

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act Regarding Drug Testing in the Transportation Sector**

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

**Sec. 1. 23 MRSA §707-A** is enacted to read:

### **§ 707-A. Substance abuse testing of flaggers at state-funded and federally funded highway construction sites**

All publicly and privately employed flaggers at state-funded or federally funded highway construction sites on public ways must submit to substance abuse testing pursuant to Title 26, chapter 7, subchapter 3-A. For purposes of this section and Title 26, chapter 7, subchapter 3-A, privately employed flaggers at state-funded highway construction sites on public ways are deemed to be employees of the State unless the private employer requires its employees to submit to substance abuse testing pursuant to Title 26, chapter 7, subchapter 3-A.

**Sec. 2. Rules for substance abuse testing of flaggers at state-funded and federally funded highway construction sites.** The Department of Transportation shall adopt routine technical rules, as described in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, to implement substance abuse testing for all flaggers at state-funded or federally funded highway construction sites on public ways, including privately employed flaggers pursuant to Title 23, section 707. The rules must allow for substance abuse testing based on probable cause and allow for random testing in compliance with Title 26, chapter 7, subchapter 3-A. The department may consult with the Department of Labor and shall use the policy developed by the State for drug and alcohol testing for employees in positions requiring a commercial driver's license for guidance.

### **SUMMARY**

This bill requires all flaggers, including those who are privately employed, at state-funded or federally funded highway construction sites on public ways to submit to substance abuse testing, which may be based on probable cause or random, in compliance with current law regarding substance abuse testing of employees. The Department of Transportation is required to adopt rules to implement testing for all flaggers; the rules must be consistent with the law regarding substance abuse testing and may be based on existing state policy.