

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2120

H.P. 1535

House of Representatives, January 5, 1990

Submitted by the Department of Public Safety pursuant to Joint Rule 24.
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative PRIEST of Brunswick.

Cosponsored by Representative HUSSEY of Milo, Representative BAILEY of Farmington and Senator PERKINS of Hancock.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Amend the Operating-under-the-influence Laws.



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

2 29 MRSA §1312, sub-§11, ¶D, as enacted by PL 1987, c. 791,
4 §17, is amended to read:

6 D. Notwithstanding any other provision of this section,
each operator of a motor vehicle involved in a motor vehicle
8 ~~accident which results in the death of any person~~ shall
submit to and complete a test to determine that person's
10 blood-alcohol level by analysis of such the person's blood
or breath, if there is probable cause to believe that a
12 death has occurred or will occur as a result of the
accident. The investigating law enforcement officer shall
14 cause a test to be administered as soon as practicable
following the accident. A law enforcement officer may
16 determine which type of test shall ~~be~~ is administered and
shall report any failure of a person to submit to or
18 complete a test at the officer's request to the Secretary of
State by written statement under oath. The result of a test
20 taken pursuant to this paragraph is ~~not~~ admissible at trial
unless, if the court, after reviewing all the facts
22 regardless of whether they were established prior to, during
or after the administration of the test, is satisfied that
24 probable cause exists, independent of such the test result,
to believe that the operator was under the influence of
26 intoxicating liquor or drugs or had an excessive
blood-alcohol level.

28 The Secretary of State shall suspend, for a period of one
30 year, the license or permit to operate, right to operate a
motor vehicle and right to apply for or obtain a license,
32 pursuant to section 2241, subsection 1, paragraph N, of any
person who fails to submit to or complete a test. The scope
34 of any hearing the Secretary of State holds pursuant to
section 2241 shall ~~shall~~ must include whether there was probable
36 cause to believe that the person was the operator of a motor
vehicle involved in a motor vehicle ~~fatality~~ accident,
38 whether there was probable cause to believe that the
accident resulted or would result in a fatality and whether
40 that person failed to submit to or complete a test to
determine the blood-alcohol level. If the person shows,
42 after hearing, that he the person was not under the
influence of intoxicating liquor or drugs or that he the
44 person did not negligently cause the death accident, then
any suspension shall ~~shall~~ must be removed immediately.

46
48
50 STATEMENT OF FACT

52 This bill amends the portion of the Maine Revised Statutes,
Title 29, section 1312, that requires the operator of a motor

2 vehicle involved in a motor vehicle fatality to submit to a
blood-alcohol test. This bill requires the operator's submission
4 to testing when it is likely that a fatality will result because
of an accident even though the death has not yet occurred.

6 In addition, the investigating law enforcement officer will
be required to cause a test to be taken as soon as practicable
8 after the accident. The result will be admissible in court if
probable cause to believe that the person was under the influence
10 can be established at any time during the investigation,
independent of the test result.