

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE**

**SECOND SPECIAL SESSION**  
**June 19, 2018 to September 13, 2018**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**DECEMBER 13, 2018**

**ONE HUNDRED AND TWENTY-NINTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 5, 2018 to June 20, 2019**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 2019**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

---

---

**Augusta, Maine**  
**2019**

C. Comply with the provisions of Title 29-A, section 254 relating to requirements for retention of records relating to the identity of shared vehicle drivers, including a record of the shared vehicle driver's driver's license and the exact time the vehicle is used as a shared vehicle in a shared vehicle driver's possession; and

D. Cooperate in a claims coverage investigation to facilitate the exchange of relevant information with directly involved parties and any insurer of a shared vehicle owner or a shared vehicle driver participating in a program.

5. Cancellation or termination of insurance. If any insurance policy procured by a provider is cancelled or terminated, the provider shall send notice within 15 days to all shared vehicle owners participating in the provider's program.

#### **§7404. Liability provisions**

1. Provider liable as if owner. Notwithstanding any provision of law to the contrary or any provision in a motor vehicle insurance policy, in the event a loss or injury occurs during a car sharing period or while a motor vehicle is under the control of a provider, the provider is deemed the owner of the motor vehicle under Title 29-A, section 1652 and any provision of law that may impose liability upon the owner of a motor vehicle solely based on ownership of the motor vehicle. The provider retains liability regardless of any lapse in the provider's policy or whether that liability is covered under the provider's policy or any other insurance policy under which the provider is insured.

2. Indemnification. In the event that the shared vehicle owner or the shared vehicle owner's insurer is named as a defendant in a civil action for a loss or injury that occurs during any time within the car sharing period or when the motor vehicle is under the control of the provider, the provider's insurer has the duty to defend and indemnify the shared vehicle owner and the shared vehicle owner's insurer.

#### **§7405. Insurance for peer-to-peer car sharing programs**

1. Authorization for liability and property and casualty insurance. An insurer may issue or issue for delivery in this State any policy of liability and property and casualty insurance to a provider to insure the provider and any shared vehicle driver or authorized operator or occupant of a shared vehicle and any employee, agent or officer of the program as long as the policy meets the requirements of this section.

2. Coordination of insurance. A program policy written in accordance with this section is primary with respect to any other insurance available to the shared vehicle owner but is secondary with respect to any other insurance available to the shared vehicle driver or authorized operator or occupant of the shared

vehicle. The policy must comply with the requirements of section 7403, subsection 4.

3. Filing of rates and forms. For the purposes of any insurance policy written in accordance with this section, the insurer shall file rates and forms with the superintendent for approval.

4. Identification of insured under the policy. An insurer that issues a policy in accordance with this section shall issue the policy in a manner that identifies the provider as the named insured. The policy must include a provision that provides coverage without prior notice to the insurer for all shared vehicles during the car sharing period and that provides coverage for any shared vehicle driver or authorized operator or occupant of a shared vehicle as an insured under the policy to the same extent that coverage would be provided under a motor vehicle policy issued in accordance with Title 29-A, section 1605.

#### **§7406. Enforcement provisions**

1. Investigation and examination by superintendent. The superintendent may conduct investigations and examinations of insurers or other persons to enforce the provisions of this chapter. Upon request of the superintendent, a person subject to this chapter shall make available to the superintendent all accounts, books and records that are necessary to enable the superintendent to determine compliance or noncompliance with this chapter.

2. Enforcement actions. The superintendent may assess civil penalties or take any other action permitted under section 12-A against any person who violates any provision of this chapter or the superintendent's rules and orders, and nothing in this section may be construed as limiting the superintendent's authority to take enforcement action under section 12-A in connection with violations of applicable provisions of this Title.

3. Administrative procedures. Any person aggrieved by an order of the superintendent under this chapter may submit an application for a hearing as provided in section 229, upon which the procedures set forth in section 229 apply.

See title page for effective date.

---



---

## CHAPTER 368

### H.P. 1200 - L.D. 1676

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

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

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

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

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

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

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

**Sec. 3. 29-A MRSA §2524, sub-§2**, as amended by PL 2013, c. 459, §11, is further amended to read:

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

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

**4. Chemical tests on blood and urine specimens.** A sample specimen of blood or urine may be submitted to the Department of Health and Human Services or to a person certified by the Department of Health and Human Services laboratory qualified pursuant to subsection 2 for the purpose of conducting

chemical tests to determine alcohol level or the presence of a drug or drug metabolite.

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

**5. Equipment for taking specimens.** For purposes of this section, ~~only~~ collection kits having a stamp of approval affixed by the Department of Health and Human Services may be used to take a sample specimen of blood or urine, ~~except that.~~ A sample specimen of blood or urine may also be taken in any collection tube of the type normally used in a laboratory qualified pursuant to subsection 2. The fact that a laboratory qualified pursuant to subsection 2 supplied the collection tube is prima facie evidence that the collection tube is the type of tube normally used in such a laboratory. Alternatively, a self-contained, breath-alcohol testing apparatus if reasonably available may be used to determine the alcohol level.

Approved breath-alcohol testing apparatus must have a stamp of approval affixed by the Department of Health and Human Services after periodic testing. That stamp is valid for no more than one year.

**Sec. 6. 29-A MRSA §2524, sub-§6**, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

**6. Procedures for operation and testing of testing apparatus.** The Department of Health and Human Services shall establish, by rule, the procedures for the operation and testing of testing apparatus used in laboratories certified by the Department of Health and Human Services.

**Sec. 7. 29-A MRSA §2528**, as amended by PL 2013, c. 459, §12, is further amended to read:

**§2528. Liability**

A physician, ~~physician's assistant;~~ physician assistant; registered nurse; other health care provider; other person whose occupational license or training allows that person to draw blood, including but not limited to an emergency medical services person or law enforcement officer; hospital ~~or other health care provider;~~ emergency medical service; or law enforcement agency in the exercise of due care is not liable for an act done or omitted in collecting or withdrawing specimens of blood at the request of a law enforcement officer pursuant to this chapter.

See title page for effective date.