

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 1980 to June 19, 1981

AND AT THE

FIRST SPECIAL SESSION
August 3, 1981

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PUBLIC LAWS
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any such company which applies a flat rate for residential customers when this section becomes effective, the commission shall order that the minimum charge be instituted no later than 30 days thereafter.

3. **Billing of minimum charge.** The minimum charge shall be billed to the customer in such manner that all charges to the customer for residential service shall appear on the bill as a single item. This requirement does not prohibit separate information concerning the fuel cost adjustment, as defined in section 131, from appearing on the statement.

Effective September 18, 1981

CHAPTER 458

S. P. 251 — L. D. 720

AN ACT to Ensure the Admissibility of Results of Self-contained, Breath-alcohol Testing Apparatuses.

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

Whereas, the Legislature in 1977 passed amendments to the Revised Statutes, Title 29, section 1312, designed to insure the use of self-contained, breath-alcohol testing apparatuses and to ensure the admissibility of the results of those tests in evidence in court; and

Whereas, a wide variety of claims are being made in the courts in this State that the results of such tests should not be admissible in evidence or, if admissible, are without probative weight under the present statute and in the absence of substantial and impractical amounts of expert testimony; and

Whereas, self-contained, breath-alcohol testing apparatuses are in widespread use in the State at the present time and many tests have been performed with them in cases which are pending trial; and

Whereas, it is important to the proper enforcement of the operating under the influence of alcohol law that these test results be admissible in evidence; and

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 necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 29 MRSA § 1312, sub-§ 6, 5th ¶, as enacted by PL 1977, c. 603, is repealed and the following enacted in its place:

As an alternative to the method of breath testing described in this subsection, a law enforcement officer may test the breath of any person whom there is probable cause to believe has operated or attempted to operate a motor vehicle while under the influence of intoxicating liquor and who has chosen a breath test, by use of a self-contained, breath-alcohol testing apparatus to determine the blood-alcohol level, provided the testing apparatus is reasonably available. The result of any such test shall be accepted as prima facie evidence of the blood-alcohol level in any court.

Sec. 2. 29 MRSA § 1312, sub-§ 6, 6th ¶, 3rd sentence, as enacted by PL 1977, c. 603, is amended to read:

Evidence Testimony or other evidence that the equipment was bearing the stamp of approval shall be accepted in court as prima facie evidence that the equipment was approved by the Department of Human Services for use by the law enforcement officer to collect and analyze a sample specimen of the defendant's breath.

Sec. 3. 29 MRSA § 1312, sub-§ 6, 6th ¶, as enacted by PL 1977, c. 603, is amended by adding at the end a new sentence to read:

Testimony or other evidence that any materials used in operating or checking the operation of the equipment were bearing a statement of the manufacturer or of the Department of Human Services shall be accepted in court as prima facie evidence that the materials were of a composition and quality as stated.

Sec. 4. 29 MRSA § 1312, sub-§ 6, as last amended by PL 1977, c. 603, is further amended by adding at the end a new paragraph to read:

A person certified by the Maine Criminal Justice Academy, under certification standards to be set by the academy, as qualified to operate approved self-contained, breath-alcohol testing apparatuses may operate those apparatuses for the purpose of collecting and analyzing a sample specimen of defendants' breath.

Sec. 5. 29 MRSA § 1312, sub-§ 8, first ¶, as repealed and replaced by PL 1971, c. 547, is amended to read:

The percentage by weight of alcohol in the defendant's blood at the time alleged, as shown by the chemical analysis of his blood or breath, or by results of a self-contained, breath-alcohol testing apparatus authorized by subsection 6, shall be admissible in evidence.

Sec. 6. 29 MRSA § 1312, sub-§ 8, as last amended by PL 1979, c. 701, § 33, is further amended by adding after the 2nd paragraph a new paragraph to read:

A person certified under subsection 6, as qualified to operate a self-contained,

breath-alcohol testing apparatus for the purpose of determining blood-alcohol level, may issue a certificate stating the results of the analysis. That certificate, when duly signed and sworn to by the certified person, shall be admissible in evidence in any court of the State. It shall be prima facie evidence that the percentage by weight of alcohol in the blood of the defendant was, at the time the breath sample was taken, as stated in the certificate, unless, with 10-days' written notice to the prosecution, the defendant requests that the operator or other qualified witness testify as to the results of the analysis.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 15, 1981

CHAPTER 459

H. P. 474 — L. D. 538

AN ACT Concerning the Regulation of Atlantic Salmon.

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

Whereas, following 10 years of intensive efforts to clean up our waterways and to restore native fisheries, the Atlantic salmon is returning to Maine rivers; and

Whereas, the restoration of this majestic fish has created great interest and consequent fishing pressure on the resources; and

Whereas, there are few controls on taking Atlantic salmon in coastal waters, and without some controls fishing pressure may endanger the restoration effort; and

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 necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 12 MRSA § 6503 is enacted to read:

§ 6503. Atlantic salmon

1. **License required.** A nonresident individual may fish for Atlantic salmon