

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1676

H.P. 1200

House of Representatives, May 2, 2019

**An Act To Enhance the Ability of the State To Prosecute the Crime
of Operating Under the Influence**

Submitted by the Department of Public Safety pursuant to Joint Rule 204.
Reference to the Committee on Criminal Justice and Public Safety suggested and ordered
printed.

Robert B. Hunt

ROBERT B. HUNT
Clerk

Presented by Representative McLEAN of Gorham.

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

2 **Sec. 1. 29-A MRSA §2431, sub-§2, ¶A**, as amended by PL 2013, c. 459, §3, is
3 further amended to read:

4 A. A ~~person~~ laboratory certified or licensed in accordance with section 2524
5 conducting a chemical analysis of blood, breath or urine to determine an alcohol level
6 or the presence of a drug or drug metabolite may issue a certificate stating the results
7 of the analysis.

8 **Sec. 2. 29-A MRSA §2431, sub-§2, ¶C**, as amended by PL 2013, c. 459, §3, is
9 further amended to read:

10 C. A certificate issued in accordance with paragraph A or B, when duly signed and
11 sworn, is prima facie evidence that:

- 12 ~~(1) The person taking the specimen was authorized to do so;~~
13 (2) Materials used in the taking of the specimen were of a quality appropriate for
14 the purpose of producing reliable test results ~~as determined by the Department of~~
15 ~~Health and Human Services;~~
16 (3) Materials required to be approved by the Department of Health and Human
17 Services were in fact approved;
18 (4) The sample tested was in fact the same sample taken from the defendant; and
19 (5) The alcohol level or the presence of a drug or drug metabolite in the blood or
20 urine of the defendant at the time the sample was taken was as stated in the
21 certificate.

22 **Sec. 3. 29-A MRSA §2524, sub-§1-A** is enacted to read:

23 **1-A. Liability.** A physician, physician's assistant, registered nurse, person whose
24 occupational license or training allows that person to draw blood, hospital or other health
25 care provider in the exercise of due care is not liable for an act done or omitted in
26 collecting or withdrawing specimens of blood at the request of a law enforcement officer
27 pursuant to this chapter.

28 **Sec. 4. 29-A MRSA §2524, sub-§2**, as amended by PL 2013, c. 459, §11, is
29 further amended to read:

30 **2. Laboratories qualified to analyze blood for blood tests.** A ~~person~~ laboratory
31 conducting an analysis of blood-alcohol level or the presence of a drug or drug metabolite
32 must either be certified by the Department of Health and Human Services or be licensed
33 to do so under the laws of this State or any other state and also certified by the United
34 States Department of Health and Human Services under the federal Clinical Laboratory
35 Improvement Amendments of 1988, 42 United States Code, Section 263a (2018).

36 **Sec. 5. 29-A MRSA §2524, sub-§4**, as amended by PL 2013, c. 459, §11, is
37 further amended to read:

