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An Act To Make a Conviction for a 6th Operating under the Influence Charge a Class B Crime

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

Sec. 1. 29-A MRSA §2411, sub-§1-A, as amended by PL 2005, c. 606, Pt. A, §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 a blood-alcohol level of 0.08% or more;

B. Violates paragraph A and:

- (1) Has one previous OUI offense within a 10-year period;
- (2) Has 2 previous OUI offenses within a 10-year period; ~~or~~
- (3) Has 3 or ~~more~~⁴ previous OUI offenses within a 10-year period; or
- (4) Has 5 or more previous OUI offenses;

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 period;
- (2) Has one previous OUI offense within a 10-year period;
- (3) Has 2 previous OUI offenses within a 10-year period; ~~or~~
- (4) Has 3 or 4 previous OUI offenses within a 10-year period; or

(5) Has 5 or more previous OUI offenses; 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 a blood-alcohol level of 0.08% or greater.

Sec. 2. 29-A MRSA §2411, sub-§5, ¶D, as amended by PL 2003, c. 673, Pt. TT, §4, is further amended to read:

D. For a person having 3 or ~~more~~4 previous OUI offenses within a 10-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 6 years; and

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

Sec. 3. 29-A MRSA §2411, sub-§5, ¶F, as amended by PL 2001, c. 511, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

F. For a person sentenced under paragraph B, C or D, the court shall order the defendant to participate in the alcohol and other drug program of the Department of Health and Human Services, Office of Substance Abuse. The court may waive the program pursuant to Title 5, section 20073-B, if the court finds that the defendant has completed an alcohol or other drug treatment program subsequent to the date of the offense; ~~and~~

Sec. 4. 29-A MRSA §2411, sub-§5, ¶G, as amended by PL 2005, c. 606, Pt. A, §4, is further amended to read:

G. The court shall order an additional period of license suspension of 275 days for a person sentenced under paragraph A, B, C, D, D-1 or D-2 if the person was operating the motor vehicle at the time of the offense with a passenger under 21 years of age; and

Sec. 5. 29-A MRSA §2411, sub-§5, ¶H is enacted to read:

H. For a person having 5 or more previous OUI offenses, which is a Class B crime:

(1) A fine of not less than \$3,000, 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 \$3,500;

(2) A period of incarceration of not less than one year, 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 one year and 3 months;

(3) A court-ordered suspension of a driver's license for life. A person whose license is revoked pursuant to this paragraph may petition the Secretary of State for relicensure after 10 years. The Secretary of State may relicense the person only if the Secretary of State determines that the person has satisfied all statutory and administrative conditions that warrant relicensure; and

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

SUMMARY

This bill creates a new Class B crime of operating a motor vehicle while under the influence 6 or more times. This new crime is not limited by the 10-year lookback period and is subject to penalties including a fine of not less than \$3,000, 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 \$3,500; a period of incarceration of not less than one year, 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 one year and 3 months; and a court-ordered suspension of a driver's license for life.