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TESTIMONY OF MICHAEL KEBEDE, ESQ.
LD 1815– Ought Not to Pass

An Act to Require a Blood Test for Drugs for Drivers Involved in a Motor Vehicle Accident That Results in Serious Bodily Injury or Death

Joint Standing Committee on
Criminal Justice and Public Safety

May 5, 2025

Senator Beebe-Center, Representative Hasenfus, and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, greetings. My name is Michael Kebede, and I am policy director for the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, I urge you to oppose LD 1815 because it would infringe on Maine peoples' Fourth Amendment rights.

If enacted, this bill would require a driver involved in an accident where someone died or was seriously injured to submit to a blood test for drugs. It would make this blood test admissible in court, under certain circumstances. It would also require that a driver who refuses to submit to such testing lose their license for one year. If the driver can show that they were not under the influence of THC or that they did not negligently cause the accident, then their license can be reinstated.

The United States Supreme Court has found that compared to a breath tests or even cheek swabs, "Blood tests are a different matter."[1] "It is significantly more intrusive than blowing into a tube."[2] "In addition, a blood test, unlike a breath test, places in the hands of law enforcement authorities a sample that can be preserved and from which it is possible to extract information beyond a" THC reading.[3] For that reason, the Supreme Court has repeatedly found that warrantless blood testing violates the Fourth Amendment to U.S. Constitution.[4]

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[1] *Birchfield v. North Dakota*, 579 U.S. 438, 463 (2016).
[2] *Id.*
[3] *Id.* at 464.
[4] *See Birchfield* at 479 (the search-incident-to-arrest exception to the Fourth Amendment's warrant requirement does not permit warrantless blood tests); *Missouri v. McNeely*, 569 U.S. 141, 165 (2013).

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This bill suggests that the dissipation of THC over time creates an emergency justifying blood testing. The Supreme Court has rejected that logic. In a related circumstance, the Supreme Court said, "the natural dissipation of alcohol from the bloodstream does not always constitute an exigency justifying the warrantless taking of a blood sample."[5] Exigency determinations should be made case-by-case, not imposed as a blanket rule whenever THC (or any other substance) is suspected to be involved.

Impaired driving is a serious problem, but current law already provides a mechanism to manage that problem through obtaining a warrant, without infringing constitutional rights.

We urge you to vote *ought not to pass*.

[5] *Birchfield* at 457 (*citing Missouri v. McNeely*, 569 U.S. 141, 145 (2013)).