



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1403

S.P. 481

In Senate, April 11, 2017

An Act Regarding Drug Testing in the Transportation Sector

Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator JACKSON of Aroostook.

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

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

3 **§707-A. Substance abuse testing of flaggers at state-funded and federally funded**
4 **highway construction sites**

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

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

23 **SUMMARY**

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