

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 29-A MRSA §2401, sub-§5-A, as repealed by PL 1999, c. 470, §27, is reenacted to read:

5-A. Ignition interlock device. "Ignition interlock device" means a device that connects a breath analyzer to a motor vehicle's ignition system. The analyzer monitors the concentration of alcohol in the breath of any person who attempts to start the motor vehicle by using the ignition system. The device prevents the vehicle from starting unless the person provides a breath sample with a concentration of alcohol that is below a preset level.

Sec. 2. 29-A MRSA §2411, sub-§5, as amended by PL 2005, c. 606, Pt. A, §§2 to 4, is further amended to read:

5. Penalties. Except as otherwise provided in this section and section 2508, violation of this section is a Class D crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. The following minimum penalties apply and may not be suspended:

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

(1) A fine of not less than \$500, except that if the person failed to submit to a test, a fine of not less than \$600;

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

(3) A period of incarceration as follows:

(a) Not less than 48 hours when the person:

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

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

(iii) Eluded or attempted to elude an officer; or

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

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

B. For a person having one previous OUI offense within a 10-year period:

(1) A fine of not less than \$700, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than \$900;

(2) A period of incarceration of not less than 7 days, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 12 days;

(3) A court-ordered suspension of a driver's license for a period of ~~18 months~~ 3 years; and

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

C. For a person having 2 previous OUI offenses within a 10-year period, which is a Class C crime:

(1) A fine of not less than \$1,100, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than \$1,400;

(2) A period of incarceration of not less than 30 days, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 40 days;

(3) A court-ordered suspension of a driver's license for a period of ~~4 years~~ 6 years; and

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

D. For a person having 3 or more previous OUI offenses within a 10-year period, which is a Class C crime:

(1) A fine of not less than \$2,100, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than \$2,500;

(2) A period of incarceration of not less than 6 months, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 6 months and 20 days;

(3) A court-ordered suspension of a driver's license for a period of 6 years; ~~and~~

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

(5) In accordance with section 2508, installation of an ignition interlock device in the motor vehicle the person operates for a period of 4 years after the period of suspension has run;

D-1. A violation of subsection 1-A, paragraph D, subparagraph (1) is a Class C crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. The sentence must include a period of incarceration of not less than 6 months, a fine of not less than \$2,100 and a court-ordered suspension of a driver's license for a period of 6 years. These penalties may not be suspended;

D-2. A violation of subsection 1-A, paragraph D, subparagraph (1-A) or (2) is a Class B crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. The sentence must include a period of incarceration of not less than 6 months, a fine of not less than \$2,100 and a court-ordered suspension of a driver's license for a period of 10 years. These penalties may not be suspended;

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

F. For a person sentenced under paragraph B, C or D, the court shall order the defendant to participate in the alcohol and other drug program of the Department of Health and Human Services, Office of Substance Abuse. The court may waive the program pursuant to Title 5, section 20073-B, if the court finds that the defendant has completed an alcohol or other drug treatment program subsequent to the date of the offense; and

G. The court shall order an additional period of license suspension of 275 days for a person sentenced under paragraph A, B, C, D, D-1 or D-2 if the person was operating the motor vehicle at the time of the offense with a passenger under 21 years of age.

Sec. 3. 29-A MRSA §2412-A, sub-§7 is enacted to read:

7. Ignition interlock device. As a condition of license reinstatement, the Secretary of State, pursuant to section 2508, may require a person subject to the minimum mandatory sentencing provisions of subsection 3 to have installed in the motor vehicle the person operates for a period of up to 2 years an ignition interlock device approved by the Secretary of State.

Sec. 4. 29-A MRSA §2486, sub-§1, as amended by PL 2001, c. 463, §3 and affected by §7, is further amended to read:

1. Reinstatement fee for suspensions other than for OUI or failure to submit to a test. Before a suspension for any reason other than OUI or failure to submit to a test is terminated and a license or certificate reinstated, a fee of \$35, in addition to the regular license fee, must be paid to the Secretary of State.

Sec. 5. 29-A MRSA §2486, sub-§1-A is enacted to read:

1-A. Reinstatement fee for suspensions for OUI or failure to submit to a test. Before a suspension for OUI or failure to submit to a test is terminated and a license or certificate reinstated, a fee of \$50, in addition to the regular license fee, must be paid to the Secretary of State.

Sec. 6. 29-A MRSA §2508 is enacted to read:

§ 2508. Ignition interlock device

1. Installation of ignition interlock device. Notwithstanding the periods of suspension pursuant to section 2411, the Secretary of State may reinstate the license of a person convicted of more than one violation of section 2411 if the person satisfies all other conditions for license reinstatement and installs an ignition interlock device approved by the Secretary of State in the motor vehicle the person operates, under the following conditions.

A. The license of a person with 2 OUI offenses may be reinstated after 9 months of the suspension period has run if the person has installed for a period of 2 years an ignition interlock device approved by the Secretary of State in the motor vehicle the person operates.

B. The license of a person with 3 OUI offenses may be reinstated after 3 years of the suspension period has run if the person has installed for a period of 3 years an ignition interlock device approved by the Secretary of State in the motor vehicle the person operates.

C. The license of a person with 4 or more OUI offenses may be reinstated after the expiration of the period of suspension if the person has installed for a period of 4 years an ignition interlock device approved by the Secretary of State in the motor vehicle the person operates.

2. Crime; penalty. A person whose license is reinstated pursuant to section 2412-A, subsection 7 or this section may not:

A. Operate a motor vehicle without an ignition interlock device; or

B. Tamper with, disconnect or disable an ignition interlock device or circumvent the operation of an ignition interlock device.

Violation of this subsection is a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. The sentence must include a period of incarceration of not less than 7 days and a fine of not less than \$500. These penalties may not be suspended.

3. Other restrictions; penalty. Other restrictions are set out in this subsection.

A. A person whose license is reinstated pursuant to section 2412-A, subsection 7 or this section may not request or solicit another person to blow into or otherwise activate an ignition interlock device for the purpose of providing the person with an operable motor vehicle.

B. A person may not:

(1) Rent, lease or lend a motor vehicle without an ignition interlock device to another person the person knows or should know is restricted to the operation of a motor vehicle with an ignition interlock device;

(2) Blow into or otherwise activate an ignition interlock device for the purpose of providing a person restricted to the operation of a motor vehicle with an ignition interlock device with an operable motor vehicle; or

(3) Tamper with or circumvent the operation of an ignition interlock device.

4. Penalty. Notwithstanding section 1251, a violation of subsection 3 is a traffic infraction. The Secretary of State shall suspend the license of any person reinstated pursuant to section 2412-A, subsection 7 or this section who is adjudicated of the traffic infraction described in this section or whom the Secretary of State determines has violated any condition or restriction of license reinstatement. The periods of license suspension are:

A. For a person reinstated pursuant to section 2412-A, subsection 7, one year; and

B. For a person reinstated pursuant to this section, 2 years if the person has 2 OUI offenses, 4 years if the person has 3 OUI offenses and 6 years if the person has 4 or more OUI offenses.

A person whose license is suspended pursuant to this subsection is not entitled to the issuance of any type of license until the suspension period has expired.

Sec. 7. 29-A MRSA §2551-A, sub-§1, ¶A, as enacted by PL 2005, c. 606, Pt. A, §7, is amended to read:

A. The person has accumulated 3 or more convictions or adjudications for distinct offenses described below arising out of separate acts committed within a 5-year period:

(1) Homicide resulting from the operation of a motor vehicle;

- (2) OUI conviction;
- (3) Driving to endanger, in violation of section 2413;
- (4) Operating after suspension or revocation, in violation of section 2412-A;
- (5) Operating without a license;
- (6) Operating after revocation, in violation of former section 2557, section 2557-A or section 2558;
- (7) Knowingly making a false affidavit or swearing or affirming falsely in a statement required by this Title or as to information required in the administration of this Title;
- (8) A Class A, B, C or D offense in which a motor vehicle is used;
- (9) Failure to report an accident involving injury or death, in violation of section 2252;
- (10) Failure to report an accident involving property damage, in violation of section 2253, 2254 or 2255;
- (11) Eluding an officer, in violation of section 2414;
- (12) Passing a roadblock, in violation of section 2414, subsection 4; ~~and~~
- (13) Operating a motor vehicle at a speed that exceeds the maximum speed limit by 30 miles per hour or more; ~~or~~and
- (14) For a person whose license is reinstated pursuant to section 2412-A, subsection 7 or section 2508, operating a motor vehicle without an ignition interlock device; tampering with or circumventing the operation of an ignition interlock device; or requesting or soliciting another person to blow into or otherwise activate an ignition interlock device for the purpose of providing the person with an operable motor vehicle; or

Sec. 8. Application. This Act applies only to OUI offenses as defined in the Maine Revised Statutes, Title 29-A, section 2401, subsection 8 occurring after August 31, 2008.

Sec. 9. Appropriations and allocations. The following appropriations and allocations are made.

SECRETARY OF STATE, DEPARTMENT OF

Administration - Motor Vehicles 0077

Initiative: Allocates funds for an Office Associate II position and related costs to administer a program to reinstate, within the suspension period, licenses of persons with 2 or more OUI offenses who install ignition interlock devices on their motor vehicles.

HIGHWAY FUND	2007-08	2008-09
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$51,844
All Other	\$0	\$7,119
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HIGHWAY FUND TOTAL	\$0	\$58,963

Sec. 10. Effective date. This Act takes effect September 1, 2008.'

SUMMARY

This amendment replaces the bill. The amendment increases license suspension periods for OUI offenses. The amendment allows the Secretary of State to reinstate the license of a person with 2 OUI offenses after 9 months of the 3-year suspension period has run if the person installs an ignition interlock device on the motor vehicle the person operates for a period of 2 years and the person also satisfies all other requirements for license reinstatement imposed by the Secretary of State. The amendment also allows the Secretary of State to reinstate the license of a person with 3 OUI offenses after 3 years of the 6-year suspension period has run if the person installs an ignition interlock device on the motor vehicle the person operates for a period of 3 years and the person also satisfies all other requirements for license reinstatement imposed by the Secretary of State. A person with 4 or more OUI offenses must have an ignition interlock device installed on the motor vehicle the person operates for a period of 4 years after the full period of license suspension has expired and must also satisfy all other requirements for license reinstatement imposed by the Secretary of State in order to have a license reinstated.

As in the bill, the amendment defines an ignition interlock device as a device that connects a breath analyzer to a motor vehicle's ignition system. The analyzer monitors the concentration of alcohol in the breath of any person who attempts to start the motor vehicle by using the ignition system. The device prevents the vehicle from starting unless the person provides a breath sample with a concentration of alcohol that is below a preset level.

The amendment specifies that a person whose license is reinstated contingent upon installation of an ignition interlock device and who operates a motor vehicle without an ignition interlock device or tampers with, disconnects or disables an ignition interlock device or circumvents the operation of an

ignition interlock device commits a Class E crime, which is a strict liability crime as defined in the Maine Revised Statutes, Title 17-A, section 34, subsection 4-A. The sentence for this crime must include a period of incarceration of not less than 7 days and a fine of not less than \$500. These penalties may not be suspended. All other violations involving ignition interlock devices are traffic infractions.

The amendment removes from the bill the proposed increased motor vehicle liability insurance requirement for persons seeking early reinstatement of a driver's license by participating in the ignition interlock device program.

The amendment increases the license reinstatement fee from \$35 to \$50 for persons whose suspension is for OUI or failure to submit to a test.

The amendment provides that a person may be classified as a habitual offender if the person's license is reinstated contingent on use of an ignition interlock device and that person operates a motor vehicle without an ignition interlock device; tampers with or circumvents the operation of an ignition interlock device; or requests or solicits another person to blow into or otherwise activate an ignition interlock device for the purpose of providing the person with an operable motor vehicle.

The amendment adds an application section, which specifies that this Act applies only to OUI offenses occurring after August 31, 2008. The amendment also adds an effective date of September 1, 2008, which gives the Secretary of State time to contract with an ignition interlock device vendor and prepare to administer and enforce the new program. The amendment adds an appropriations and allocations section.

FISCAL NOTE REQUIRED
(See attached)