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Legislative Document

No. 1787

H.P. 1279

House of Representatives, February 20, 2014

An Act To Clarify the Enforcement Provisions Relating to Motor Carrier Registration

Reported by Representative THERIAULT of Madawaska for the Criminal Law Advisory Commission pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2.

Reference to the Committee on Transportation suggested and ordered printed pursuant to Joint Rule 218.

Millicent M. MacFarland

MILLICENT M. MacFARLAND

Clerk

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

2 **Sec. 1. 29-A MRSA §551, sub-§6**, as enacted by PL 2009, c. 598, §8, is repealed.

3 **Sec. 2. 29-A MRSA §556, first ¶**, as amended by PL 1997, c. 776, §22, is further
4 amended to read:

5 A motor vehicle is exempt from this subchapter, except sections 555, 555-A, ~~558~~
6 558-A, 560 and 562, as follows:

7 **Sec. 3. 29-A MRSA §558**, as amended by PL 2011, c. 219, §1 and c. 455, §1 and
8 affected by §4, is repealed.

9 **Sec. 4. 29-A MRSA §§558-A and 558-B** are enacted to read:

10 **§558-A. Violation of provisions of subchapter**

11 **1. Crimes; penalties.** Except as provided in subsections 2 to 4, a person commits a
12 crime if that person:

13 A. In fact violates this subchapter or a rule adopted pursuant to this subchapter.
14 Violation of this paragraph is a Class E crime that is a strict liability crime as defined
15 in Title 17-A, section 34, subsection 4-A;

16 B. Intentionally or knowingly permits a violation of this subchapter or a rule adopted
17 pursuant to this subchapter. Violation of this paragraph is a Class E crime;

18 C. In fact violates any provision of the rules of the Department of Public Safety,
19 Bureau of State Police adopted under section 555 that incorporates by reference 49
20 Code of Federal Regulations, Section 391.41 (2007), or as amended, and that
21 violation occurs as a result of the operation of a commercial motor vehicle by a
22 person who has methadone or its metabolite in that person's body. Violation of this
23 paragraph is a Class E crime; or

24 D. Intentionally or knowingly violates this subchapter or a rule adopted pursuant to
25 this subchapter and the violation in fact causes either death or serious bodily injury to
26 a person whose health or safety is protected by the provision violated and the death or
27 serious bodily injury is a reasonably foreseeable consequence of the violation.
28 Violation of this paragraph is a Class C crime.

29 The maximum fine for a violation of a state rule that adopts by reference the federal
30 regulations found in 49 Code of Federal Regulations and that is not an out-of-service
31 order is \$250, and the maximum fine for a violation of a state rule that adopts by
32 reference the federal regulations found in 49 Code of Federal Regulations and that meets
33 the definition of an out-of-service order as defined in 49 Code of Federal Regulations is
34 \$500. For purposes of this subsection, "out-of-service order" means a declaration by a
35 law enforcement officer authorized to enforce the provisions of this subchapter that a
36 driver, a commercial motor vehicle or a motor carrier operation is out of service pursuant
37 to 49 Code of Federal Regulations, Sections 386.72, 392.5, 392.9a, 395.13 or 396.9, or
38 compatible laws, or the North American Standard Out-of-Service Criteria.

1 **2. Traffic infractions involving federal regulations; violations.** The following
2 provisions govern traffic infractions.

3 A. A person may not violate any provision of the rules of the Department of Public
4 Safety, Bureau of State Police adopted under section 555 that incorporates by
5 reference any of the following federal regulations or that is an amended version of
6 any of the following federal regulations:

7 (1) 49 Code of Federal Regulations, Section 390.21 (2007);

8 (2) Except as otherwise provided in subsection 1, paragraph C, 49 Code of
9 Federal Regulations, Section 391.41 (2007);

10 (3) 49 Code of Federal Regulations, Sections 392.16, 392.22, 392.24, 392.25,
11 392.33 and 392.71 (2007);

12 (4) Any section of 49 Code of Federal Regulations, Part 393 (2007); or

13 (5) 49 Code of Federal Regulations, Part 396, except Sections 396.7 and 396.9
14 (2007).

15 B. The following provisions govern penalties for violations of this subsection.

16 (1) A person who violates this subsection commits a traffic infraction for which
17 a fine of \$250 must be adjudged.

18 (2) A person who violates this subsection after having previously violated this
19 subsection commits a traffic infraction for which a fine of \$500 must be
20 adjudged.

21 **3. Traffic infractions not involving federal regulations; violations.** A person may
22 not violate any provision of the Secretary of State's rules adopted pursuant to section 551.
23 The following penalties apply to violations of this subsection.

24 A. A person who violates this subsection commits a traffic infraction for which a
25 fine of \$250 must be adjudged.

26 B. A person who violates this subsection after having previously violated this
27 subsection commits a traffic infraction for which a fine of \$500 must be adjudged.

28 **4. Civil violations.** A person commits a civil violation if that person violates this
29 subchapter or a rule adopted pursuant to this subchapter and the violation is discovered
30 during a compliance review as that term is defined in 49 Code of Federal Regulations,
31 Section 385.3, unless the compliance review occurs during the course of or as a result of a
32 criminal investigation. A person who violates this subsection is subject to a fine that
33 must be determined with due consideration of the Federal Motor Carrier Safety
34 Administration's uniform fine assessment program. A fine imposed may not be greater
35 than the fine amount provided in the Federal Motor Carrier Safety Administration's
36 uniform fine assessment program.

1 **§558-B. Notification by court to Secretary of State of a failure to appear or**
2 **noncompliance with court order; resulting suspension**

3 **1. Notification by court.** If a person after being ordered to appear to answer a
4 violation fails to appear or after appearing fails to comply with an order issued pursuant
5 to this subchapter, the court shall notify the Secretary of State.

6 **2. Suspension of registration.** After receiving notice pursuant to subsection 1, the
7 Secretary of State shall suspend the person's commercial registration certificates and
8 plates and the privilege to operate a commercial motor vehicle in this State. The
9 suspension must remain in effect until the person appears in court and complies with a
10 court order.

11 **SUMMARY**

12 This bill makes technical and organizational changes to the penalty provisions of the
13 laws regulating the registration of motor carriers. The bill repeals the Maine Revised
14 Statutes, Title 29-A, section 551, subsection 6, which was unnecessary. The bill enacts
15 Title 29-A, section 558-A, which separates crimes, traffic infractions and civil violations.
16 The bill separates by subsections the crimes, traffic infractions and civil violations. The
17 bill also amends the civil violation now in Title 29-A, section 558-A, subsection 4 by
18 specifying that the fine imposed may not be greater than the fine amount provided in the
19 Federal Motor Carrier Safety Administration's uniform fine assessment program. This
20 bill also specifies the penalty for a traffic infraction instead of relying on the penalty
21 described in Title 29-A, section 103, subsection 3.