



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1098

S.P. 331

In Senate, March 15, 2011

**An Act To Increase Accountability for the Most Serious Offenders
of Laws Prohibiting Operating under the Influence of Drugs and
Alcohol**

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator DIAMOND of Cumberland.

Cosponsored by Senators: MARTIN of Kennebec, MASON of Androscoggin.

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

2 **Sec. 1. 29-A MRSA §2411, sub-§1-A, ¶D**, as amended by PL 2009, c. 447, §38,
3 is further amended to read:

4 D. Violates paragraph A, B or C and:

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

7 (1-A) In fact causes the death of another person; or

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

16 **SUMMARY**

17 Current law provides for a Class B crime for a person who has a prior criminal
18 homicide conviction involving or resulting from the operation of a motor vehicle while
19 under the influence of intoxicating liquor or drugs who subsequently operates a motor
20 vehicle while under the influence of intoxicating liquor or drugs. In State v. Stevens,
21 2007 ME 5, 912 A.2d 1229, the Supreme Judicial Court ruled that it was not clear
22 whether the 10-year limit on using a prior conviction applied to this current law.

23 This bill corrects that ambiguity by specifying that the prior criminal homicide
24 conviction applies, regardless of when it occurred, for purposes of an enhanced sentence,
25 a Class B crime, for a subsequent conviction of operating under the influence.