



Janet T. Mills  
Governor

STATE OF MAINE  
Department of Public Safety  
*Bureau of Highway Safety*  
164 State House Station  
Augusta, Maine  
04333-0164



Michael J. Sauschuck  
Commissioner

Lauren V. Stewart  
Director

### Testimony of Director Lauren V. Stewart

#### TESTIMONY IN OPPOSITION TO LD 268: AN ACT TO RESTORE SENTENCING DISCRETION TO THE JUDICIARY BY REMOVING MANDATORY MINIMUM SENTENCES OF INCARCERATION

Senator Beebe-Center, Representative Hasenfus, and distinguished Members of the Joint Standing Committee on Criminal Justice and Public Safety, I am Lauren Stewart, Director of the Department of Public Safety, Bureau of Highway Safety, and I am here today to testify on behalf of the Department in Opposition of LD 268.

Given my role as Director of the Bureau of Highway Safety, I will limit my testimony today to issues relating to operating under the influence (“OUI”). While the Bureau and the Department oppose any reduction in the minimum penalties related to OUI on deterrence and other general safety grounds, I am going to focus my testimony today on the potential fiscal impact of LD 268.

According to the Maine DOT, LD 268 could cost the state \$6,487,987.00 in federal funding.

Title 23, Section 164 of the United States Code (“Section 164”) is titled “Minimum Penalties for Repeat Offenders for Driving While Intoxicated or Driving Under the Influence.” If a state does not meet the requirements of having *and enforcing* a “repeat intoxicated driver law,” then two-and-a-half percent (2.5%) of funds apportioned to it under the National Highway Performance Program and the Surface Transportation Block Grant Program must be *reserved* by the federal Secretary of State’s Office until such time as the state certifies that it is in compliance with the repeat intoxicated driver law requirements.<sup>1</sup> For Maine, such two-and-a-half percent is roughly equal to \$6.5 million.<sup>2</sup>

One of the requirements of having a repeat intoxicated driver law is that individuals convicted of OUI, who have prior OUIs, receive minimum jail sentences or extended community service.<sup>3</sup> For example, a person convicted of a second offense OUI must, under Section 164, be subject to a minimum period of imprisonment of five days or a minimum “assignment of not less than 30 days of community service.”<sup>4</sup> For a third or greater offense, the required minimum sentences elevate to 10 days of imprisonment or sixty days of community service.<sup>5</sup>

<sup>1</sup> 23 U.S.C. § 164(b)(2); 23 U.S.C. § 104(b)(1)-(2).

<sup>2</sup> Information provided by Maine Department of Transportation on February 7, 2025.

<sup>3</sup> 23 U.S.C. § 164(a)(5)(C).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

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Maine complies with Section 164 by having minimum mandatory sentences of imprisonment of seven days for a second offense OUI conviction, thirty days for a third offense, and six months or for a fourth or greater offense. If LD 268 passes as written, these minimum periods of imprisonment will become discretionary. A discretionary sentence is unlikely to be considered, by the U.S. Secretary of State's Office, to be a "minimum penalty" or to be "enforcing" such a minimum penalty. If said U.S. Secretary of State's Office makes the determination that Maine does not have at least the minimum imprisonment penalties it will be forced to withhold the two-and-a-half percent of the National Highway Performance Program and the Surface Transportation Block Grant Program funding.

For these reasons and for the safety of the public on our highways, the Department opposed LD 268 and any bill that would reduce or remove the minimum sentences related to OUI.

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