

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 1314

6  
7 S.P. 486

In Senate, April 16, 1985

8 Referred to the Committee on Legal Affairs. Sent down for concurrence  
9 and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Bustin of Kennebec.

11 Cosponsored by Senator Perkins of Hancock, Representative Reeves of  
Pittston and Representative Bott of Orono.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT to Facilitate Detection of Drivers  
18 Operating Under the Influence of  
19 Intoxicating Liquor or Drugs.  
20

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

23 Sec. 1. 29 MRSA §1312-E is enacted to read:

24 §1312-E. Mandatory reporting of drivers operating  
25 under the influence of intoxicating liquor  
26 or drugs

27 The following provisions shall govern the manda-  
28 tory reporting of drivers suspected of operating un-  
29 der the influence of intoxicating liquor or drugs.

30 1. Persons mandated to report. If, while acting  
31 in his professional capacity, a medical or  
32 osteopathic physician, resident, intern, emergency  
33 medical technician, medical examiner, physician's as-  
34 stant, dentist, dental hygienist, dental assistant

1 or registered or licensed practical nurse knows or  
2 has reasonable cause to suspect that a person has  
3 been operating a motor vehicle while under the influ-  
4 ence of intoxicating liquor or drugs or a combination  
5 of liquor and drugs within the meaning of this sub-  
6 chapter, and that motor vehicle has been involved in  
7 an accident, he shall immediately report or cause a  
8 report to be made to a law enforcement official.

9       2. Immunity from liability. A person participat-  
10 ing in good faith in reporting under this section,  
11 or in participating in a related proceeding, is im-  
12 immune from any criminal or civil liability for the act  
13 of reporting or participating in the proceeding.  
14 Nothing in this section may be construed to bar crim-  
15 inal or civil action regarding perjury. In a pro-  
16 ceeding regarding immunity from liability, there  
17 shall be a rebuttable presumption of good faith.

18       3. Privileged or confidential communica-  
19 tions. The physician-patient privileges under the  
20 Maine Rules of Evidence and the confidential quality  
21 of communication under Title 24-A, section 4224, and  
22 Title 32, section 1092-A, are abrogated in relation  
23 to required reporting or other proceeding.

24       4. Civil violation. A person who knowingly vio-  
25 lates a provision of this section commits a civil vi-  
26 olation for which a forfeiture of not more than \$500  
27 may be adjudged.

28       Sec. 2. 32 MRS §1092-A, sub-§4, ¶D is enacted  
29 to read:

30       D. There is no privilege under this section as  
31 to disclosure of information concerning a patient  
32 when that disclosure is required by law and noth-  
33 ing in this section may modify or affect the pro-  
34 visions of Title 22, sections 4011 to 4015 and  
35 Title 29, section 1312-E.

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STATEMENT OF FACT

2       Recent studies have shown that many accident vic-  
3       tims receiving treatment in hospital emergency rooms  
4       are suspected of being under the influence of alcohol  
5       or other drugs. Many of them who are drivers are  
6       treated and released without having their  
7       blood-alcohol level sampled and without an awareness  
8       by the local law enforcement officer that operating  
9       under the influence is suspected. Many physicians in  
10      the State have expressed concern that they find them-  
11      selves unable to report the intoxication of an indi-  
12      vidual because of the patients' confidentiality laws.  
13      Law enforcement officials have indicated a desire to  
14      have physicians report suspicion of operating under  
15      the influence in these cases.

16       This bill requires a physician, or other individ-  
17      ual likely to be involved in emergency treatment of  
18      an accident victim, to report the suspicion of intox-  
19      ication. It is similar to the child abuse reporting  
20      law. The confidentiality law is abrogated for these  
21      purposes.

22       Immediate reporting is necessary since delays in  
23      taking the appropriate test drastically reduce the  
24      chances of detecting the alcohol or other drugs. In-  
25      toxicated drivers involved in accidents and who are  
26      injured in the accident are often not identified as  
27      operating under the influence and never forced to ob-  
28      tain help or at least to keep off the road.

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