

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
114TH LEGISLATURE  
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 801,  
L.D. 2049, Bill, "An Act to Make Revisions in the Drug Testing  
Laws"

Amend the amendment in section 2 by striking out all of  
subsection 8 and inserting in its place the following:

'8. Federal law; exceptions. This subchapter does not  
apply to the extent it is preempted by any federal law, rule or  
regulation. This subchapter does not apply in any way to:

A. Nuclear electrical generating facilities and their  
employees, including independent contractors and employees  
of independent contractors who are working at nuclear  
electrical generating facilities; or

B. Employees subject to substance abuse testing under any  
federal law or regulation or under rules adopted by this  
State's Department of Public Safety that incorporate any  
federal laws or regulations related to substance abuse  
testing for motor carriers.'

Further amend the amendment in section 3 by inserting at the  
end the following: 'The agency, board or other entity may  
require a person to submit to a substance abuse test as a  
condition of restoring a license or certification that has been  
revoked or suspended due to that person being diagnosed as having  
a substance abuse problem. This subsection does not apply to  
substance abuse testing conducted under rules adopted by the  
Department of Public Safety that incorporate any federal laws or  
regulations related to substance abuse testing for motor  
carriers.'

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## STATEMENT OF FACT

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This amendment restores the exemption from the drug testing laws provided to certain intrastate motor carriers and clarifies the extent of the prohibition against the use of substance abuse tests by licensing or certification agencies, boards or other entities.

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The amendment exempts from the state drug testing laws the testing of any employee under any federal law or regulation. This ensures that employers who are required or permitted to test employees under those regulations may conduct those tests as provided under federal law. The employers do not need to comply with any additional requirements that may exist under Maine's drug testing laws. To provide equal consideration to intrastate motor carriers, this exemption includes the testing of employees under rules adopted by the State Department of Public Safety that incorporate the federal drug testing regulations applicable to interstate motor carriers. This exemption includes only those employees who are subject to testing under the federal regulations. The use of substance abuse tests for other employees of those employers continues to be governed by the Maine drug testing laws.

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This amendment also clarifies the extent of the prohibition against the use of substance abuse tests by licensing or certification agencies, boards or other entities. Although an employment or professional licensing board may not require a person to submit to a substance abuse test as a condition of the issuance, renewal or continued validity of that person's employment or professional license, once that person's license has been suspended or revoked due to a diagnosed substance abuse problem, the licensing board may require that the person submit to a substance abuse test before restoring that person's license. This amendment ensures that the license holder's or applicant's privacy interests are protected except where that person has already been diagnosed as having a substance abuse problem and desires to regain an employment or professional license.

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Filed by Rep. Ruhlin of Brewer  
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