

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

An Act To Increase the Period of Time for the Calculation of a Prior Conviction for Operating under the Influence

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

Sec. 1. 29-A MRSA §1603, sub-§2, as amended by PL 1995, c. 368, Pt. AAA, §2, is further amended to read:

2. Suspension of license or registration following OUI convictions. On receipt of an attested copy of the court record of an OUI conviction when the person has been previously convicted within a ~~10-year~~15-year period of OUI, the Secretary of State may not reinstate the person's license until the person gives proof of financial responsibility. The period of suspension under this subsection may not be less than the original period of suspension imposed for the conviction.

Sec. 2. 29-A MRSA §2303, sub-§1, ¶G, as amended by PL 1995, c. 645, Pt. B, §17, is further amended to read:

G. Has not received an OUI conviction, as defined in section 2401, subsection 9, within the preceding ~~10-year~~15-year period.

Sec. 3. 29-A MRSA §2402, as amended by PL 1995, c. 368, Pt. AAA, §6, is repealed and the following enacted in its place:

§ 2402. Calculating prior convictions

1. Prior conviction; action. For purposes of this chapter, a prior conviction or action has occurred within the 10-year period if the date of the action or the date of the docket entry of conviction is 10 years or less from the date of the new conduct.

2. OUI prior conviction; action. For purposes of this chapter, a prior conviction or action for OUI has occurred within the 15-year period if the date of the action or the date of the docket entry of conviction is 15 years or less from the date of the new OUI conduct.

Sec. 4. 29-A MRSA §2411, sub-§1-A, as amended by PL 2011, c. 159, §1, is further amended to read:

1-A. Offense. A person commits OUI if that person:

A. Operates a motor vehicle:

(1) While under the influence of intoxicants; or

(2) While having an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath;

B. Violates paragraph A and:

(1) Has one previous OUI offense within a ~~10-year~~15-year period;

(2) Has 2 previous OUI offenses within a ~~10-year~~15-year period; or

(3) Has 3 or more previous OUI offenses within a ~~10-year~~15-year period;

C. Violates paragraph A, failed to submit to a test at the request of a law enforcement officer and:

(1) Has no previous OUI offenses within a ~~10-year~~15-year period;

(2) Has one previous OUI offense within a ~~10-year~~15-year period;

(3) Has 2 previous OUI offenses within a ~~10-year~~15-year period; or

(4) Has 3 previous OUI offenses within a ~~10-year~~15-year period; or

D. Violates paragraph A, B or C and:

(1) In fact causes serious bodily injury as defined in Title 17-A, section 2, subsection 23 to another person;

(1-A) In fact causes the death of another person; or

(2) Has either a prior conviction for a Class B or Class C crime under this section or former Title 29, section 1312-B or a prior criminal homicide conviction involving or resulting from the operation of a motor vehicle while under the influence of intoxicating liquor or drugs or with an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath. For purposes of this subparagraph, the ~~10-year~~15-year limitation specified in section 2402 and the 10-year limitation specified in Title 17-A, ~~subsection~~section 9-A, subsection 3 does not apply to the prior criminal homicide conviction.

Sec. 5. 29-A MRSA §2411, sub-§5, ¶A, as amended by PL 2013, c. 389, §1 and affected by §7, is further amended to read:

A. For a person having no previous OUI offenses within a ~~10-year~~15-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 150 days; and
- (3) A period of incarceration as follows:
 - (a) Not less than 48 hours when the person:
 - (i) Was tested as having an alcohol level of 0.15 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath;
 - (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;

Sec. 6. 29-A MRSA §2411, sub-§5, ¶¶B and C, as amended by PL 2007, c. 531, §2 and affected by §10, are further amended to read:

B. For a person having one previous OUI offense within a ~~10-year~~15-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 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~~15-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 6 years; and

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

Sec. 7. 29-A MRSA §2411, sub-§5, ¶D, as amended by PL 2013, c. 187, §1, is further amended to read:

D. For a person having 3 or more previous OUI offenses within a ~~10-year~~15-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 8 years; and

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

Sec. 8. 29-A MRSA §2412-A, sub-§3, ¶A, as enacted by PL 1995, c. 368, Pt. AAA, §12, is amended to read:

A. If the person has a prior conviction for violating this section within a ~~10-year~~15-year period and was subject to the minimum mandatory sentences, then the following minimum penalties, which may not be suspended by the court, apply in the event the suspension was for OUI:

(1) A minimum fine of \$1,000, a term of imprisonment of 30 consecutive days and a suspension of license for not less than one year nor more than 3 years consecutive to the original suspension in the event of one prior conviction;

(2) A minimum fine of \$2,000, a term of imprisonment of 60 consecutive days and a suspension of license for not less than one year nor more than 3 years consecutive to the original suspension in the event of 2 prior convictions; or

(3) A minimum fine of \$3,000, a term of imprisonment of 6 months and a suspension of license for not less than one year nor more than 3 years consecutive to the original suspension in the event of 3 or more prior convictions. The sentencing class for this offense is a Class C crime.

Sec. 9. 29-A MRSA §2412-A, sub-§5-A is enacted to read:

5-A. Prior OUI convictions. For purposes of this section, a prior OUI conviction or suspension has occurred within a 15-year period if the date of the suspension or the docket entry of a judgment of conviction by the clerk is 15 years or less from the date of the new OUI conduct that is penalized or for which the new penalty may be enhanced.

Sec. 10. 29-A MRSA §2416, sub-§1, as amended by PL 1995, c. 368, Pt. AAA, §13, is further amended to read:

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 ~~10-year~~15-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.

Sec. 11. 29-A MRSA §2451, sub-§3, as amended by PL 2009, c. 54, §§1 to 3 and affected by c. 415, Pt. C, §§2 and 3, is further amended to read:

3. Suspension period. Unless a longer period of suspension is otherwise provided by law and imposed by the court, the Secretary of State shall suspend the license of a person convicted of OUI for the following minimum periods:

A. Ninety days, if the person has one OUI conviction within a ~~10-year~~15-year period;

B. Three years, if the person has 2 OUI offenses within a ~~10-year~~15-year period; or

C. Six years, if the person has 3 or more OUI offenses within a ~~10-year~~15-year period.

For the purposes of this subsection, a conviction or suspension has occurred within a ~~10-year~~15-year period if the date of the new conduct is within ~~10~~15 years of a date of suspension or a docket entry of judgment of conviction.

Sec. 12. 29-A MRSA §2452, sub-§3, as amended by PL 1995, c. 368, Pt. AAA, §18, is further amended to read:

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 ~~10-year~~15-year period as defined by section 2402.

Sec. 13. 29-A MRSA §2487, as amended by PL 1995, c. 368, Pt. AAA, §23, is further amended to read:

§ 2487. Proof of financial responsibility

A person with an OUI conviction within the ~~10-year~~15-year period as defined by section 2402 may not have a license reinstated until that person has complied with the financial responsibility provisions of section 1605.

Sec. 14. 29-A MRSA §2503, sub-§1, ¶C, as amended by PL 2011, c. 335, §12, is further amended to read:

C. The petitioner has not, within ~~10~~15 years, been under suspension for an OUI offense or pursuant to section 2453 or 2453-A.

Sec. 15. 29-A MRSA §2506, as amended by PL 2009, c. 447, §65, is further amended to read:

§ 2506. Conditional license

A license, including a nonresident's operating privilege, issued to a person with an OUI conviction must be issued on the condition that the person not operate a motor vehicle with an alcohol level of more than 0.00 grams per 100 milliliters of blood or 210 liters of breath for the following periods from the license reinstatement date: on first conviction, one year; and on a 2nd or subsequent conviction, ~~10~~15 years. The provisions of sections 1251, subsection 1 and 2457 apply.

Sec. 16. 29-A MRSA §2557-A, sub-§2, as amended by PL 2009, c. 54, §5 and affected by c. 415, Pt. C, §§2 and 3, is further amended to read:

2. Penalties. The following penalties apply.

A. A person is guilty of a Class D crime if the person violates subsection 1 and:

(1) The person has not been convicted for operating after revocation under this section or under former Title 29, section 2298 within the previous 10 years; and

(2) The person has not received an OUI conviction within the previous ~~10~~15 years.

The minimum fine for a Class D crime under this paragraph is \$500 and the minimum term of imprisonment is 30 days, neither of which may be suspended by the court.

B. A person is guilty of a Class C crime if the person violates subsection 1 and:

(1) The person has one conviction for operating after revocation under this section or under former Title 29, section 2298 within the previous 10 years; or

(2) The person has one OUI conviction within the previous ~~10~~15 years.

The minimum fine for a Class C crime under this paragraph is \$1,000 and the minimum term of imprisonment is 6 months, neither of which may be suspended by the court.

C. A person is guilty of a Class C crime if the person violates subsection 1 and:

(1) The person has 2 convictions for operating after revocation under this section or under former Title 29, section 2298 within the previous 10 years; or

(2) The person has 2 OUI convictions within the previous ~~10~~15 years.

The minimum fine for a Class C crime under this paragraph is \$1,000 and the minimum term of imprisonment is 9 months plus a day, neither of which may be suspended by the court.

D. A person is guilty of a Class C crime if the person violates subsection 1 and:

(1) The person has 3 or more convictions for operating after revocation under this section or under former Title 29, section 2298 within the previous 10 years; or

(2) The person has 3 or more OUI convictions within the previous ~~10~~15 years.

The minimum fine for a Class C crime under this paragraph is \$1,000 and the minimum term of imprisonment is 2 years, neither of which may be suspended by the court.

SUMMARY

This bill increases the period of time for calculating a prior conviction for operating under the influence from 10 years to 15 years.