

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1990

Legislative Document

No. 70

H.P. 50

House of Representatives, December 21, 1990

Reference to the Committee on Legal Affairs suggested and ordered printed.

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

EDWIN H. PERT, Clerk

Presented by Representative MERRILL of Dover-Foxcroft.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

**An Act to Authorize Trained Police Officers to Take Blood Samples in
Operating-under-the-influence Cases.**

(EMERGENCY)



Emergency preamble. Whereas, Acts of the Legislature do not
2 become effective until 90 days after adjournment unless enacted
as emergencies; and

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6 Whereas, drunk drivers pose a tremendous threat to the
safety of other drivers and themselves; and

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10 Whereas, allowing law enforcement officers to administer
blood tests will facilitate removing drunk drivers from the road;
and

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14 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
16 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

20 **Sec. 1. 22 MRSA §48 is enacted to read:**

22 **§48. Certification of law enforcement officers**

24 The department shall adopt rules providing for the
26 qualification and certification of law enforcement officers in
administering blood tests pursuant to Title 29, section 1312.

28 **Sec. 2. 22 MRSA §2032, as repealed and replaced by PL 1975,**
30 **c. 218, is amended to read:**

32 **§2032. Specimens**

34 No Except as provided in Title 29, section 1312, no person
other than a licensed physician or one authorized by law shall
36 may manipulate a person for the collection of specimens or
process or submit or act as an agent for the transmittal of
specimens, except that technical personnel of a licensed medical
38 laboratory may collect blood or remove stomach contents or
collect material for smears and cultures under the direction or
40 upon the request of a physician or dentist.

42 **Sec. 3. 29 MRSA §1312, 2nd ¶, as amended by PL 1989, c. 784,**
44 **§3, is further amended to read:**

46 The person shall must be informed by a law enforcement
officer that a breath test will be administered, unless, in the
determination of the law enforcement officer, it is unreasonable
48 for a breath test to be administered, in which case another
chemical test shall must be administered. When a blood test is
50 required, the test may be administered by a physician of the
accused's choice, at the request of the accused and if reasonably
52 available. If the accused does not request a particular

2 physician or if the physician chosen by the accused is not
3 reasonably available, a law enforcement officer certified by the
4 Department of Human Services pursuant to Title 22, section 48,
5 may administer a blood test. The law enforcement officer may
6 determine which type of breath test, as described in subsection

7 **Emergency clause.** In view of the emergency cited in the
8 preamble, this Act takes effect when approved.
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12 STATEMENT OF FACT

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15 This bill allows law enforcement officers to administer
16 blood tests to persons accused of operating a motor vehicle under
the influence of intoxicating liquor. The Department of Human
Services must certify those officers who administer these tests.