

MAINE STATE LEGISLATURE

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ACTIVITY SHEET

COMMITTEE: Transportation

LD #: 378

TITLE An Act to Expand the Use of Emergency Equipment on Vehicles
Operated by Liquor Enforcement Offices

~~~~~

HEARING DATE: 2/10/99

WORK SESSION DATES: 2/25/99

REPORTED OUT DATE: 2/25/99

COMMITTEE REPORT: OTF



# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 378

H.P. 269

House of Representatives, January 14, 1999

**An Act to Expand the Use of Emergency Equipment on Vehicles  
Operated by Liquor Enforcement Officers.**

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Submitted by the Department of Public Safety pursuant to Joint Rule 204.  
Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative POVICH of Ellsworth.  
Cosponsored by Senator CAREY of Kennebec and  
Representative O'BRIEN of Augusta, Senator: FERGUSON of Oxford.

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

**Sec. 1. 28-A MRSA §2212**, as amended by PL 1995, c. 65, Pt. A, §82 and affected by §153, is repealed.

**Sec. 2. 29-A MRSA §2054, sub-§1, ¶B**, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

B. "Authorized emergency vehicle" means any one of the following vehicles:

- (1) An ambulance;
- (2) A Baxter State Park Authority vehicle operated by a Baxter State Park ranger;
- (3) A Bureau of Marine Patrol vehicle operated by a coastal warden;
- (4) A Department of Conservation vehicle operated by a forest ranger;
- (5) A Department of Conservation vehicle used for forest fire control;
- (6) A Department of Corrections vehicle used for responding to the escape of or performing the high-security transfer of a prisoner, juvenile client or juvenile detainee;
- (7) A Department of Inland Fisheries and Wildlife vehicle operated by a warden;
- (8) A Department of Public Safety vehicle operated by a liquor enforcement officer ~~for the purpose of enforcing section 2411 or Title 28-A~~, a state fire inspector or a Maine Drug Enforcement Agency officer;
- (9) An emergency medical service vehicle;
- (10) A fire department vehicle;
- (11) A hazardous material response vehicle;
- (12) A railroad police vehicle;
- (13) A sheriff's department vehicle;
- (14) A State Police or municipal police department vehicle;

2 (15) A vehicle operated by a chief of police, a  
sheriff or a deputy sheriff when authorized by the  
4 sheriff;

6 (16) A vehicle operated by a municipal fire inspector,  
a municipal fire chief, an assistant or deputy chief or  
8 a town forest fire warden;

10 (17) A vehicle operated by a qualified deputy sheriff  
or other qualified individual to perform court  
12 security-related functions and services as authorized  
by the State Court Administrator pursuant to Title 4,  
14 section 17, subsection 15; or

16 (18) A Federal Government vehicle operated by a  
federal law enforcement officer.  
18

## 20 SUMMARY

22 Current law allows liquor enforcement officers to use blue  
lights and sirens only when enforcing state liquor laws or the  
24 OUI law.

26 This bill removes the restriction on when the emergency  
equipment may be operated.  
28

STATE OF MAINE  
119TH LEGISLATURE

LEGISLATIVE NOTICES

JOINT STANDING COMMITTEE ON TRANSPORTATION

Sen. William B. O'Gara, Senate Chair  
Rep. Joseph M. Jabar, Sr., House Chair

PUBLIC HEARING:      Wednesday, February 10, 1999, 1:30 pm, Room 122  
                                 State Office Building

- (L.D. 281)      Bill "An Act to Dedicate the Revenue from the Increase in the Inspection Fee to the State Police and to Establish a Safety Inspection Advisory Board" (H.P.0203) (Presented by Representative MCKENNEY of Cumberland) (Cosponsored by Representative BUCK of Yarmouth, Representative JOY of Crystal, Representative MCALEVEY of Waterboro, Representative NASS of Acton)
- (L.D. 282)      Bill "An Act to Allow Motor Vehicle Safety Inspection Stations to Set Their Own Fees for Inspections and to Require the Inspection of Brake Friction Material" (H.P.0204) (Presented by Representative MCKENNEY of Cumberland) (Cosponsored by Senator AMERO of Cumberland, Representative COLLINS of Wells, Representative HATCH of Skowhegan, Representative LEMONT of Kittery, Representative MACK of Standish)
- (L.D. 337)      Bill "An Act Authorizing Permit-certified Police Dispatchers to Issue Temporary Permits to Operate Uninspected Vehicles" (H.P.0233) (Presented by Representative WHEELER of Bridgewater) (Cosponsored by Senator KIEFFER of Aroostook, Representative AHEARNE of Madawaska, Representative BELANGER of Caribou, Representative CLARK of Millinocket, Representative DUNCAN of Presque Isle, Representative MCALEVEY of Waterboro, Representative O'NEAL of Limestone, Representative PINKHAM of Lamoine, Representative SHERMAN of Hodgdon)
- (L.D. 502)      Bill "An Act to Amend the Fines for Operating an Uninspected or Unregistered Vehicle" (H.P.0377) (Presented by Representative SNOWE-MELLO of Poland) (Cosponsored by Senator HARRIMAN of Cumberland, Representative CROSS of Dover-Foxcroft, Representative FOSTER of Gray, Representative GOODWIN of Pembroke, Representative KASPRZAK of Newport, Representative MACDOUGALL of North Berwick, Representative MACK of Standish, Representative MCKENNEY of Cumberland, Representative MENDROS of Lewiston)
- (L.D. 319)      Bill "An Act to Require Commercial Vehicle Operators Involved in Fatal Motor Vehicle Accidents to Submit to Drug Testing" (S.P.0122) (Presented by Senator CASSIDY of Washington) (Cosponsored by Representative WHEELER of Eliot, Representative LINDAHL of Northport, Representative MARTIN of Eagle Lake) Submitted by the Department of Public Safety pursuant to Joint Rule 204.
- (L.D. 194)      Bill "An Act to Increase Nonregular Island Ferry Service from 24 to 36 Trips" (S.P.0091) (EMERGENCY) (Presented by Senator PINGREE of Knox) (Cosponsored by Senator KILKELLY of Lincoln, Representative VOLENIK of Brooklin, Representative DUNLAP of Old Town, Representative PIEH of Bremen)
- (L.D. 46)      Bill "An Act to Require Special Identification of Motor Vehicles Driven by Holders of Driver's License Permits" (S.P.0036) (Presented by Senator ABROMSON of Cumberland)
- (L.D. 378)      Bill "An Act to Expand the Use of Emergency Equipment on Vehicles Operated by Liquor Enforcement Officers" (H.P.0269) (Presented by Representative POVICH of Ellsworth) (Cosponsored by Senator CAREY of Kennebec, Senator FERGUSON, JR. of Oxford, Representative O'BRIEN of Augusta) Submitted by the Department of Public Safety pursuant to Joint Rule 204.

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CONTACT PERSON:      Judy St. Pierre  
                                 115 State House Station  
                                 Augusta, ME 04333-0115  
                                 287-4148

## TESTIMONY SIGN IN SHEET

COMMITTEE ON TRANSPORTATION

L.D. # or CONFIRMATION: 378

DATE: February 10, 1999

| NAME            | TOWN/AFFILIATION                      | PROPONENT                           | OPPONENT                 | NEITHER |
|-----------------|---------------------------------------|-------------------------------------|--------------------------|---------|
| 1. Rep. Povich  | Sponsor                               | <input checked="" type="checkbox"/> | <input type="checkbox"/> |         |
| 2. Lynn Cayford | Director Bureau of Liquor Enforcement | <input checked="" type="checkbox"/> | <input type="checkbox"/> |         |
| 3.              |                                       | <input type="checkbox"/>            | <input type="checkbox"/> |         |
| 4.              |                                       | <input type="checkbox"/>            | <input type="checkbox"/> |         |
| 5.              |                                       | <input type="checkbox"/>            | <input type="checkbox"/> |         |
| 6.              |                                       | <input type="checkbox"/>            | <input type="checkbox"/> |         |
| 7.              |                                       | <input type="checkbox"/>            | <input type="checkbox"/> |         |
| 8.              |                                       | <input type="checkbox"/>            | <input type="checkbox"/> |         |
| 9.              |                                       | <input type="checkbox"/>            | <input type="checkbox"/> |         |
| 10.             |                                       | <input type="checkbox"/>            | <input type="checkbox"/> |         |
| 11.             |                                       | <input type="checkbox"/>            | <input type="checkbox"/> |         |
| 12.             |                                       | <input type="checkbox"/>            | <input type="checkbox"/> |         |
| 13.             |                                       | <input type="checkbox"/>            | <input type="checkbox"/> |         |
| 14.             |                                       | <input type="checkbox"/>            | <input type="checkbox"/> |         |
| 15.             |                                       | <input type="checkbox"/>            | <input type="checkbox"/> |         |
| 16.             |                                       | <input type="checkbox"/>            | <input type="checkbox"/> |         |

TESTIMONY OF LYNN M. CAYFORD, DIRECTOR  
BUREAU OF LIQUOR ENFORCEMENT

IN SUPPORT OF LD 378

“BILL AN ACT TO EXPAND THE USE OF EMERGENCY EQUIPMENT ON VEHICLES  
OPERATED BY LIQUOR ENFORCEMENT OFFICERS”

Presented by Rep. Povich

Co sponsor Sen. Carey, Rep. O'Brien, Sen. Ferguson

Before the Joint Standing Committee on Transportation

February 10, 1999, 1:30pm, Room 122 State Office Bldg.

The Bureau of Liquor Enforcement supports LD 378, which is a Department of Public Safety sponsored bill. This bill would expand the use of emergency equipment by officers of the Bureau of Liquor Enforcement. I have provided you with a copy of a July 14, 1998 memo from Asst. Attorney General, Paul Gauvreau which discusses the issue in depth and is the basis for our proposal.


To briefly explain the issue, BLE agents currently have the right to use blue lights only in making a vehicle stop to enforce the provisions of Title 28A and the OUI provisions in Title 29A. The Bureau respectfully request this amendment which would allow Bureau agents to deploy blue lights in all circumstances when the agent is empowered to make an arrest or detain a person suspected of committing a civil violation. In addition to those concerns, our officers often assist other agencies at an accident scene because they are they are in the area and the first to arrive. The current language in the statute prohibits our use of blue lights in those circumstances.

I urge you to support this amendment, as we feel that this is a very practical and logical proposal. I would be glad to answer your questions and look forward to the workshop on this LD.



STATE OF MAINE  
DEPARTMENT OF ATTORNEY GENERAL  
MEMORANDUM

Ann-  
F&I  
Brian  
MacMaster

TO: Charles Leadbetter, Assistant Attorney General  
FROM: Paul Gauvreau, Deputy Attorney General   
DATE: July 14, 1998  
RE: Bureau of Liquor Enforcement Use of Emergency Lights

\*\*\*\*\*

I have responded to a request from Lt. Richard Allen and BLE agent Robert LaGuardia to review the authority of Bureau of Liquor Enforcement agents' authority to use blue lights in the discharge of their official duties. The Bureau is interested in seeking an amendment to 29 M.R.S.A. §2054 (1)(B)(8) which would expand the authority of Bureau agents to use blue lights in the pursuit of a person suspected of violating the law.

The general enforcement authority of Bureau agents is located in Title 25, chapter 10. 25 M.R.S.A. §3902 (1) authorizes Bureau agents to enforce the public intoxication provisions of Title 17, all liquor law violations set forth in Title 28-A, and the unlawful display of identification cards and driver's licenses set forth in 29 M.R.S.A. §2102. Moreover, BLE agents are authorized to make warrantless arrests for any offense committed in their presence. 29 M.R.S.A. §3902(3).

Although BLE agents have the statutory authority to make arrests for offenses committed in their presence, they lack the general authority to use blue lights on their vehicles to pursue persons who have committed such criminal offenses, unless the offense involved is either a violation of the liquor laws set forth in Title 28-A or operating a motor vehicle under the influence of intoxicating liquor. 29-A M.R.S.A. §1(B)(8). The Bureau wants to amend Title 25 to authorize its agents to deploy blue lights in all circumstances when Bureau agents are empowered either to arrest a suspect or detain a person suspected of committing a civil violation.

The Bureau proposes to amend 29 M.R.S.A. §1(B)(8) to define an "authorized emergency vehicle " as follows:

A Department of Public Safety vehicle operated by a liquor enforcement officer ~~for the purpose of enforcing section 2411 or Title 28-A~~, a state fire inspector or a Maine Drug

Enforcement officer

By striking the restrictive language, the proposed amendment would allow Bureau agents to use blue lights(emergency lights) for any purpose authorized under the section in Title 25 which confers privileges on law enforcement officers which operate authorized emergency vehicles. See 25 M.R.S.A. §2054(5).

I would support the proposed expansion of authority of BLE agents to use emergency lights in the discharge of their statutory duties. Under present law Bureau agents lack the tools necessary to effectively pursue vehicles whose operators or passengers are suspected of committing a criminal offense in the presence of a BLE agent. A person who commits either a civil or criminal violation in the presence of a BLE agent, other than OUI or a Title 28-A liquor law violation, is subject to arrest by the BLE agent, but the agent is not authorized to use emergency lights in pursuit of the vehicle. This situation does not make any sense. Bureau agents are not authorized to make arrests unless they have satisfactorily completed the 12 week law enforcement certification program at the Maine Criminal Justice Academy. 25 M.R.S.A. §3902(3). Thus BLE agents have engaged in the same law enforcement training as municipal and county full-time law enforcement officers, and have the authority to arrest for criminal offenses occurring in their presence, but do not enjoy the same authorization as their municipal and county colleagues to exercise emergency lights in the discharge of their duties. The situation is even more anomalous when one considers that a part-time officer who has completed the 100 hour course is greater authority than a fully trained BLE officer to use emergency lights .

I advised Lt.Allen and Agent LaGuardia their recourse would be to contact Commissioner Kelly to determine whether he would authorize their department to seek the proposed legislative change.

Agent LaGuardia also wanted me to review with you the circumstance wherein a Bureau agent uses emergency lights to detain a vehicle whose occupants are suspected of committing a civil violation over which the Bureau agents have jurisdiction. Presently Bureau agents are responsible for the enforcement of the liquor law violations enumerated under Title 28-A, most of which are civil in nature. Furthermore, if the Legislature approves the proposed amendment to 25 M.R.S.A. §2054(1)(B)(8), BLE agents would be authorized to pursue "an actual or suspected violator of the law" with their vehicles and the use of emergency lights. 25 M.R.S.A. / § 2054 (5). It appears Bureau agents would have the right to use their blue lights to summons a person suspected of committing a civil violation, provided however, in no circumstance could any law enforcement officer effect an arrest in such a situation. Agent LaGuardia is worried that, notwithstanding the language of Section 2054 (5), a court may suppress all evidence incident to a pursuit with blue lights by a BLE agent. I do not agree with the agent's analysis.

cc: Brian MacMaster

## CHANGES

### **BLUE LIGHTS**

Emergency or Auxiliary lights; sirens; privileges

Title 29A Section 2054

#### 1. Definitions

B. Authorized "emergency vehicle" means any one of the following vehicles;

8) A Department of Public Safety vehicle operated by a Liquor Enforcement Officer,  
[Should be deleted] (for the purpose of enforcing section 2411 or Title 28A)


### **ISSUES**

|            |                                                                |
|------------|----------------------------------------------------------------|
| 29a-2472   | Teen OUI<br>Administrative suspension                          |
| 22-1555-13 | Tobacco violations<br>Civil violation                          |
| 22-2389    | Transportation of drugs by minors<br>Civil violation           |
| 29A-2112   | Drinking while operating a motor vehicle<br>Traffic infraction |

**JAMES A. CLAIR**  
Director

Date: 02/08/99      ORIGINAL  
Hearing Date: 02/10/99  
Committee: Transportation

Maine State Legislature  
**OFFICE OF FISCAL AND PROGRAM REVIEW**  
Augusta, Maine 04333

TO:        Senate Chair        - Sen. W. O'Gara  
  
          House Chair        - Rep. J. Jabar  
  
          Sponsor            - Rep. Povich of Ellsworth  
  
FROM:     Rose Breton,  Principal Analyst  
  
SUBJECT: FISCAL NOTE INFORMATION FOR **LD 378**

**An Act to Expand the Use of Emergency Equipment on Vehicles  
Operated by Liquor Enforcement Officers**

**Comments:**

This bill has no fiscal impact.

# COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: 378

Committee: TRANSPORTATION

Date: 2/25/99

Motion: OTP

Motion by: Rep. Lindahl

Seconded by: Rep. Cameron

| Those Voting in Favor of the Motion | Recommendation of those opposed to the Motion |     |        |           |          | Absent | Abstain |
|-------------------------------------|-----------------------------------------------|-----|--------|-----------|----------|--------|---------|
|                                     | ONTP                                          | OTP | OTP-AM | New Draft | Re-Refer |        |         |

## Senators

|               |          |  |  |  |  |  |  |
|---------------|----------|--|--|--|--|--|--|
| 1Sen. O'Gara  | <u>Y</u> |  |  |  |  |  |  |
| 2Sen. Cassidy | <u>Y</u> |  |  |  |  |  |  |
| 3Sen. Paradis | <u>Y</u> |  |  |  |  |  |  |

## Representatives

|                   |           |  |  |  |  |          |  |
|-------------------|-----------|--|--|--|--|----------|--|
| 1Rep. Fisher      | <u>X</u>  |  |  |  |  |          |  |
| 2Rep. Collins     | <u>Y</u>  |  |  |  |  |          |  |
| 3Rep. Sanborn     |           |  |  |  |  | <u>X</u> |  |
| 4Rep. Cameron     | <u>Y</u>  |  |  |  |  |          |  |
| 5Rep. G Wheeler   | <u>X</u>  |  |  |  |  |          |  |
| 6Rep. Lindahl     | <u>Y</u>  |  |  |  |  |          |  |
| 7Rep. Jabar       | <u>X</u>  |  |  |  |  |          |  |
| 8Rep. Bouffard    | <u>X</u>  |  |  |  |  |          |  |
| 9Rep. Savage      | <u>Y</u>  |  |  |  |  |          |  |
| 10Rep. E. Wheeler | <u>Y</u>  |  |  |  |  |          |  |
| TOTALS            | <u>12</u> |  |  |  |  | <u>1</u> |  |

# HOUSE REPORT

THE COMMITTEE ON TRANSPORTATION

to which was referred the following:

**An Act to Expand the Use of Emergency Equipment on Vehicles Operated by Liquor Enforcement Officers.**

H.P. 269

**L.D. 378**

has had the same under consideration, and asks leave to report that the same

UGHT TO PASS

(Signature) Rep. Jabar

of Waterville

For the Committee.

(Type)  
Rep. of (Town) and/or Sen. of (County)

(Signatures)

# HOUSE REPORT

Printed on recycled paper