

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND ELEVEN

H.P. 932 - L.D. 1241

An Act To Exempt Employers Subject to Federally Mandated Drug and Alcohol Programs from Maine Substance Abuse Program Laws

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

Sec. 1. 26 MRSA §681, sub-§8, as amended by PL 1995, c. 324, §2, is further amended to read:

8. Nuclear power plants; federal law. The following limitations apply to the application of this subchapter.

A. This subchapter does not apply to nuclear electrical generating facilities and their employees, including independent contractors and employees of independent contractors who are working at nuclear electrical generating facilities.

~~B. This subchapter, except for section 685, subsection 2 and section 689, subsections 1 and 4, does not apply to employees subject to substance abuse testing under any federal law or regulation or under rules adopted by the Department of Public Safety that incorporate any federal laws or regulations related to substance abuse testing for motor carriers. This exception does not prevent the negotiation of collective bargaining agreements that provide greater protection to employees as long as the agreements are consistent with federal law.~~

~~(1) For the purposes of applying section 685, subsection 2 to an employee under this paragraph, the employee is deemed to have previously worked in an employment position subject to random or arbitrary testing under an employer's written policy.~~

C. This subchapter does not apply to any employer subject to a federally mandated drug and alcohol testing program, including, but not limited to, testing mandated by the federal Omnibus Transportation Employee Testing Act of 1991, Public Law 102-143, Title V, and its employees, including independent contractors and employees of independent contractors who are working for or at the facilities of an employer who is subject to such a federally mandated drug and alcohol testing program.

Sec. 2. Report. The Department of Labor, Bureau of Labor Standards shall submit a report that includes its findings and recommendations by January 15, 2012 to the Joint Standing Committee on Labor, Commerce, Research and Economic Development

regarding the simplification and streamlining of the Maine Revised Statutes, Title 26, chapter 7, subchapter 3-A. The report and recommendations must include, among other topics, consideration of the following:

1. Initiating substance abuse testing when an employee causes a work-related accident that results in property damage, personal injury or loss of life or a citation or summons being issued to the employee by a law enforcement officer;
2. Submitting supervisory personnel to substance abuse testing on a random or arbitrary basis when an employer requires, requests or suggests that other employees be tested; and
3. Eliminating the requirement that an employer provide an opportunity and pay for an employee to participate in an assistance program when the employee has received a confirmed positive result on a substance abuse test.

The joint standing committee is authorized to introduce a bill related to the bureau's report to the Second Regular Session of the 125th Legislature.

In House of Representatives, 2011

Read twice and passed to be enacted.

..... Speaker

In Senate, 2011

Read twice and passed to be enacted.

..... President

Approved 2011

..... Governor