

## STATE OF MAINE

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 IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

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 H.P. 1200 - L.D. 1676

**An Act To Enhance the Ability of the State To Prosecute the Crime of  
Operating Under the Influence**

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

**Sec. 1. 29-A MRSA §2431, sub-§2, ¶A**, as amended by PL 2013, c. 459, §3, is further amended to read:

A. A ~~person~~ laboratory certified or licensed in accordance with section 2524 conducting a chemical analysis of blood, breath or urine to determine an alcohol level or the presence of a drug or drug metabolite may issue a certificate stating the results of the analysis.

**Sec. 2. 29-A MRSA §2431, sub-§2, ¶C**, as amended by PL 2013, c. 459, §3, is further amended to read:

C. A certificate issued in accordance with paragraph A or B, when duly signed and sworn, is prima facie evidence that:

- (1) ~~The person taking the specimen was authorized to do so;~~
- (2) Materials used in the taking of the specimen were of a quality appropriate for the purpose of producing reliable test results ~~as determined by the Department of Health and Human Services;~~
- (3) Materials required to be approved by the Department of Health and Human Services were in fact approved;
- (4) The sample tested was in fact the same sample taken from the defendant; and
- (5) The alcohol level or the presence of a drug or drug metabolite in the blood or urine of the defendant at the time the sample was taken was as stated in the certificate.

**Sec. 3. 29-A MRSA §2524, sub-§2**, as amended by PL 2013, c. 459, §11, is further amended to read:

**2. Laboratories qualified to analyze blood for blood tests.** A ~~person~~ laboratory conducting an analysis of blood-alcohol level or the presence of a drug or drug metabolite must either be certified by the Department of Health and Human Services or be licensed to do so under the laws of this State or any other state and also certified by the United States Department of Health and Human Services under the federal Clinical Laboratory Improvement Amendments of 1988, 42 United States Code, Section 263a (2018).

**Sec. 4. 29-A MRSA §2524, sub-§4,** as amended by PL 2013, c. 459, §11, is further amended to read:

**4. Chemical tests on blood and urine specimens.** A sample specimen of blood or urine may be submitted to the Department of Health and Human Services or to a person certified by the Department of Health and Human Services laboratory qualified pursuant to subsection 2 for the purpose of conducting chemical tests to determine alcohol level or the presence of a drug or drug metabolite.

**Sec. 5. 29-A MRSA §2524, sub-§5,** as amended by PL 2013, c. 459, §11, is further amended to read:

**5. Equipment for taking specimens.** For purposes of this section, ~~only~~ collection kits having a stamp of approval affixed by the Department of Health and Human Services may be used to take a sample specimen of blood or urine, ~~except that.~~ A sample specimen of blood or urine may also be taken in any collection tube of the type normally used in a laboratory qualified pursuant to subsection 2. The fact that a laboratory qualified pursuant to subsection 2 supplied the collection tube is prima facie evidence that the collection tube is the type of tube normally used in such a laboratory. Alternatively, a self-contained, breath-alcohol testing apparatus if reasonably available may be used to determine the alcohol level.

Approved breath-alcohol testing apparatus must have a stamp of approval affixed by the Department of Health and Human Services after periodic testing. That stamp is valid for no more than one year.

**Sec. 6. 29-A MRSA §2524, sub-§6,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

**6. Procedures for operation and testing of testing apparatus.** The Department of Health and Human Services shall establish, by rule, the procedures for the operation and testing of testing apparatus used in laboratories certified by the Department of Health and Human Services.

**Sec. 7. 29-A MRSA §2528,** as amended by PL 2013, c. 459, §12, is further amended to read:

**§2528. Liability**

A physician, ~~physician's assistant,~~ physician assistant, registered nurse, ~~other health care provider,~~ other person whose occupational license or training allows that person to draw blood, including but not limited to an emergency medical services person or law

enforcement officer; hospital or other health care provider; emergency medical service; or law enforcement agency in the exercise of due care is not liable for an act done or omitted in collecting or withdrawing specimens of blood at the request of a law enforcement officer pursuant to this chapter.