

# MAINE STATE LEGISLATURE

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Date: 5/18/11

L.D. 1241  
(Filing No. H 287)

**LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
125TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 932, L.D. 1241, Bill, "An Act To Remove the Requirement That Employers Offer Substance Abuse Services to Employees Who Fail Drug Tests"

Amend the bill by striking out the title and substituting the following:

**'An Act To Exempt Employers Subject to Federally Mandated Drug and Alcohol Programs from Maine Substance Abuse Program Laws'**

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**'Sec. 1. 26 MRSA §681, sub-§8,** as amended by PL 1995, c. 324, §2, is further amended to read:

**8. Nuclear power plants; federal law.** The following limitations apply to the application of this subchapter.

A. This subchapter does not apply to nuclear electrical generating facilities and their employees, including independent contractors and employees of independent contractors who are working at nuclear electrical generating facilities.

~~B. This subchapter, except for section 685, subsection 2 and section 689, subsections 1 and 4, does not apply to employees subject to substance abuse testing under any federal law or regulation or under rules adopted by the Department of Public Safety that incorporate any federal laws or regulations related to substance abuse testing for motor carriers. This exception does not prevent the negotiation of collective bargaining agreements that provide greater protection to employees as long as the agreements are consistent with federal law.~~

~~(1) For the purposes of applying section 685, subsection 2 to an employee under this paragraph, the employee is deemed to have previously worked in an employment position subject to random or arbitrary testing under an employer's written policy.~~

**COMMITTEE AMENDMENT**

R.O.F.S

C. This subchapter does not apply to any employer subject to a federally mandated drug and alcohol testing program, including, but not limited to, testing mandated by the federal Omnibus Transportation Employee Testing Act of 1991, Public Law 102-143, Title V, and its employees, including independent contractors and employees of independent contractors who are working for or at the facilities of an employer who is subject to such a federally mandated drug and alcohol testing program.

**Sec. 2. Report.** The Department of Labor, Bureau of Labor Standards shall submit a report that includes its findings and recommendations by January 15, 2012 to the Joint Standing Committee on Labor, Commerce, Research and Economic Development regarding the simplification and streamlining of the Maine Revised Statutes, Title 26, chapter 7, subchapter 3-A. The report and recommendations must include, among other topics, consideration of the following:

1. Initiating substance abuse testing when an employee causes a work-related accident that results in property damage, personal injury or loss of life or a citation or summons being issued to the employee by a law enforcement officer;

2. Submitting supervisory personnel to substance abuse testing on a random or arbitrary basis when an employer requires, requests or suggests that other employees be tested; and

3. Eliminating the requirement that an employer provide an opportunity and pay for an employee to participate in an assistance program when the employee has received a confirmed positive result on a substance abuse test.

The joint standing committee is authorized to introduce a bill related to the bureau's report to the Second Regular Session of the 125th Legislature.'

**SUMMARY**

This amendment replaces the bill. It allows an employer subject to a federally mandated substance abuse testing program to extend its United States Department of Transportation mandated program to its entire workforce and its independent contractors. It allows such employers to have the same substance abuse policy for all employees and independent contractors. The amendment directs the Department of Labor, Bureau of Labor Standards to submit a report to the Joint Standing Committee on Labor, Commerce, Research and Economic Development by January 15, 2012 with recommendations on simplifying and streamlining the labor laws dealing with substance abuse testing. The joint standing committee is authorized to introduce a bill related to the report to the Second Regular Session of the 125th Legislature.

**FISCAL NOTE REQUIRED**  
(See attached)



**ROFS**

# 125th MAINE LEGISLATURE

LD 1241

LR 288(02)

**An Act To Remove the Requirement That Employers Offer Substance Abuse Services to Employees Who Fail Drug Tests**

**Fiscal Note for Bill as Amended by Committee Amendment "A"**  
**Committee: Labor, Commerce, Research and Economic Development**  
**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Additional costs to the Bureau of Labor Standards within the Department of Labor associated with submitting the required report can be absorbed within existing budgeted resources. Assumes the State of Maine would not exercise the option to extend alcohol and drug testing to all employees as allowed in this bill.