

MAINE STATE LEGISLATURE

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(New Title)
New Draft of: H. P. 1920, L. D. 1981
SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2113

H. P. 2054

House of Representatives, January 30, 1978

Reported by Mr. Brenerman from Committee on Health and Institutional Services and printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT to Permit Self-contained Breath Testing Equipment.

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

29 MRSA § 1312, sub-§ 6, last ¶, as last amended by PL 1975, c. 293, § 4, is repealed and the following enacted in its place:

Only such equipment as is approved by the Department of Human Services shall be used by a law enforcement officer to take a sample specimen of the defendant's breath for submission to the Department of Human Services or a person certified by the Department of Human Services for the purpose of conducting tests of the sample specimen to determine the blood-alcohol level thereof. Approved equipment shall have a stamp of approval affixed by the Department of Human Services. Evidence that the equipment was in a sealed carton bearing the stamp of approval shall be accepted in court as prima facie evidence that the equipment was approved by the Department of Human Services for use by the law enforcement officer to take the sample specimen of the defendant's breath.

As an alternative to the method of breath testing described in paragraph 3, a law enforcement officer, with the consent of the person upon whom the test is to be

made, may test the breath of any person arrested for operating or attempting to operate a motor vehicle while under the influence of intoxicating liquor, by use of a self-contained, breath-alcohol testing apparatus to determine the blood-alcohol level, provided the testing apparatus is reasonably available.

Approved self-contained, breath-alcohol testing apparatus shall have a stamp of approval affixed by the Department of Human Services after periodic testing. That stamp of approval shall be valid for a limited period of no more than 1 year. Evidence that the equipment was bearing the stamp of approval shall be accepted in court as prima facie evidence that the equipment was approved by the Department of Human Services for use by the law enforcement officer to collect and analyze a sample specimen of the defendant's breath.

It is the intent of the Legislature that savings realized through the use of self-contained breath-alcohol testing equipment shall be used for programs in the area of highway safety, with priority to be given to programs involving alcohol education and rehabilitation. It is also the intent of the Legislature that local law enforcement departments may be equipped, according to local needs, with either type of breath-testing equipment, as described in paragraphs 3 and 4, as provided by the Department of Transportation and approved by the Department of Human Services.

STATEMENT OF FACT

Present law requires that breath samples be analyzed in central laboratories. This legislation would permit the collection and analyzing of breath samples simultaneously. It is estimated that over \$100,000 could be saved annually if this bill is enacted. No expenditure of state funds is involved. Funds required for the training of law enforcement officers and for certifying equipment would come from Federal Highway Safety Act funds.