

**OFFICE OF POLICY AND LEGAL ANALYSIS
BILL ANALYSIS**

TO: Members, Joint Standing Committee on Criminal Justice and Public Safety

FROM: Jane Orbeton, Legislative Analyst

DATE: March 5, 2022

RE: LD 1479, An Act to Make certain Traffic Infractions Secondary Offenses

Summary

This bill is a concept draft. The proposed to make certain listed traffic offenses secondary offenses but did not include statutory language.

The sponsor, Rep Morales, presented an amendment at the work session that is copied in below. The offenses that would become secondary are:

- A. Operating after suspension for nonpayment of a fine under section 2412-A, subsection 8;
- B. Failing to register a vehicle if the vehicle was registered and the registration has been expired for 150 days or more under section 351, subsection 1, paragraph B;
- C. Operating a defective vehicle if the inspection certificate has expired beyond 7 months under section 1768, subsection 5, paragraph A, if there is no clear visual imminent safety problem;
- D. Obstructing the view of the operator by hanging an object from the rearview mirror under section 2082, subsection 2;
- E. Obscuring a window by tinting the glass under section 1916, subsection 1;
- F. Making excessive or unusual noise under section 1912, subsection 1;
- G. Improperly displaying a registration plate under section 452, if the registration plate is visible;
- H. Improperly displaying a registration plate under section 452, subsection 4, if the registration plate is visible but not legible due to mud, snow or inclement weather;
- I. Failing to provide a proper registration lamp under section 1909; and
- J. Driving in the left lane under section 2051.

Testimony

Proponents:

1. Jeremy Pratt, representing the Maine Association of Criminal Defense Lawyers, testified in support. Mr Pratt pointed out that a law enforcement officer, under the Maine case of State v. Pinkham, has the authority to stop a vehicle based on a valid safety concern. Mr Pratt clarified that a when a vehicle is stopped for a different reason, which would be the primary violation, if a fine is imposed for the primary violation then the person may be charged with the secondary violation.

2. Michael Kebede, representing the ACLU of Maine, testified in support, citing that disparate arrest rates reflect the racially disparate rate of police interactions with the public. Mr Kebede stated that passing the bill would help ordinary people, especially people of color, enjoy the constitutional right to be free from unreasonable searches and seizures. Senator Cyrway asked whether Maine data on disparate law enforcement interaction with the public is different from national data.

3. The following persons filed testimony supporting the bill: Larry Dansinger of Bangor and Jay Davis of Belfast.

4. Mary Bonauto, representing GLBTQ Legal Advocates and Defenders, filed testimony in support of the concept of LD 1479 and urged its passage. Mary Bonauto provided information on pretextual traffic stops, provided data about disparate stop rates, cited that pretextual stops undermine relationships between police and communities and asked that we find a path that serves our common interests of safe communities and the liberty and privacy of all persons. Mary Bonauto cited a law passed in Virginia in 2020 prohibiting traffic stops for a list of equipment violations and traffic infractions not related to public safety. The written testimony cites law passed in Philadelphia, Portland, Oregon, Minneapolis and Berkeley, California. The testimony includes information on state court rulings on pretext stops in Washington State, Oregon, Delaware, New Mexico and Massachusetts.

Opponents:

1. Rebecca Graham, representing the Maine Municipal Association, testified opposed to the bill, citing concerns about undermining quality of life concerns that residents consistently complain about, creating tax evasion loopholes and preserving discretion for law enforcement.

2. Lauren Stewart, Director of the DPS Bureau of Highway Safety, testified against the provision of the bill making safety seat belts a secondary violation, citing data on the incidence of brain injury, hospitalization, fatal injuries and costs for medical treatment. Director Stewart cited data on traffic fatalities for persons in different age groups and stated that seat belts are the best defense against impaired, aggressive and distracted drivers. See information provided below in response to a request from Rep Morales.

3. Lt Bruce Scott, Commanding Officer of the State Police Traffic Safety Unit, testified in opposition to the bill. Lt Scott opposed designating certain offenses as secondary offenses and spoke in favor of maintaining discretion for the officer to issue a verbal or written warning. Lt Scott stated that the bill poses an overall threat to public safety and that it would cost the state a loss of \$287,000 in federal funds. Lt Scott provided written testimony detailing opposition from the DPS and Maine State Police to the following provisions in the amendment: seat belts, making unnecessary noise, operating a defective vehicle, operating a motorcycle without a headlight, operating with an obstructed view, operating a vehicle in a turning lane, certain equipment violations, operating after suspension for failure to pay a fine or fee or writing a check with insufficient funds, littering, failure to register or properly display plates and failure to display a valid and current certificate of inspection.

4. Sheriff Timothy Carroll, representing the Maine Sheriffs' Association, testified of the sheriffs' unanimous opposition. Sheriff Carroll cited the safety aspects of vehicle inspection

standards, that seatbelt use can reduce the risk of death by 50% and the need to focus on saving lives.

5. The following persons filed testimony against the bill: James Tasse for the Bicycle Coalition of Maine, Brian Parke for the Maine Motor Transport Association, the Maine Chiefs of Police Association, Lance Mitchell of Whitefield and Sarah Calder for MaineHealth.

Neither for nor against:

1. Dr. Edward Walworth, representing the Maine Medical Association, testified in favor of removing section 1 of the amendment regarding seat belts and child safety restraints.

2. Joann Bautista, representing the Secretary of State's Office, testified neither for nor against the amendment, citing support for enforcing motor vehicle regulations in a way that does not unfairly impact some citizens. Ms. Bautista mentioned the potential negative impact of the provisions on expired motor vehicle registration and inspection and the potential impact on safe roads and bridges. Ms. Bautista was asked about potential decrease in use and costs of the court system, declined to speak for the Judicial Branch and supported a conversation with the Judicial Branch.

3. Dan Morin, representing the Maine Medical Association, spoke and supported removing from the amendment section 1 on seat belt use and took no position on section 2 of the amendment. Dan Morin cited a report done for the Connecticut Racial Profiling Prohibition Advisory Board and data gathered by Central Connecticut State University. The report categorizes traffic stops and recommends no change in safety-related stops. The report recommends that equipment and administrative offenses be reviewed for possible modification or inclusion in a secondary level of traffic enforcement. The report recommends that initial reforms focus on select areas that have demonstrated statistically significant racial disparities but that have a lesser impact on public safety. The report concludes that there is a general consensus that stops for cell phone, seatbelt, speed, stop sign, traffic control signal and other moving violations should remain unchanged as of 2021.

INFORMATION REQUESTED:

1. Rep Morales asked Lauren Stewart, Director of the DPS Bureau of Highway Safety, for the citation regarding traffic fatalities for persons ages 15 to 34. Director Stewart sent the following:

In today's public hearing for LD 1479, Rep. Morales asked me to demonstrate a citation in regard to my testimony regarding traffic fatalities for those age 15-34. The two below links will provide this information. The second link will allow her to run a report and then drill down on unintentional injury to specifically see motor vehicle unintentional injury information.

<https://www.cdc.gov/transportationsafety/seatbelts/facts.html>

<https://www.cdc.gov/injury/wisqars/index.html>

**LD 1479, An Act to Make Certain Traffic Infractions Secondary Offenses
Proposed by Rep Morales**

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

Sec. 1. 29-A MRSA §2081, sub-§7 is enacted to read:

7. **Secondary offense.** A violation of this section is a secondary offense and may be enforced only if a law enforcement officer has detained the operator of a motor vehicle for a suspected violation of another law. An operator is not subject to a penalty established in this section unless the operator is required to pay a fine for the primary violation.

Sec. 2. 29-A MRSA §2609 is enacted to read:

§2609. Secondary offense. Notwithstanding any provision of law to the contrary, a violation of any of the following provisions of law is a secondary offense and may be enforced only if a law enforcement officer has detained the operator of a motor vehicle for a suspected violation of another law, which is for the purposes of this section referred to as a primary violation. An operator is not subject to a penalty for a violation of the following provisions of law unless the operator is required to pay a fine for the primary violation. This section applies to any of the following violations:

A. Operating after suspension for nonpayment of a fine under section 2412-A, subsection 8;

B. Failing to register a vehicle if the vehicle was registered and the registration has been expired for 150 days or more under section 351, subsection 1, paragraph B;

C. Operating a defective vehicle if the inspection certificate has expired beyond 7 months under section 1768, subsection 5, paragraph A, if there is no clear visual imminent safety problem;

D. Obstructing the view of the operator by hanging an object from the rearview mirror under section 2082, subsection 2;

E. Obscuring a window by tinting the glass under section 1916, subsection 1;

F. Making excessive or unusual noise under section 1912, subsection 1;

G. Improperly displaying a registration plate under section 452, if the registration plate is visible;

H. Improperly displaying a registration plate under section 452, subsection 4, if the registration plate is visible but not legible due to mud, snow or inclement weather;

I. Failing to provide a proper registration lamp under section 1909; and

J. Driving in the left lane under section 2051.

SUMMARY

This amendment replaces the bill, which was a concept draft. This amendment designates certain motor vehicle offenses as secondary offenses, stating that they may be enforced only if a law enforcement officer has detained the operator of a motor vehicle for a suspected violation of another law. An operator is not subject to a penalty unless the operator is required to pay a fine for the primary violation. The motor vehicle offenses to which the amendment applies are: violation of the safety seat belt and child restraint system law; operating after suspension for nonpayment of a fine; failing to register a vehicle if the vehicle was registered and the registration has been expired for 150 days or more under section 351, subsection 1, paragraph B; operating a defective vehicle if the inspection certificate has expired beyond 7 months under section 1768, subsection 5, paragraph A, if there is no clear visual imminent safety problem; obstructing the view of the operator by hanging an object from the rearview mirror under section 2082, subsection 2; obscuring a window by tinting the glass under section 1916, subsection 1; making excessive or unusual noise under section 1912, subsection 1; improperly displaying registration plate under section 452, if the registration plate is visible; improperly displaying license plate under section 452, subsection 4, if the registration plate is visible but not legible due to mud, snow or inclement weather; failing to provide a proper registration lamp under section 1909; and driving in the left lane under section 2051.