secretary of State may continue, one time only, the stay of
 suspension. The petitioner must submit to the Secretary of State
 a written request for delay, or an electronically transmitted
 facsimile of a written request for delay, stating the

2 circumstances, at least 24 hours before the scheduled hearing. A
3 request for a hearing does not stay a suspension unless
4 specifically provided for in this chapter.

5 5. Suspensions during appeal. If a person appeals an OUI
6 conviction or administrative determination, the suspension
7 remains in effect during the appeal, unless the court orders
8 otherwise or the Secretary of State restores the license.

10 **§2484. Hearing procedures**

12 In addition to the general hearing procedures set forth in
13 chapter 1, hearings held under this chapter are governed by the
14 following provisions.

16 1. Evidence. Evidence admissible in a court under section
17 2431 is admissible in a hearing.

18 2. Official notice. The Secretary of State may take
19 official notice of the transcript or abstract of the records
20 maintained by the Secretary of State's office or of any court.

22 If the name and date of birth of the person requesting the
23 hearing is the same as the name and date of birth of the person
24 named in the transcript or abstracts, then the abstracts are
25 presumed to be those of that person.

26 A transcript or abstract is prima facie evidence that the person
27 named was convicted or adjudicated of each offense shown by the
28 transcript or abstract.

29 A person denying a fact appearing on a transcript or abstract, or
30 the identification has the burden of proving that the fact is
31 untrue.

32 3. Evidentiary standard. Unless otherwise provided, the
33 Secretary of State shall make a determination by a preponderance
34 of the evidence.

36 **§2485. Decision**

37 1. Decision. After hearing, the Secretary of State may
38 rescind, continue, modify or extend the suspension of a driver's
39 license.

40 2. Surrender and return of license. When a suspension is
41 effective, the Secretary of State shall require that the license
42 be surrendered.

2 3. Removal of suspension. If it is determined after
4 hearing that there was not the requisite probable cause for the
6 required elements of the offense, the Secretary of State shall
 immediately remove the suspension and delete any record of the
 suspension and the offense from the record.

8 4. Collateral effect. The determination of facts by the
10 Secretary of State is independent of the determination of the
12 same or similar facts in an adjudication of civil or criminal
 charges arising out of the same occurrence. The disposition of
 those charges may not affect a suspension ordered by the
 Secretary of State.

14 5. Judicial review. The person whose license is suspended
16 or other party may, within 30 days after receipt of the decision,
18 appeal to the Superior Court as provided in Title 5, sections
20 11001 to 11008. If the court rescinds the suspension, it shall
 also order the Secretary of State to delete any record of the
 suspension.

22 **§2486. Reinstatement fee**

24 1. Reinstatement fee. Before a suspension is terminated
26 and a license or certificate reinstated, a fee of \$25, in
 addition to the regular license fee, must be paid to the
 Secretary of State.

28 2. Allocation of fee. A reinstatement fee paid for a
30 court-ordered suspension under section 2605 must be deposited
 equally between the Highway Fund and the General Fund.

32 3. Application. This section does not apply to a
34 suspension set aside by the Secretary of State or a court.

36 **§2487. Proof of financial responsibility**

38 A person with an OUI conviction within the 6-year period as
40 defined by section 2402, may not have a license reinstated until
 that person has complied with the financial responsibility
 provisions of section 1605.

42 **Article 4**

44 **Special Licenses**

46 **§2501. Restricted license**

48 1. Eligibility. Unless otherwise provided, the Secretary
50 of State may issue a restricted license to a first-time OUI
 offender if:

2 A. Two thirds of the suspension period has expired; and

4 B. The Secretary of State has received notice that that
6 person has completed the alcohol and drug program.

8 2. Restrictions. A restricted license issued pursuant to
10 subsection 1 is subject to the following conditions and
12 restrictions:

14 A. Use is limited to travelling to a treatment program or
16 to employment for a minimum of 90 days after the original
18 suspension date; and

20 B. Any other conditions or restrictions the Secretary of
22 State considers advisable for the safety of the public and
24 the welfare of the operator.

26 3. Failure to submit to test. The Secretary of State may
28 issue a restricted license to a person whose license was
30 suspended for a first failure to submit to a test, if the
32 condition of subsection 1, paragraph B is met and at least 90
34 days have elapsed since the date of suspension. This subsection
36 does not apply to a commercial driver's license, provisional
38 license or conditional license.

40 **§2502. Special licenses for driver education evaluation program;**
42 **suspension**

44 1. Issuance of special license. Following the expiration
46 of the total period of suspension imposed on a first-time
48 offender pursuant to Title 15, section 3314 or sections 2411,
50 2453, 2472 and 2521, the Secretary of State shall issue a special
 license or permit to the person if the Secretary of State
 receives written notice that the person has completed the
 assessment components of the alcohol and other drug program as
 set out in Title 5, section 20073-A. First offenders with an
 aggravated offense as defined in Title 5, section 20071,
 subsection 4-B are entitled to received a special license after
 completion of the evaluation provided by the Office of Substance
 Abuse. A special license or permit may not be issued under this
 section to 2nd and subsequent offenders.

2. Suspension of special license. If the person refuses or
 fails to complete the alcohol and other drug program set out in
 Title 5, section 20073-A, within 6 months after receiving a
 special license, the Secretary of State, following notice of that
 refusal or failure shall suspend the special license until the
 person completes the program. The suspension must continue until
 the Secretary of State receives written notification from the

Office of Substance Abuse that the person has satisfactorily completed all required components of that program. The Secretary of State shall provide notice of suspension and opportunity for hearing pursuant to Title 5, chapter 375, subchapter IV. The sole issue at the hearing is whether the person has written notification from the Office of Substance Abuse establishing that the person has satisfactorily completed all components of that program as set out in Title 5, section 20073-A.

§2503. Work-restricted license

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, 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;

B. No alternative means of transportation is available; and

C. The petitioner has not, within 6 years, been under suspension for an OUI offense or pursuant to section 2453.

2. Suspension. The Secretary of State shall suspend, without preliminary hearing, the work-restricted license of a person who:

A. Is adjudicated or convicted of any violation of the provisions of this Title committed during the period when a work-restricted license has been issued;

B. Violates any restriction or condition of the license; or

C. Has not completed the alcohol and drug program by the end of the statutory suspension period.

§2504. Conditional or restricted license upon completion of alcohol and drug program

Following the expiration of the total period of suspension and on receipt of written notice that the person has satisfactorily completed the alcohol and drug program required by Title 5, section 20073-A, the Secretary of State may issue a license subject to the conditions, restrictions or terms that the Secretary of State considers advisable for the safety of the public and the welfare of the operator.

§2505. Special restricted license for participation in education and treatment programs

Notwithstanding other limitations, the Secretary of State may issue a restricted license to a person for the purpose of allowing that person to participate in an alcohol and drug program or other treatment program determined appropriate by the Office of Substance Abuse.

§2506. Conditional license

A license issued by the Secretary of State to a person with an OUI conviction must be issued on the condition that the person not operate a motor vehicle after having consumed intoxicating liquor for the following periods from license reinstatement date: on first conviction, one year; and on a 2nd or subsequent conviction, 6 years. The provisions of section 2457 apply.

SUBCHAPTER IV

IMPLIED CONSENT

§2521. Implied consent to chemical tests

1. Mandatory submission to test. If there is probable cause to believe a person has operated a motor vehicle while under the influence of intoxicants, that person shall submit to and complete a test to determine blood-alcohol level and drug concentration by analysis of blood, breath or urine.

2. Type of test. A law enforcement officer shall administer a breath test unless, in that officer's determination, a breath test is unreasonable.

The law enforcement officer may determine which type of breath test is to be administered.

Another chemical test must be administered in place of a breath test.

For a blood test the operator may choose a physician, if reasonably available.

2 3. Prerequisites to tests. Before a test is given, the law
4 enforcement officer shall inform the person that failure to
 submit to and complete a test will:

6 A. Result in suspension of that person's driver's license
 for a period up to 3 years; and

8 B. Be admissible in evidence at a trial for operating under
10 the influence of intoxicants.

12 4. Exclusion as evidence. A test result may not be
14 excluded as evidence in a proceeding before an administrative
 officer or court solely as a result of the failure of the law
16 enforcement officer to comply with the notice of subsection 3.

18 5. Suspension for refusal. The Secretary of State shall
 immediately suspend the license of a person who fails to submit
20 to and complete a test.

22 6. Period of suspension. Except where a longer period of
 suspension is otherwise provided by law, the suspension is for a
24 period of 180 days for the first refusal and one year for each
 subsequent refusal.

26 7. Decision. A suspension must be removed if, after
28 hearing pursuant to section 2483, it is determined that the
 person would not have failed to submit but for the failure of the
30 law enforcement officer to give either of the warnings required
 by subsection 3.

32 8. Issues. If a hearing is requested in accordance with
34 section 2483, in addition to specific issues required by a
 specific offense, the scope of the hearing must include whether:

36 A. There was probable cause to believe the person operated
38 a motor vehicle while under the influence of intoxicants;

40 B. The person was informed of the consequences of failing
 to submit to a test; and

42 C. The person failed to submit to a test.

44 9. Results of test. On request, full information
46 concerning a test must be made available to the person tested or
 that person's attorney by the law enforcement officer.

48 §2522. Accidents

1. Mandatory submission to test. If there is probable cause to believe that death has occurred or will occur as a result of an accident, an operator of a motor vehicle involved in the motor vehicle accident shall submit to a test to determine blood-alcohol level or drug concentration in the same manner as for OUI.

2. Administration of test. The investigating law enforcement officer shall cause a test to be administered as soon as practicable following the accident as provided in section 2521.

3. Admissibility of test results. The result of a test is admissible at trial if the court, after reviewing all the evidence, whether gathered prior to, during or after the test, is satisfied that probable cause exists, independent of the test result, to believe that the operator was under the influence of intoxicants at the time of the accident.

4. Suspension. The Secretary of State shall suspend for a period of one year the license of a person who fails to submit to a test under this section.

5. Scope of hearing. The scope of any hearing the Secretary of State holds pursuant to section 2483 must include whether there was probable cause to believe that the person was the operator of a motor vehicle involved in a motor vehicle accident in which a death occurred or will occur and whether the person failed to submit to and complete the test. If a person shows, after hearing, that the person was not under the influence of intoxicants or that the person did not negligently cause the accident, then the suspension must be immediately removed.

§2523. Implied consent; commercial operators

1. Mandatory submission to test. A person who operates a commercial motor vehicle shall submit to a test to determine the blood-alcohol level or drug concentration if there is probable cause to believe that the person has operated a commercial motor vehicle while having a blood-alcohol level of 0.04% or more or while under the influence of drugs.

2. Period of suspension. The suspension for failure to submit to a test under subsection 1 is for one year.

A. If the person was operating a commercial motor vehicle containing hazardous materials, then the suspension is for a period of 3 years.

B. For 2nd or subsequent failure to submit to a test, the suspension is permanent.

2 3. Hearing; issues. If a hearing is requested pursuant to
3 section 2483, the scope of the hearing must include whether:

4 A. There is probable cause to believe the person operated a
5 commercial motor vehicle while under the influence of drugs
6 or with a blood-alcohol level of .04% or more by weight of
7 alcohol;

8 B. The person was informed of the consequences of failing
9 to submit to a test; and

10 C. The person failed to submit to a test.

11 4. Concurrent suspensions. If a person's commercial
12 driver's license is suspended under this section and is also
13 suspended for an OUI conviction arising out of the same
14 occurrence, the period of suspension under this section prior to
15 the conviction must be deducted from the period of suspension of
16 the commercial driver's license for the OUI conviction.

17 **§2524. Administration of tests**

18 1. Persons qualified to draw blood for blood tests. Only a
19 physician, registered physician's assistant, registered nurse or
20 a person certified by the Department of Human Services may draw a
21 specimen of blood for the purpose of determining the
22 blood-alcohol level or drug concentration.

23 2. Persons qualified to analyze blood for blood tests. A
24 person conducting an analysis of blood-alcohol level or drug
25 concentration must be certified by the Department of Human
26 Services.

27 3. Persons qualified to operate and analyze breath tests.
28 A person certified by the Maine Criminal Justice Academy as
29 qualified to operate an approved self-contained, breath-alcohol
30 testing apparatus may operate an apparatus to collect and analyze
31 a sample specimen of breath.

32 4. Chemical tests on breath and urine specimens. A sample
33 specimen of breath or urine may be submitted to the Department of
34 Human Services or a person certified by the Department of Human
35 Services for the purpose of conducting chemical tests to
36 determine blood-alcohol level or drug concentration.

37 5. Equipment for taking specimens. Only equipment having a
38 stamp of approval affixed by the Department of Human Services may
39 be used to take a sample specimen of breath or urine, except that

2 a self-contained, breath-alcohol testing apparatus if reasonably
3 available may be used to determine the blood-alcohol level.

4 Approved testing apparatus must have a stamp of approval affixed
5 by the Department of Human Services after periodic testing. That
6 stamp is valid for no more than one year.

8 6. Procedures for operation and testing of testing
9 apparatus. The Department of Human Services shall establish, by
10 rule, the procedures for the operation and testing of testing
11 apparatus.

12 §2525. Drug impairment assessment

14 1. Submission to test required. If a drug recognition
15 technician has probable cause to believe that a person is under
16 the influence of a specific category of drug, a combination of
17 specific categories of drugs or a combination of alcohol and one
18 or more specific categories of drugs, that person must submit to
19 a blood or urine test selected by the drug recognition technician
20 to confirm that person's category of drug use and determine drug
21 concentration.

24 2. Admissibility of evidence. If a law enforcement officer
25 certified as a drug recognition technician by the Maine Criminal
26 Justice Academy conducts a drug impairment assessment, the
27 officer's testimony about that assessment is admissible in court
28 as evidence of operating under the influence of intoxicants.
29 Failure to comply with any provision of this section does not, by
30 itself, result in the exclusion of evidence of test results,
31 unless the evidence is determined to be not sufficiently reliable.

34 3. Payment for tests. A person authorized to take
35 specimens of blood at the direction of a law enforcement officer
36 or to perform tests on specimens of blood or breath must be paid
37 from the Highway Fund.

38 4. Repeal. This section is repealed June 1, 1995.

40 §2526. Drug recognition technicians

42 1. Training program. The board of trustees of the Maine
43 Criminal Justice Academy shall establish:

44 A. A program that meets the National Highway Traffic Safety
45 Administration guidelines for training and certification of
46 drug recognition technicians; and

48 B. Eligibility standards for admission of law enforcement
49 officers to the program that are consistent with National
50 Highway Traffic Safety Administration guidelines.

2 Highway Traffic Safety Administration guidelines and that
3 ensure that trainees are:

4 (1) Law enforcement officers who have demonstrated
5 proficiency and experience in standardized field
6 sobriety testing and the ability to complete the
7 training and function as drug recognition technicians;
8 and

10 (2) Employed by law enforcement agencies that have the
11 facilities, equipment and other resources necessary for
12 the effective functioning of drug recognition
13 technicians.

14 2. Selection of trainees. The Commissioner of Public
15 Safety shall select for training as drug recognition technicians
16 members of the State Police and other law enforcement officers
17 who meet the eligibility requirements.

20 3. Qualifications. Only those law enforcement officers who
21 successfully complete the training and certification program
22 established under this section may conduct drug impairment
23 assessments and offer testimony as drug recognition technicians
24 under section 2525.

26 §2527. Rules regulating sample collection and testing procedures

28 The Department of Human Services shall adopt rules
29 regulating sample collection and testing procedures to ensure
30 accurate and reliable testing and to protect the privacy of the
31 person providing the sample. The rules may include, but are not
32 limited to:

34 1. Standards. Standards for determining when a sample is
35 to be reported as negative, based upon standards specific to the
36 type and sensitivity of the test and the drug or category of drug
37 screened;

38 2. Urine samples. A requirement that only a law
39 enforcement officer or law enforcement agency employee of the
40 same sex as the person providing the sample, or a health care
41 practitioner, may observe the giving of a urine sample, and that
42 it may be collected only within a law enforcement or health care
43 facility; and

46 3. Sample for defendant. A requirement that, at the
47 request and expense of the person charged, the department shall
48 segregate a portion of the sample collected for that person's own
49 testing.

2 The department may establish rules governing the format in
3 which the test results are reported. At the time of adoption,
4 the department shall furnish a copy of these rules to the joint
5 standing committee of the Legislature having jurisdiction over
6 legal affairs for review.

7 **§2528. Liability**

8 A physician, physician's assistant, registered nurse, person
9 certified by the Department of Human Services, hospital or other
10 health care provider in the exercise of due care is not liable
11 for an act done or omitted in collecting or withdrawing specimens
12 of blood at the request of a law enforcement officer pursuant to
13 this chapter.

14 **SUBCHAPTER V**

15 **HABITUAL OFFENDER**

16 **§2551. Habitual offender**

17 1. Habitual offender defined. An habitual offender is a
18 person whose record, as maintained by the Secretary of State,
19 shows that the person has accumulated 3 or more convictions or
20 adjudications for distinct offenses described below, arising out
21 of separate acts committed within a 5-year period:

22 A. Homicide resulting from the operation of a motor vehicle;

23 B. OUI conviction;

24 C. Driving to endanger, in violation of section 2413;

25 D. Operating after suspension, in violation of section 2412;

26 E. Operating without a license;

27 F. Operating after revocation, in violation of section 2557;

28 G. Knowingly making a false affidavit or swearing or
29 affirming falsely in a statement required by this Title or
30 as to information required in the administration of this
31 Title;

32 H. A Class A, B, C or D offense in which a motor vehicle is
33 used;

34 I. Failing to report an accident involving injury or death,
35 in violation of section 2252;

2 J. Failure to report an accident involving property damage,
in violation of section 2254 or 2255;

4 K. Eluding an officer, in violation of section 2414; or

6 L. Passing a roadblock, in violation of section 2414,
subsection 4.

8 2. Inclusions. The offenses included in subsection 1
10 include offenses under former Title 29, a federal law, law of
12 another state or a municipal ordinance substantially conforming
to the statutory violations.

14 3. Exceptions. A person is not an habitual offender when
16 all convictions or adjudications are based on the offense of
operating a motor vehicle after suspension when the license had
18 been originally suspended for a failure to give or maintain proof
of financial responsibility.

20 4. Offenses not included. The following convictions may
22 not be included under subsection 1:

24 A. A conviction of operating a motor vehicle without a
license if the license had expired, and was not suspended or
26 revoked; or

28 B. A conviction of operating after suspension when the
suspension is based upon a failure to appear in court or
30 failure to pay a fine.

32 5. Multiple offenses on same date. When more than one
included offense is committed on the same date, these offenses
34 are treated as one offense.

36 **§2552. Immediate revocation; duration of revocation**

38 Notwithstanding Title 4, section 1157, and Title 5, sections
10003 and 10051, the Secretary of State shall immediately revoke,
40 without preliminary hearing, the license to operate a motor
vehicle of an habitual offender.

42 The revocation under this section is indefinite. A license
44 may not be issued to an habitual offender until after the minimum
periods specified in section 2554.

46 **§2553. Hearing procedure**

48 1. Hearing on request. Any person whose license, permit or
privilege to operate has been revoked pursuant to section 2552

may, within 30 days of notice of revocation, request a hearing to show cause why the license should not be revoked.

2. Issues. The only issues that are properly raised at a hearing are:

A. Whether the person whose license has been revoked is the same person named in the transcript or abstract; and

B. Whether the person's record brings that person within the definition of an habitual offender.

3. Other procedures. Except as specifically provided in this section, the hearing procedures set forth in article 3 apply to hearings under this section.

§2554. Relief from habitual offender status

1. Petition for relief. After one year from the date of revocation, a person may petition for relief from habitual offender status. The petition must be presented to the Secretary of State.

2. Grant of relief by Secretary of State. If public safety will not be endangered and the person has complied with the financial responsibility requirements chapter 13, subchapter II, the Secretary of State may relieve the person from status as an habitual offender and restore the person's license on appropriate terms and conditions.

3. Operating after habitual offender revocation. The Secretary of State may not restore a license if a charge under section 2557 is pending. If the Secretary of State subsequently determines that a license has been restored when a charge under section 2557 was pending, the Secretary of State shall, without hearing, immediately reinstate the revocation and provide notice of the reinstatement. A license may not be issued to a person who has been convicted of a violation of section 2557 for a period of at least one year following the conviction or longer as provided under section 2557.

§2555. Revocation following restoration

The Secretary of State shall revoke the license of a person whose license has been restored pursuant to section 2554 when:

1. New convictions. Within a 5-year period of the restoration, the person commits a new offense under section 2551.

2 2. Continued liability. The person commits a new offense
3 under section 2551 and, within 5 years preceding the date of that
4 new offense, the person's record shows accumulated convictions or
5 adjudications, including the new offense which results in that
6 person being defined as an habitual offender under section 2551.

7 **§2556. Work-restricted license for habitual offender**

8 1. Definition. For purposes of this section, a
9 "work-restricted license" is a license to operate a motor vehicle
10 between a residence and a place of employment, in the scope of
11 employment, or both, as determined by the Secretary of State.

12 2. Petition. An habitual offender whose license has been
13 revoked pursuant to section 2552 may petition the Secretary of
14 State for a work-restricted license.

15 3. Stay. On receipt of the petition, the Secretary of
16 State may stay the revocation and issue a work-restricted
17 license. In deciding whether to issue a work-restricted license,
18 the Secretary of State may consider the petitioner's need.

19 4. Ineligibility. A person is not eligible for a
20 work-restricted license if habitual offender status is based on a
21 conviction or adjudication under section 2551, subsection 1,
22 paragraph A or section 2557 or the revocation is issued pursuant
23 to section 2555.

24 5. Eligibility. If a conviction is based on section 2551,
25 subsection 1, paragraph B, the person must have completed the
26 period of suspension required for the OUI conviction and the
27 Secretary of State must have received written notice that the
28 person has satisfactorily completed the alcohol and drug program.

29 6. Revocation of work-restricted license. The Secretary of
30 State shall revoke, without preliminary hearing, the license of a
31 person who is adjudicated or convicted of a violation of the
32 provisions of this Title committed during the period of a
33 work-restricted license or who violates a restriction or
34 condition of the license.

35 7. Stay vacated. On revocation of the work-restricted
36 license, the stay of revocation issued pursuant to this section
37 is immediately vacated.

38 8. Hearing. An habitual offender whose work-restricted
39 license has been revoked may request a hearing within 30 days of
40 the revocation.

41 A stay of revocation may not be issued pending a hearing.

2 If, after the hearing, the Secretary of State finds that the
4 person is not the same person named in the transcript or
6 abstract, the revocation must be stayed and a work-restricted
8 license must be reissued.

10 If the Secretary of State finds that the person is the same
12 person named in the transcript or abstract, the revocation must
14 be invoked.

16 9. New offense. An habitual offender who is adjudicated or
18 convicted of a violation of the provisions of this Title while
20 operating under a work-restricted license is not entitled to any
22 further relief during the remaining term of the revocation.

24 §2557. Operating after habitual offender revocation

26 1. Crime. A person commits a crime as defined in
28 subsection 2 if that person operates a motor vehicle on a public
30 way, as defined in Title 17-A, section 505, subsection 2, when
32 that person's license to operate a motor vehicle has been revoked
34 under this subchapter and that person:

36 A. Has received written notice of the revocation from the
38 Secretary of State;

40 B. Has been orally informed of the revocation by a law
42 enforcement officer;

44 C. Has actual knowledge of the revocation; or

46 D. Is a person to whom written notice was sent in
48 accordance with section 2458, subsection 4.

50 2. Offense; penalty. Violation of this section is:

A. A Class D crime if:

(1) The person has no conviction for operating after
revocation within the previous 5 years; and

(2) The person has no conviction for violating section
2411 within the previous 5 years; and

B. A Class C crime if:

(1) The person has one or more convictions for
operating after revocation within the previous 5 years;
or

2 (2) The person has one or more convictions for
3 violating section 2411 within the previous 5 years.

4 The Secretary of State may not grant relief from habitual
5 offender status under section 2554 until at least 3 years after
6 the original date scheduled for eligibility to apply for relief
7 of that status.

8 3. Presumption of identity. If the name and date of birth
9 of the person being prosecuted are the same as those of the
10 habitual offender whose privilege to operate has been suspended,
11 it is prima facie evidence that it is the same person.

12 4. Notice to Secretary of State. A law enforcement officer
13 who has arrested or charged a person with violating this section
14 shall notify the Secretary of State of that action.

15 SUBCHAPTER VI

16 GENERAL ENFORCEMENT PROVISIONS

17 §2601. Summons and Complaint

18 1. Form of Uniform Summons and Complaint. Every law
19 enforcement agency in this State shall use traffic summonses for
20 criminal traffic offenses defined in Title 23, section 1980 or
21 this Title in the form known as the Uniform Summons and
22 Complaint, which must be uniform throughout the State and must be
23 issued in books with summonses in no less than quadruplicate and
24 meeting the requirements of this chapter. The Uniform Summons
25 and Complaint must include, at a minimum, the signature of the
26 officer, a brief description of the alleged offense, the time and
27 place of the alleged offense and the time, place and date the
28 person is to appear in court. The Uniform Summons and Complaint
29 must also include a statement that signing the summons does not
30 constitute an admission or plea of guilty and that refusal to
31 sign after having been ordered to do so by a law enforcement
32 officer is a separate Class E crime. A person to whom a Uniform
33 Summons and Complaint is issued or delivered must give a written
34 promise to appear. The form of the Uniform Summons and Complaint
35 must be approved by the Chief Judge of the District Court prior
36 to its use.

37 2. Creation of forms. The Commissioner of Public Safety is
38 responsible for creating the forms of Uniform Summons and
39 Complaint, subject to the approval of the forms by the Chief
40 Judge of the District Court.

41 3. Form of Violation Summons and Complaint. Every law
42 enforcement agency in this State shall use traffic summonses for

2 traffic infractions in the form known as the Violation Summons
3 and Complaint, which must be uniform throughout the State and
4 must be issued in books with summonses in no less than
5 quadruplicate and meeting the requirements of this chapter. The
6 form must include, at a minimum, the signature of the officer, a
7 brief description of the alleged offense, the time and place of
8 the alleged offense and the date on or before which the person is
9 to file a written answer with the violations bureau. The
10 Violation Summons and Complaint must also include a statement
11 that signing the summons does not constitute an admission or plea
12 of guilty and that refusal to sign after having been ordered to
13 do so by a law enforcement officer is a separate Class E crime.
14 The form of the Violation Summons and Complaint must be approved
15 by the Chief Judge of the District Court prior to its use.

16 4. Responsibility for issuance and disposition. The
17 summons and complaint forms must be printed and distributed as
18 follows.

20 A. The District Court is responsible for printing all
21 copies of the Violation Summons and Complaint forms. The
22 Department of Public Safety is responsible for printing all
23 copies of the Uniform Summons and Complaint forms and
24 issuing both types to law enforcement agencies or others.

26 B. The chief executive officer of every law enforcement
27 agency or that chief executive officer's designee is
28 responsible for the further issuance of summons and
29 complaint forms to individual law enforcement officers and
30 for the proper disposition of those forms.

32 5. Illegal disposition. It is unlawful and official
33 misconduct for any law enforcement officer or other officer or
34 public employee to dispose of a Violation Summons and Complaint
35 or a Uniform Summons and Complaint or any portion of either or of
36 the record of the issuance of a Violation Summons and Complaint
37 or a Uniform Summons and Complaint in a manner other than as
38 required under rules adopted pursuant to this section. Any
39 person who solicits or aids in the disposition or attempted
40 disposition of a Violation Summons and Complaint or a Uniform
41 Summons and Complaint or any portion of either in any
42 unauthorized manner commits a Class E crime.

44 6. Uniform Summons and Complaint as summons. A Uniform
45 Summons and Complaint, when issued or delivered to a person by a
46 law enforcement officer or served on the person in the manner
47 prescribed by rule of the Supreme Judicial Court, acts as a
48 summons to appear in court on the date and time specified in the
49 summons or to otherwise respond in accordance with law on or
50 before the date and time specified in the summons. Any person

2 who fails to appear in court as directed by the summons or to
3 otherwise respond in accordance with law on or before the date
4 and time specified in the summons commits a Class E crime. Upon
5 the person's failure to appear or respond, the court may issue a
6 warrant of arrest. It is an affirmative defense to prosecution
7 under this subsection that the failure to appear or respond
8 resulted from just cause.

9 7. Violation Summons and Complaint as summons. The
10 Violation Summons and Complaint, when issued or delivered to a
11 person by a law enforcement officer or served on the person in
12 the manner prescribed by rule of the Supreme Judicial Court, acts
13 as an order to file written answer to the complaint on or before
14 the date specified in the summons.

15 8. When a lawful complaint. If the Uniform Summons and
16 Complaint is duly sworn to as required by law and otherwise
17 legally sufficient in respect to the form of a complaint and to
18 charging commission of the offense alleged in the summons to have
19 been committed, then the summons when filed with a court having
20 jurisdiction constitutes a lawful complaint for the purpose of
21 the commencement of any prosecution of a misdemeanor or Class D
22 or Class E crime under Title 23, section 1980 or this Title.
23 When filed with the violations bureau, the Violation Summons and
24 Complaint is considered a lawful complaint for the purpose of the
25 commencement of a traffic infraction proceeding.

26 9. Responsibility of law enforcement officer to file
27 summonses and complaints with District Court. A law enforcement
28 officer issuing a Violation Summons and Complaint charging the
29 commission of a traffic infraction shall file the original of the
30 Violation Summons and Complaint with the violations bureau within
31 5 days of the issuance of the Violation Summons and Complaint. A
32 law enforcement officer issuing a Uniform Summons and Complaint
33 that charges the commission of an offense shall file the original
34 of the Uniform Summons and Complaint with the District Court
35 having jurisdiction over the offense or in such other location as
36 instructed by the Chief Judge of the District Court without undue
37 delay and, in any event, within 5 days after the issuance of the
38 Uniform Summons and Complaint.

39 10. Refusal to sign. A person who refuses to sign a
40 Uniform Summons and Complaint or a Violation Summons and
41 Complaint after having been ordered to do so by a law enforcement
42 officer commits a Class E crime. A law enforcement officer may
43 not order a person to sign the Uniform Summons and Complaint for
44 a civil violation unless the civil violation is an offense
45 defined in Title 12; Title 28-A, section 2052; or this Title.

46 §2602. Jurisdiction

2 1. Traffic infractions. The District Court has original
4 and exclusive jurisdiction over prosecutions for traffic
 infractions.

6 2. Other violations. The District Court has original and
8 concurrent jurisdiction with the Superior Court over prosecutions
 for other violations of this Title.

10 3. Class C or greater. For Class C or greater crimes, the
12 District Court jurisdiction is subject to Title 4, section 152.

14 4. Fines. Fines and forfeitures collected under this Title
16 accrue to the General Fund, except that of fines and forfeitures
18 collected under sections 511, 2356, 2360, 2380, 2387 and 2388,
 only \$5 or 13%, whichever is greater, accrues to the General Fund
 and the balance accrues to the General Highway Fund.

20 **§2603. Speedy trial**

22 1 Immediate trial. A person arrested for violation of a
24 provision of this Title, except sections 2103, 2105, 2411 and
 2521, must be given an immediate trial if so demanded of the
 officer making the arrest.

26 2. Bail. If for any reason it is impracticable to give the
28 person arrested an immediate trial, the officer making the arrest
30 may accept the personal recognizance of that person for an
 appearance in court or may immediately take that person before a
 bail commissioner.

32 The bail commissioner, before admitting the person to bail, shall
34 require the person's name, place of residence, the number of the
 driver's license and the registration number of the motor vehicle
 operated at the time of arrest.

36 The bail commissioner shall make a record on the bail bond and
38 may take personal recognizance for an appearance in court on a
40 specified day, not less than 2 days later, if requested.

42 **§2604. Traffic infraction; general penalty**

44 A traffic infraction must be punished by a fine of not less
46 than \$25 nor more than \$250 when no other penalty is specifically
 provided.

§2605. Suspension on nonappearance or nonpayment of fine

2 1. Suspension by clerk. If a person fails to appear in
4 court on the date and time specified in response to a Uniform
6 Summons and Complaint, a summons, a condition of bail or order of
8 court for any criminal violation of Title 23, section 1980; a
10 civil violation under Title 28-A, section 2052; or any criminal
12 provision of this Title, or for any further appearance ordered by
 the court, including one for the payment of a fine, either in
 person or by counsel, or fails to pay a fine imposed for a
 criminal traffic offense, the clerk shall suspend the person's
 license or permit, the right to operate a motor vehicle in this
 State and the right to apply for or obtain a license or permit.

14 If a person who is not an individual fails to appear or pay a
16 fine in a criminal traffic offense, the clerk shall suspend the
 registration of the motor vehicle involved in the offense or that
 person's right to operate that vehicle in the State.

18 2. Notification by Secretary of State. On receipt of a
20 copy of an order of any such suspension in a criminal traffic
22 offense or in a civil violation under Title 28-A, section 2052,
 the Secretary of State shall immediately notify that person of
 the suspension by regular mail or personal service.

24 3. Effect of suspension. A court-ordered suspension has
26 the same force and effect as a suspension by the Secretary of
28 State. The suspension remains in effect until the person
 appears, either in person or by counsel, or pays the fine.

30 4. Recission of suspension. On appearances or payment of
32 the fine, whichever was the basis for the suspension, and on the
34 condition of payment of a \$25 reinstatement fee to the Secretary
36 of State, the clerk of the court in which the suspension was
 ordered shall rescind the suspension and notify the Secretary of
 State who, upon receipt of the \$25 reinstatement fee, shall
 delete any record of the suspension from that person's driving
 record.

38 **§2606. Enforcement of suspension**

40 1. Confiscation of license, certificate or plates. If a
42 law enforcement officer, in the course of stopping or detaining a
44 motor vehicle, obtains a suspended license or certificate of
46 registration, or a license issued by another state, foreign
48 country or province when that person's license or certificate of
 registration is under suspension, the officer shall confiscate
 that license, certificate or plates and transmit the confiscated
 items together with a report of the circumstances to the
 Secretary of State.

2 2. Investigation. On request of the Secretary of State,
notification of the suspension must be served, and the
4 certificate, license or plates must be confiscated. If the
license, certificate or plates can not be confiscated, an
6 investigation must be undertaken by the sheriff of the county in
which that person resides by a state or local law enforcement
officer or by an employee of the Secretary of State.

8
10 §2607. Conviction record to Secretary of State; public record

12 1. Transmission of abstract. For every conviction or
adjudication of a violation relative to motor vehicles or to the
14 operation of a vehicle, a court shall transmit to the Secretary
of State an abstract, duly certified, setting forth the name of
16 the court, the docket number of the case, the names of the
parties, the nature of the offense, the date of the offense, the
date of hearing, the plea, the judgment and the result.

18 2. Speeding. In a case involving a violation of sections
20 2073 to 2075, the abstract must contain the legal speed involved
and the speed of which the person was convicted.

22 3. Public records. Abstracts are open to public inspection
24 during reasonable hours.

26 4. Electronic reporting. When a court is equipped with a
computer terminal or other electronic data processing equipment
28 having the capacity to transmit to and retrieve from the official
motor vehicle records of the Secretary of State all information
30 included in the abstract, the court may use the computer terminal
or electronic data processing equipment in lieu of a written
32 document.

34 §2608. Suspension for failure to appear, answer or pay a fine in
a traffic infraction offense

36 If a person fails to answer in any traffic infraction
38 proceeding under Title 23, section 1980 or any traffic infraction
provision of this Title by the date specified in the Violation
40 Summons and Complaint, fails to appear for trial or pay a fine
assessed in any traffic infraction proceeding, the clerk shall
42 suspend the person's license or permit, right to operate a motor
vehicle in this State and the right to apply for or obtain a
44 license or permit.

46 If a person who is not an individual fails to appear, answer
or pay a fine in a traffic infraction proceeding, the clerk shall
48 suspend the registration of the motor vehicle involved in the
offense or that person's right to operate that vehicle in the
50 State.

2 The clerk shall immediately notify that person of the
4 suspension by regular mail or personal service. The suspension
6 has the same force and effect as a suspension by the Secretary of
8 State. The suspension remains in effect until the person answers
10 or appears, either in person or by counsel, or pays the fine. On
12 answer, appearance or payment of the fine, whichever was the
14 basis for the suspension, and on condition of payment of a \$25
16 reinstatement fee to the Secretary of State, the clerk of the
18 court in which the suspension was ordered shall rescind the
20 suspension and notify the Secretary of State who, upon receipt of
22 the \$25 reinstatement fee, shall delete any record of the
24 suspension from that person's driving record.

26 Written notice is sufficient if sent by regular mail to the
28 last known name and address provided by the person on the
30 Violation Summons and Complaint, written answer to a Violation
32 Summons and Complaint, a written pleading filed with the
34 violations bureau or, if the person has not so provided an
36 address, to the address shown on the Violation Summons and
38 Complaint, a copy of which has been served on the person. The
40 notice must also state that the license, permit or right to
42 operate will not be reinstated and the person may not operate a
44 motor vehicle before payment of the reinstatement fee as required
46 under section 2486.

PART B

28 **Sec. B-1. 10 MRSA c. 208-A is enacted to read:**

CHAPTER 208-A

FARM MACHINERY DEALERSHIPS

§1271. Definitions

36 As used in this chapter, unless the context otherwise
38 indicates, the following terms have the following meanings.

40 1. Current net price. "Current net price" means the price
42 listed in the supplier's price list or catalog in effect at the
44 time the dealer agreement is terminated, less any applicable
46 discounts allowed.

48 2. Dealer. "Dealer" means a person, corporation or
50 partnership primarily engaged in the business of retail sales of
 farm and utility tractors, farm implements, farm machinery, yard
 and garden equipment, attachments, accessories and repair parts.
 "Dealer" does not include a person, corporation or partnership
 primarily engaged in the business of retail sales of heavy

construction, industrial and utility equipment, attachments, accessories and repair parts.

3. Dealer agreement. "Dealer agreement" means a written or oral contract or agreement between a dealer and a wholesaler, manufacturer or distributor by which the dealer is granted the right to sell or distribute goods or services or to use a trade name, trademark, service mark, logotype or advertising or other commercial symbol.

4. Inventory. "Inventory" means farm, utility or industrial equipment, implements, machinery, yard and garden equipment, attachments or repair parts. These terms do not include heavy construction equipment.

5. Net cost. "Net cost" means the price the dealer paid the supplier for the inventory, less all applicable discounts allowed, plus the amount the dealer paid for freight costs from the supplier's location to the dealer's location, plus reasonable cost of assembly or disassembly performed by the dealer.

6. Supplier. "Supplier" means a wholesaler, manufacturer or distributor of inventory as defined in this subchapter who enters into a dealer agreement with a dealer.

7. Termination. "Termination" of a dealer agreement means the cancellation, nonrenewal or noncontinuance of the agreement.

§1272. Usage of trade

The terms "utility" and "industrial," when used to refer to equipment, machinery, attachments, yard and garden equipment or repair parts, have the meanings commonly used and understood among dealers and suppliers of farm equipment as usage of trade in accordance with Title 11, section 1-205, subsection 2.

§1273. Notice of termination of dealer agreements

1. Notice of termination. Notwithstanding any agreement to the contrary, prior to the termination of a dealer agreement, a supplier shall notify the dealer of the termination not less than 90 days prior to the effective date of the termination. The supplier may immediately terminate the agreement at any time upon the occurrence of any of the following events:

A. The filing of a petition for bankruptcy or for receivership either by or against the dealer;

B. The making by the dealer of an intentional and material misrepresentation as to the dealer's financial status;

2 C. Any default by the dealer under a chattel mortgage or
4 other security agreement between the dealer and the supplier;

6 D. Discontinuance by the dealer of more than 50% of the
8 dealer's business related to the handling of goods provided
10 by the supplier;

12 E. The commencement of voluntary or involuntary dissolution
14 or liquidation of the dealer if the dealer is a partnership
16 or corporation;

18 F. A change in location of the dealer's principal place of
20 business as provided in the agreement without the prior
22 written approval of the supplier;

24 G. Withdrawal of an individual proprietor, partner, major
26 shareholder or the involuntary termination of the manager of
28 the dealership or a substantial reduction in the interest of
30 a partner or major shareholder without the prior written
32 consent of the supplier; or

34 H. Breach by the dealer of a written obligation contained
36 in the agreement.

38 2. Time of notice. Unless there is an agreement to the
40 contrary, a dealer who intends to terminate a dealer agreement
42 with a supplier shall notify the supplier of that intent not less
44 than 90 days prior to the effective date of the termination.

46 3. Notice in writing. Notification required by this
48 section must be in writing and be made by certified mail or by
50 personal delivery and must contain:

52 A. A statement of intention to terminate the dealer
54 agreement;

56 B. A statement of the reasons for the termination; and

58 C. The date on which the termination is effective.

60 **§1274. Supplier's duty to repurchase**

62 1. Repurchase. Whenever a dealer enters into a dealer
64 agreement under which the dealer agrees to maintain an inventory,
66 and the agreement is terminated by either party as provided in
68 this subchapter, the supplier, upon written request of the dealer
70 filed within 30 days of the effective date of the termination,
72 shall repurchase the dealer's inventory as provided in this

subchapter. There is no requirement for the supplier to repurchase inventory pursuant to this section if:

A. The supplier and dealer have made a written agreement with respect to repurchase;

B. The dealer has made an intentional and material misrepresentation as to the dealer's financial status;

C. The dealer has defaulted under a chattel mortgage or other security agreement between the dealer and supplier; or

D. The dealer has filed a voluntary petition in bankruptcy.

2. Death of dealer. Whenever a dealer enters into a dealer agreement in which the dealer agrees to maintain an inventory and the dealer or the majority stockholder of the dealer, if the dealer is a corporation, dies or becomes incompetent, the supplier shall, at the option of the heir, personal representative, or guardian of the dealer, or the person who succeeds to the stock of the majority stockholder, repurchase the inventory as if the agreement had been terminated. The heir, personal representative, guardian or succeeding stockholder has one year from the date of the death of the dealer or majority stockholder to exercise the option under this chapter.

§1275. Repurchase terms

1. Examination of records. Within 90 days from receipt of the written request of the dealer, a supplier under the duty to repurchase inventory pursuant to section 1274 may examine any books or records of the dealer to verify the eligibility of any item for repurchase. Except as otherwise provided in this subchapter, the supplier shall repurchase from the dealer all inventory previously purchased from the supplier in the possession of the dealer on the date of termination of the dealer agreement.

2. Payment terms. The supplier shall pay the dealer:

A. One hundred percent of the net cost of all new and undamaged and complete farm, utility and industrial equipment, implements, machinery, yard and garden equipment and attachments, less a reasonable allowance for deterioration attributable to weather conditions at the dealer's location;

B. Ninety percent of the current net prices of all new and undamaged repair parts; and

2 C. Eighty-five percent of the current net prices of all new
3 and undamaged superseded repair parts.

4 3. Return costs. The party that initiates the termination
5 of the dealer agreement shall pay the cost of the return,
6 handling, packing and loading of the inventory.

8 4. Payment date. Payment to the dealer required under this
9 section must be made by the supplier not later than 60 days after
10 receipt of the inventory by the supplier. The supplier is
11 entitled to apply any payment required under this section to be
12 made to the dealer, as a setoff against any amount owed by the
13 dealer to the supplier.

14 **§1276. Exceptions to repurchase requirement**

16 1. Exceptions. The provisions of this chapter do not
17 require the repurchase from a dealer of:

20 A. A repair part with a limited storage life or otherwise
21 subject to physical or structural deterioration including,
22 but not limited to, gaskets or batteries, but excluding
23 industrial "press on" or industrial pneumatic tires;

24 B. A single repair part normally priced and sold in a set
25 of 2 or more items;

28 C. A repair part that, because of its condition, can not be
29 marketed as a new part without repackaging or reconditioning
30 by the supplier or manufacturer;

32 D. An item of inventory for which the dealer does not have
33 title free of all claims, liens and encumbrances other than
34 those of the supplier;

36 E. Any inventory that the dealer elects to retain;

38 F. Any inventory ordered by the dealer after receipt of
39 notice of termination of the dealer agreement by either the
40 dealer or supplier;

42 G. Any inventory that was acquired by the dealer from a
43 source other than the supplier; or

44 H. Any farm, utility or industrial equipment, implements,
45 machinery, yard and garden equipment or attachments that
46 were purchased by the dealer more than 30 months prior to
47 the termination of the dealer agreement.

50 **§1277. Transfer of business**

2 1. Transfer. A supplier may not unreasonably withhold or
4 delay consent to any transfer of the dealer's business or
6 transfer of the stock or other interest in the dealership,
8 whenever the dealer to be substituted meets the material and
10 reasonable qualifications and standards required of its dealers.
12 If a supplier determines that a proposed transferee does not meet
14 its qualifications and standards, it shall give the dealer
16 written notice thereof, stating the specific reasons for
18 withholding consent. A prospective transferee may not be
20 disqualified from being a dealer because it is a publicly held
22 corporation. A supplier has 45 days to consider a dealer's
24 request to make a transfer under this subsection.

26 2. Withhold consent. Notwithstanding subsection 1, no
28 supplier may withhold consent to, or in any manner retain a right
30 of prior approval of, the transfer of the dealer's business to a
32 member or members of the family of the dealer or the principal
34 owner of the dealer. As used in this subsection, "family" means
36 and includes the spouse, parent, siblings, children, stepchildren
38 and lineal descendants, including those by adoption of the dealer
40 or principal owner of the dealer.

42 3. Assume obligations. Whenever a transfer of a dealer's
44 business occurs, the transferee shall assume all the obligations
46 imposed on and succeed to all the rights held by the selling
48 dealer by virtue of any agreement, consistent with this
50 subchapter, entered into prior to the transfer between the
52 selling dealer and one or more suppliers.

54 4. Burden of proof. In any dispute as to whether a
56 supplier has denied consent in violation of this section, the
58 supplier has the burden of proving a substantial and reasonable
60 justification for the denial of consent.

62 **§1278. Uniform commercial practice**

64 1. Security interest. Nothing contained in this chapter
66 may be construed to release or terminate a perfected security
68 interest of the supplier in the inventory of the dealer.

70 2. Repurchase of inventory. A repurchase of inventory
72 under this chapter is not subject to the bulk sales provisions of
74 Title 11, section 6-101, et seq.

76 **§1279. Warranty obligations**

78 1. Payment of warranty claim. Whenever a supplier and a
80 dealer enter into an agreement providing consumer warranties, the
82 supplier shall pay any warranty claim made by the dealer for

2 warranty parts or service within 30 days after its receipt and
3 approval. The supplier shall approve or disapprove a warranty
4 claim within 30 days after its receipt. If a claim is not
5 specifically disapproved in writing within 30 days after its
6 receipt, it is deemed to be approved and payment must be made by
7 the supplier within 30 days.

8 2. Indemnity. Whenever a supplier and a dealer enter into
9 a dealer agreement, the supplier shall indemnify and hold
10 harmless the dealer against any judgment for damages arising from
11 breach of warranty or rescission of the sale by the supplier.

12 **§1280. Remedies**

13
14
15 1. Jurisdiction. Concurrent jurisdiction under this
16 chapter is in the District Court or Superior Court of the city or
17 county where the dealer has its principal place of business. The
18 court may grant equitable relief as is necessary to remedy the
19 effects of conduct that it finds to exist and is prohibited under
20 this chapter, including, but not limited to, declaratory judgment
21 and injunctive relief.

22
23 2. Recovery. In addition to any other remedies available
24 at law or in equity, if a supplier has attempted or accomplished
25 an annulment, cancellation or termination, or refused to continue
26 or renew an agreement without good cause or withheld or delayed
27 consent in violation of section 1273 or 1277, then the dealer is
28 entitled to recover losses and damages, together with the cost of
29 the action and reasonable legal fees. These damages include
30 compensation for the value of the agreement and the good will of
31 the dealer's business.

32
33 3. Arbitration. Nothing contained in this section may bar
34 the right of an agreement to provide for binding arbitration of
35 disputes. Any arbitration must be consistent with the provisions
36 of this chapter and Title 14, chapter 706, and the place of any
37 arbitration must be in the city or county in which the dealer
38 maintains the dealer's principal place of business in the State.

39
40 4. Renewal of agreement. No supplier may cancel, terminate
41 or refuse to continue to renew an agreement during the 90-day
42 period set forth in section 1273 or during the pendency of
43 litigation or arbitration, except under the conditions set forth
44 in section 1273, subsection 1.

45 **§1281. Management**

46
47 A supplier may not require or prohibit any change in
48 management or personnel of any dealer unless the current or
49 potential management or personnel fails to meet reasonable
50 standards.

2 qualifications and standards required by the supplier for its
3 dealers.

4 **§1282. Waiver of chapter void**

6 The provisions of this chapter are deemed to be incorporated
7 in every agreement and supersede and control all other provisions
8 of the agreement. A supplier may not require any dealer to waive
9 compliance with any provision of this chapter. Any contract or
10 agreement purporting to do so is void and unenforceable to the
11 extent of the waiver or variance. Nothing in this chapter may be
12 construed to limit or prohibit good faith settlements of disputes
13 voluntarily entered into between the parties.

14 **§1283. Applicability**

16 This subchapter applies to agreements in effect as of
17 October 1, 1989. In addition, the chapter applies to any
18 agreements entered into after October 1, 1989. The provisions of
19 this chapter are also applicable to any renewal or amendment of
20 the agreements.

22 **§1284. Reasonableness and good faith**

24 1. Good faith. Every agreement entered into under this
25 chapter imposes on the parties the obligation to act in good
26 faith.

28 2. Reasonableness. This chapter imposes on every term and
29 provision of any agreement a requirement of reasonableness.
30 Every term or provision of any agreement must be interpreted so
31 that the requirements or obligations imposed are reasonable.

34 **Sec. B-2. 12 MRSA §7759, sub-§§2 and 3, as enacted by PL 1993,**
35 **c. 410, Pt. BBB, §3, are amended to read:**

36 **2. Fund sources.** The fund receives money deposited by the
37 Treasurer of State pursuant to Title 29 29-A, section 252-J 455
38 and any other gift, grant or other source of revenue deposited
39 for that use.

42 **3. Distribution from fund.** After the Treasurer of State
43 has reimbursed the Secretary of State for costs of producing and
44 issuing environmental registration plates in accordance with
45 Title 29 29-A, section 252-J 455, the Treasurer of State shall
46 annually distribute the balance in the fund as follows:

48 A. Sixty percent of the balance must be deposited in the
49 Maine State Parks Fund established in section 610; and
50

B. Forty percent of the balance must be deposited in the Maine Endangered and Nongame Wildlife Fund established in section 7757.

This subsection is repealed March 31, 1996.

Sec. B-3. 36 MRSA c. 111-A is enacted to read:

CHAPTER 111-A

BUS TAXATION PRORATION AGREEMENT

SUBCHAPTER 1

AGREEMENT

§1492. Purposes and principles -- Article I

1. Purposes of agreement. It is the purpose of this agreement to set up a system whereby any contracting state may permit owners of fleets of buses operating in 2 or more states to prorate the registration of the buses in such fleets in each state in which the fleets operate on the basis of the proportion of miles operated within such state to total fleet miles, as defined herein.

2. Principle of proration of registration. It is hereby declared that in making this agreement the contracting states adhere to the principle that each state should have the freedom to develop the kind of highway user tax structure that it determines to be most appropriate to itself, that the method of taxation of interstate buses should not be a determining factor in developing its user tax structure, and that annual taxes or other taxes of the fixed fee type upon buses which are not imposed on a basis that reflects the amount of highway use should be apportioned among the states, within the limits of practicality, on the basis of vehicle miles traveled within each of the states.

§1493. Definitions -- Article II

1. Administrator. "Administrator" means the official or agency of a state administering the fee involved, or, in the case of proration of registration, the official or agency of a state administering the proration of registration in that state.

2. Base state. "Base state" means the state from or in which the bus is most frequently dispatched, garaged, serviced, maintained, operated or otherwise controlled, or in the case of a fleet bus the state to which it is allocated for registration

under statutory requirements. In order that this section may not be used for the purpose of evasion of registration fees, the administrators of the contracting states may make the final decision as to the proper base state, in accordance with section 1494, subsection 8, to prevent or avoid such evasion.

3. Bus. "Bus" means any motor vehicle of a bus type engaged in the interstate transportation of passengers and subject to the jurisdiction of the Interstate Commerce Commission, or any agency successor thereto, or one or more state regulatory agencies concerned with the regulation of passenger transport.

4. Contracting state. "Contracting state" means a state that is a party to this agreement.

5. Fleet. As to each contracting state, "fleet" includes only those buses that actually travel a portion of their total miles in such state. A fleet must include 3 or more buses.

6. Person. "Person" includes any individual, firm, copartnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate or any other group or combination acting as a unit.

7. Proration of registration. "Proration of registration" means registration of fleets of buses in accordance with section 1495, Article IV.

8. Reciprocity. "Reciprocity" means that each contracting state, to the extent provided in this agreement, exempts a bus from registration and registration fees.

9. Registration. "Registration" means the registration of a bus and the payment of annual fees and taxes as set forth in or pursuant to the laws of the respective contracting states.

10. State. "State" includes the States of the United States, the District of Columbia, the territories of the United States, the Provinces of Canada, and the States, Territories and Federal District of Mexico.

§1494. General provisions -- Article III

1. Effect on other agreements, arrangements and understandings. On and after its effective date, this agreement supersedes any reciprocal or other agreement, arrangement or understanding between any 2 or more of the contracting states covering, in whole or in part, any of the matters covered by this agreement; but this agreement may not affect any reciprocal or

2 other agreement, arrangement or understanding between a
3 contracting state and a state or states not a party to this
4 agreement.

5 2. Applicability to exempt vehicles. This agreement does
6 not require registration in a contracting state of any vehicles
7 that are in whole or part exempt from registration under the laws
8 or regulations of such state without respect to this agreement.

9 3. Inapplicability to caravanned vehicle. The benefits and
10 privileges of this agreement may not be extended to a vehicle
11 operated on its own wheels, or in tow of a motor vehicle,
12 transported for the purpose of selling or offering the same for
13 sale to or by any agent, dealer, purchaser or prospective
14 purchaser.

15 4. Other fees and taxes. This agreement does not waive any
16 fees or taxes charged or levied by any state in connection with
17 the ownership or operation of vehicles other than registration
18 fees as defined herein. All other fees and taxes must be paid to
19 each state in accordance with the laws thereof.

20 5. Statutory vehicle regulations. This agreement does not
21 authorize the operation of a vehicle in any contracting state
22 contrary to the laws or regulations thereof, except those
23 pertaining to registration and payment of fees; and with respect
24 to such laws or regulations, only to the extent provided in this
25 agreement.

26 6. Violations. Each contracting state reserves the right to
27 withdraw, by order of the administrator thereof, all or any part
28 of the benefits or privileges granted pursuant to this agreement
29 from the owner of any vehicle or fleet of vehicles operated in
30 violation of any provision of this agreement. The administrator
31 shall immediately give notice of any such violation and
32 withdrawal of any such benefits or privileges to the
33 administrator of each other contracting state in which vehicles
34 of such owner are operated.

35 7. Cooperation. The administrator of each of the
36 contracting states shall cooperate with the administrators of the
37 others and each contracting state hereby agrees to furnish such
38 aid and assistance to each other within its statutory authority
39 as will aid in the proper enforcement of this agreement.

40 8. Interpretation. In any dispute between or among
41 contracting states arising under this agreement, the final
42 decision regarding interpretation of questions at issue relating
43 to this agreement must be reached by joint action of the
44

contracting states, acting through the administrator thereof, and must upon determination be placed in writing.

9. Effect of headings. Article and section heading contained herein may not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any Article or part hereof.

10. Entry into force. This agreement enters into force and becomes binding between and among the contracting states when enacted or otherwise entered into by any 2 states. Thereafter, it enters into force and becomes binding with respect to any state when enacted into law by such state. If the statutes of any state so authorize or provide, such state may become party to this agreement upon the execution thereof by an executive or administrative official thereof acting on behalf of and for such state.

§1495. Proration of registration -- Article IV

1. Applicability. Any owner of a fleet may register the buses of said fleet in any contracting state by paying to said state total registration fees in an amount equal to that obtained by applying the proportion of in-state fleet miles divided by the total fleet miles, to the total fees which would otherwise be required for regular registration of each and all of such vehicles in such contracting state.

All fleet pro-rata registration fees must be based upon the mileage proportions of the fleet during the period of 12 months ending on August 31st next preceding the commencement of the registration year for which registration is sought. Except, that mileage proportions for a fleet not operated during such period in the state where application for registration is made will be determined by the administrator upon the sworn application of the applicant showing the operations during such period in other states and the estimated operations during the registration year for which registration is sought, in the state in which application is being made; or if no operations were conducted during such period a full statement of the proposed method of operation.

If any buses operate in 2 or more states which permit the proration of registration on the basis of a fleet of buses consisting of a lesser number of vehicles than provided in section 1493, Article II, subsection 5, such fleet may be prorated as to registration in such states, in which event the buses in such fleet may not be required to register in any other contracting states if each such vehicle is registered in some contracting state, except to the extent it is exempt from

registration as provided in section 1494, Article III, subsection 2.

If the administrator of any state determines, based on the administrator's method of the operation thereof, that the inclusion of a bus or buses as a part of a fleet would adversely affect the proper fleet fee that should be paid to that administrator's state, having due regard for fairness and equity, the administrator may refuse to permit any or all of such buses to be included in that administrator's state as a part of such fleet.

2. Total fleet miles. Total fleet miles, with respect to each contracting state, means the total miles operated by the fleet in such state, in all other contracting states, in other states having proportional registration provisions, in states with which such contracting state has reciprocity, and in such other states as the administrator determines should be included under the circumstances in order to protect or promote the interest of that administrator's state; except that in states having laws requiring proration on the basis of a different determination of total fleet miles, total fleet miles must be determined on such basis.

3. Leased vehicles. If a bus is operated by a person other than the owner as a part of a fleet that is subject to this Article, then the operator of such fleet must be deemed to be the owner of said bus for the purposes of this Article.

4. Extent of privileges. Upon the registration of a fleet in a contracting state pursuant to this Article, each bus in the fleet may be operated in both interstate and intrastate operations in such state, except as provided in section 1494, Article III, subsection 5.

5. Application for proration. The application for proration of registration must be made in each contracting state upon substantially the application forms and supplements authorized by joint action of the administrators of the contracting states.

6. Issuance of identification. Upon registration of a fleet, the state that is the base state of a particular bus of the fleet shall issue the required license plates and registration card for such bus and each contracting state in which the fleet of which such bus is a part, operates shall issue a special identification identifying such bus as a part of a fleet that has fully complied with the registration requirements of such state. The required license plates, registration cards and identification must be appropriately displayed in the manner required by or pursuant to the laws of each respective state.

2 7. Additions to fleet. If any bus is added to a prorated
3 fleet after the filing of the original application, the owner
4 shall file a supplemental application. The owner shall register
5 such bus in each contracting state in like manner as provided for
6 buses listed in an original application and the registration fee
7 payable must be determined on the mileage proportion used to
8 determine the registration fees payable for buses registered
9 under the original application.

10 8. Withdrawals from fleet. If any bus is withdrawn from a
11 prorated fleet during the period for which it is registered or
12 identified, the owner shall notify the administrator of each
13 state in which it is registered or identified of such withdrawal
14 and shall return the plates, and registration card or
15 identification as may be required by or pursuant to the laws of
16 the respective states.

17 9. Audits. The administrator of each contracting state
18 shall, within the statutory authority of such administrator, make
19 any information obtained upon an audit of records of any
20 applicant for proration of registration available to the
21 administrators of the other contracting states.

22 10. Errors in registration. If it is determined by the
23 administrator of a contracting state, as a result of such audits
24 or otherwise, that an improper fee has been paid that
25 administrator's state, or errors in registration found, the
26 administrator may require the fleet owner to make the necessary
27 corrections in the registration of the fleet and payment of fees.

28 **§1496. Reciprocity -- Article V**

29 1. Grant of reciprocity. Each of the contracting states
30 grants reciprocity as provided in this Article.

31 2. Applicability. The provisions of this agreement with
32 respect to reciprocity applies only to a bus properly registered
33 in the base state of the bus, which state must be a contracting
34 state.

35 3. Nonapplicability to fleet buses. The reciprocity granted
36 pursuant to this Article does not apply to a bus which is
37 entitled to be registered or identified as part of a prorated
38 fleet.

39 4. Extent of reciprocity. The reciprocity granted pursuant
40 to this Article permits the interstate operation of a bus and
41 intrastate operation that is incidental to a trip of such bus
42 involving interstate operation.

2 5. Other agreements. Nothing in this agreement may be
4 construed to prohibit any of the contracting states from entering
6 into separate agreements with each other for the granting of
8 temporary permits for the intrastate operation of vehicles
10 registered in the other state; nor to prevent any of the
12 contracting states from entering into agreements to grant
14 reciprocity for intrastate operation within any zone or zones
16 agreed upon by the states.

18 **§1497. Withdrawal or revocation -- Article VI**

20 Any contracting state may withdraw from this agreement upon
22 30 days written notice to each other contracting state, which
24 notice may be given only after the repeal of this agreement by
26 the legislature of such state, if adoption was by legislative
28 act, or after renunciation by the appropriate administrative
30 official of such contracting state if the laws thereof empower
32 that official so to renounce.

34 **§1498. Construction and severability -- Article VII**

36 This compact must be liberally construed so as to effectuate
38 the purposes thereof. The provisions of this compact are
40 severable and if any phrase, clause, sentence or provision of
42 this compact is declared to be contrary to the Constitution of
44 any state or of the United States or the applicability thereof to
46 any government, agency, person or circumstance is held invalid,
48 the validity of the remainder of this compact and the
50 applicability thereof to any government, agency, person or
 circumstance are not affected thereby. If this compact is held
 contrary to the constitution of any state participating herein,
 the compact remains in full force and effect as to the remaining
 party states and in full force and effect as to the state
 affected as to all severable matters.

SUBCHAPTER II

PROVISIONS RELATED TO AGREEMENT

§1499. Ratification

The Bus Taxation Proration Agreement is enacted into law and
 entered into with all jurisdictions legally joining therein in
 the form substantially as provided in this subchapter.

§1499-A. Administrator, defined

As used in the agreement, with reference to this State, the
 term "administrator" means Secretary of State.

2 **§1499-B. Exemptions**

4 The Secretary of State has the power to make such exemptions
6 from the coverage of the agreement as may be appropriate and to
8 make such changes in methods for the reporting of any information
10 required to be furnished to this State pursuant to the agreement
12 as, in the Secretary of State's judgment, is suitable, provided
14 that any such exemptions or changes are not contrary to the
16 purposes set forth in section 1492, Article 1, and is made in
18 order to permit the continuance of uniformity of practice among
20 the contracting states with respect to buses. Any such exemption
22 or change must be made by rule or regulation and is not effective
24 unless made by the same procedure required for other rules and
26 regulations of the Secretary of State's department.

28 **§1499-C. Withdrawal from agreement**

30 Unless otherwise provided in any statute withdrawing this
32 State from participation in the agreement, the Governor must be
34 the officer to give notice of withdrawal therefrom.

36 **Sec. B-4. 38 MRSA §2402, sub-§1, as amended by PL 1993, c.**
38 **418, §4, is further amended to read:**

40 **1. Requirement.** After July 1, 1994, each motor vehicle
42 registered in any area designated by the Federal Government under
44 40 Code of Federal Regulations, Part 81 as nonattainment for
46 ozone and classified as a moderate or more severe nonattainment
48 area must be inspected biennially for air pollution emissions as
provided in this chapter and must meet the requirements of Title
29 29-A, section 2502 1751.

Sec. B-5. Effective date. This Act takes effect on January 1,
1995.'

Further amend the bill by inserting at the end before the
statement of fact the following:

FISCAL NOTE

The additional costs to update the offense code list at the
District Court and the District Court Violations Bureau can be
absorbed by the Judicial Department utilizing existing budgeted
resources.

Prohibiting the suspension of designated minimum sentences
will increase General Fund revenue from fines by minor amounts.

2 The increase of the trip permit fee will not appreciably
affect Highway Fund revenue.'

4

6

STATEMENT OF FACT

8

10

12

14

This amendment strikes out the bill and incorporates the changes made to the Maine Revised Statutes, Title 29 by public laws enacted during the First Regular Session of the 116th Legislature and those chaptered for the Second Regular Session. It corrects cross references, makes other corrections and changes to the bill and adds a fiscal note to the bill.

3/22/94
Jill Spolite

SEATBELT PROVISIONS TITLE 29 AND TITLE 29-A

TITLE 29

§1368-C. Use of seatbelts; persons at least 4 but under 19 years of age

1. Persons at least 4 but under 19 years of age. *When a person 4 years of age or older, but less than 19 years of age, is a passenger in a motor vehicle that is required by the United States Department of Transportation to be equipped with seat belts, the operator or passenger must be properly secured in a seat belt or in a child safety seat that meets the requirements set out in 49 Code of Federal Regulations, Part 571. The failure by the operator of a motor vehicle to ensure that the operator and any passengers are secured by a seat belt or a child safety seat as required by this subsection while the vehicle is being operated is a traffic infraction punishable as provided in subsection 4.*

TITLE 29-A

§2081. Use of safety seat belts

3. Person between 4 and 19. When a person 4 years of age or older, but less than 19 years of age, is a passenger in a vehicle that is required by the United States Department of Transportation to be equipped with seat belts, the operator must have the person properly secured in a seat belt or in a child safety seat. When a person who is less than 19 years of age is the operator of a vehicle that is required by the United States Department of Transportation to be equipped with seat belts, that operator must be properly secured in a seat belt.

Note: Proposed language for Title 29-A, §2081 (in italics), clarifies that an operator who is less than 19 years of age must wear a seatbelt. Current law, Title 29, §1368-C, may be interpreted as meaning that an operator under 19 must wear a seatbelt only if there are passengers between 4 and 19 in the vehicle.

3/22/84
Jill Ippolito

TITLE 29-A

§2081. Use of safety seat belts

1. Definition. "Child safety seat" means a child safety seat that meets the standards described in Federal Motor Vehicle Safety Standards, 49 Code of Federal Regulations, Part 571, in effect on January 1, 1981, as subsequently amended.

2. Children under 4. When a child who is less than 4 years of age is being transported in a motor vehicle that is required by the United States Department of Transportation to be equipped with safety seat belts, the operator must have the child properly secured in accordance with the manufacturer's instructions in a child safety seat.

3. Person between 4 and 19. When a person 4 years of age or older, but less than 19 years of age, is a passenger in a vehicle that is required by the United States Department of Transportation to be equipped with seat belts, the operator must have the person properly secured in a seat belt or in a child safety seat. *When a person who is less than 19 years of age is the operator of a vehicle that is required by the United States Department of Transportation to be equipped with seat belts, that operator must be properly secured in a seat belt.*

4. Enforcement. The following provisions apply to subsections 2 and 3.

A. 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.*

B. A person against whom enforcement action has been taken is not guilty of a subsequent violation of subsection 2 until 24 hours have elapsed from the date and time of the first violation indicated on the Violation Summons and Complaint.

C. A violation of this section is a traffic infraction. The court shall waive the fine for a first violation of subsection 2 if the parent provides the court with satisfactory evidence that the parent has acquired a child safety seat for continuous use by the child within 30 days of the violation.

5. Evidence. In an accident involving a motor vehicle, the nonuse of seat belts by the operator or passengers or the failure to secure a child is not admissible in evidence in a civil or criminal trial, except in a trial for violation of this section.

JOHN D. WAKEFIELD

Director

Date: 02/23/94

ORIGINAL

Hearing Date: 01/10/94

Committee: Transportation

JAMES A. CLAIR

Deputy Director

Maine State Legislature
OFFICE OF FISCAL AND PROGRAM REVIEW
Augusta, Maine 04333

TO: Senate Chairman - Sen. J. Brannigan

House Chairman - Rep. W. O'Gara

Sponsor -

FROM: Grant T. Pennoyer, ^{ATP} Principal Analyst

SUBJECT: FISCAL NOTE INFORMATION FOR LD 841

**An Act to Revise and Recodify the Maine Revised Statutes,
Title 29**

**I. The estimated increase (decrease) of Appropriations and Allocations
required if this Legislative Document is approved.**

A. Line Item Summary	1993-94	1994-95
-----------------------------	----------------	----------------

Positions		
Personal Services		
All Other		
Capital Expenditures		
Unallocated		
TOTAL		

B. Fund Summary	1993-94	1994-95
------------------------	----------------	----------------

General Fund		
Highway Fund		
Other Funds		

II. The estimated increase (decrease) of Revenues for the biennium is as follows.

	1993-94	1994-95
--	----------------	----------------

General Fund		
Highway Fund		
Other Funds		

III. Remarks:

The additional costs to update the offense code list at the District Court and the District Court Violations Bureau can be absorbed by the Judicial Department utilizing existing budgeted resources.

A fiscal note should be amended to the bill.

VOTING TALLY SHEET

Committee: TRANSPORTATION

Date: APRIL 28, 1993

Question: L.D. 841 - CARRY-OVER TO NEXT SESSION

Motion by: Rep. Charles Plourde

Seconded: Sen. Robert Gould

SENATORS	Yea	Nay	Absent	Abstained
1 SEN. JOSEPH C. BRANNIGAN, CHAIRMAN			✓	
2 SEN. JUDY PARADIS			✓	
3 SEN. ROBERT R. GOULD	✓			
REPRESENTATIVES				
1 REP. WILLIAM B. O'GARA, CHAIRMAN	✓			
2 REP. HILDA C. MARTIN	✓			
3 REP. ROBERT E. HUSSEY, JR.	✓			
4 REP. GEORGE F. RICKER	✓			
5 REP. RITA B. MELENDY			✓	
6 REP. CHARLES C. PLOURDE	✓			
7 REP. JOSEPH D. DRISCOLL	✓			
8 REP. DONALD A. STROUT	✓			
9 REP. RONALD C. BAILEY	✓			
10 REP. HARRY W. BAILEY	✓			
TOTAL	10			

VOTING TALLY SHEET

Committee: TRANSPORTATION

Date: MARCH 2, 1994

Question: L.D. 841 - OUGHT TO PASS AS AMENDED

Motion by: Rep. Charles Plourde

Seconded: Rep. Rita Melendy

	Yea	Nay	Absent	Abstained
SENATORS				
1 SEN. JOSEPH C. BRANNIGAN, CHAIRMAN	✓			
2 SEN. JUDY PARADIS	✓			
3 SEN. ROBERT R. GOULD	✓			
REPRESENTATIVES				
1 REP. WILLIAM B. O'GARA, CHAIRMAN	✓			
2 REP. HILDA C. MARTIN			✓	
3 REP. ROBERT E. HUSSEY, JR.	✓			
4 REP. GEORGE F. RICKER	✓			
5 REP. RITA B. MELENDY	✓			
6 REP. CHARLES C. PLOURDE	✓			
7 REP. JOSEPH D. DRISCOLL	✓			
8 REP. DONALD A. STROUT	✓			
9 REP. RONALD C. BAILEY	✓			
10 REP. HARRY W. BAILEY	✓			
TOTAL	12			

SENATE REPORT

THE COMMITTEE ON

TRANSPORTATION

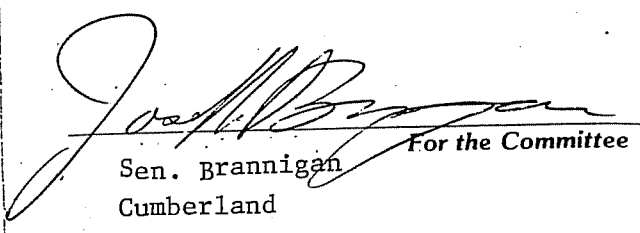
to which was referred the Bill, entitled "An Act to Revise and Recodify the Maine Revised Statutes, Title 29."

S. P. 277 L. D. 841

have had the same under consideration, and ask leave to report that the same

Ought to Pass as Amended by

Committee Amendment " ".


Sen. Brannigan
Cumberland

For the Committee