

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 28

H. P. 16

Filed December 30, 1966 under Joint Rule No. 6. To be printed and delivered to the House of Representatives of the 103rd Maine State Legislature.

JEROME G. PLANTE, Clerk

Presented by Mr. Humphrey of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT Relating to Chemical Tests in Fatal Motor Vehicle Collisions.

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

R. S., T. 29, § 1312-A, additional. Title 29 of the Revised Statutes is amended by adding a new section 1312-A, to read as follows:

§ 1312-A. Chemical tests in fatal motor vehicle collisions

Whenever a motor vehicle is involved in a collision which causes death to any person, any law enforcement officer is empowered to direct that a chemical test or tests, by the taking of blood, breath or urine, for the purpose of determining the amount of alcohol in the blood, shall be administered on the operator of any such motor vehicle or upon any pedestrian of lawful driving age who is killed is a result of said collision. Said test or tests shall be made within 6 hours after the collision.

1. **Consent.** In the event that the operator of the motor vehicle upon whom any such chemical test or tests shall be directed to be administered is alive, but is unconscious or otherwise in a condition rendering such person incapable of consenting or refusing to submit to the test or tests, the fact that said person operated a motor vehicle in this State which became involved in a collision causing death shall be deemed to constitute said operator's consent to the administering of the chemical test or tests prescribed by this section.

2. **Conditions.** The chemical test or tests shall be administered subject to the following conditions:

A. Only a physician, registered nurse or qualified laboratory technician may withdraw blood for the purpose of determining the alcoholic content therein. This limitation shall not apply to the taking of breath or urine.

B. The person tested may have a physician or a qualified technician, chemist, registered nurse or other qualified person of his own choosing administer a chemical test or tests, in addition to any administered at the direction of a law enforcement officer.

C. Upon the request of the person who submits to chemical test or tests at the direction of a law enforcement officer, full information concerning the test or tests, and the results thereof, shall be furnished to him.

D. The results of any chemical test or tests made under this section, or the fact that any such chemical test or tests had been made, shall not be admissible in evidence for any purpose in any proceeding of any kind, except with the permission of the person upon whom the test or tests had been made, or the permission of the personal representative of such person if such person is dead.

3. Refusal. If any person who is directed by a law enforcement officer, in accordance with this section, to submit to a chemical test or tests refuses to allow such test or tests to be made, none shall be administered. In such case, upon receipt of a sworn report of the law enforcement officer who had directed the test or tests to be administered, stating that said law enforcement officer had reasonable grounds to believe that such person was operating a motor vehicle which was involved in a collision causing death to some other person, and that said person had refused to submit to said test or tests at the direction of the law enforcement officer, the Secretary of State shall forthwith revoke his license or permit to operate or any nonresident operating privilege of the person refusing to submit to the chemical test or tests for a period of not less than one year after the date of the collision involved. If said person is a resident without a license or permit to operate a motor vehicle in the State, the Secretary of State shall deny to said person the issuance of a license or permit for a period of one year after the date of the collision involved.

4. Hearing. Once the Secretary of State has taken action pursuant to subsection 3, the Secretary of State shall promptly notify, in writing, the person against whom action has been taken, and, upon the request of such person, the Secretary of State shall afford a hearing. Said notification and hearing shall be in the same manner and form and under the same terms and conditions as provided in section 54 governing notification and hearing in the cases of discretionary suspension of licenses; except that the scope of the hearing for the purposes of this section shall be confined to the question of whether there was a refusal by the person to submit to the chemical test or tests in violation of the requirements of this section. After said hearing, the Secretary of State shall order that the action taken by the Secretary of State prior to the hearing should be sustained or rescinded.

5. Appeal. Any decision by the Secretary of State, after hearing, sustaining the action taken by him prior to hearing may be appealed by the person aggrieved thereby. Said appeal shall be taken by the filing of a complaint in the Superior Court in the same manner and form and under the same terms and conditions as provided in section 2242, relating to appeals from discretionary revocations and suspensions.