



Janet T. Mills
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STATE OF MAINE
Department of Public Safety
Bureau of Highway Safety
164 State House Station
Augusta, Maine
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Michael J. Sauschuck
Commissioner

Lauren V. Stewart
Director

Testimony of Director Lauren V. Stewart

IN SUPPORT OF LD 2054

**An Act to Exclude Certain Operating Under the Influence Crimes
from the Immunity Provisions That Are Triggered When Law
Enforcement Is Called for a Suspected Overdose**

Senator Beebe-Center, Representative Salisbury, and Members of the Joint Standing Committee on Criminal Justice and Public Safety, my name is Lauren Stewart, and I am the Director of the Maine Bureau of Highway Safety. I am here today to testify on behalf of the Department of Public Safety and the Bureau of Highway Safety in SUPPORT of LD 2054. The Department is very supportive of this LD, and the major point we want to make is that OUI-related crimes present *an on-going public safety danger* at the time of the investigation. Adding the crimes listed in this LD to the crimes excluded from immunity protection, will allow law enforcement officers and medics to ensure the safety of everyone at the overdose scene, including the persons suspected of overdosing, and everyone on nearby roadways, trails, or other traveling paths.

When a drug-impaired operator is brought to the attention of police, it is usually a report of someone “slumped over the wheel” or at a crash scene, whom the caller mentions is likely overdosing. If medics determine that the caller was right and administer Narcan, the suspected drug-impaired operator may wake up and become uncooperative.. Sometimes, such operators refuse transport to the hospital and insist on diving away from the scene. In such instances, Section 1111-B prevents the police from arresting the suspect for attempted OUI. Thus, law enforcement has little or no means to prevent the suspected-overdosing person from driving away, even though the person is likely still, or shortly will be, under the influence as the duration of Narcan’s effects on physical abilities is very short. Preventing such an individual from driving away *may* even require having medical personnel, who are there to assist the suspected-overdosing individual, leave the scene. If this LD passes, such untenable scenarios will no longer be required: law enforcement will have the tools to prevent the suspected-overdosing individual from driving.

Next, there are situations where some crimes may be charged that require proof that a person suspected of overdosing was OUI but that the OUI itself cannot be charged. Such situations occur when a suspected-overdosing driver hits or nearly hits another person. For example, if an observer sees someone suspected of overdosing in car and calls it in as such and later evidence shows that the suspected overdosing person previously hit a pedestrian on their path of travel, an assault,

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reckless conduct, or manslaughter (if the pedestrian died) could be charged and would likely require proof of the OUI. At the same time, the OUI could not be charged. This would make investigating the assault, reckless conduct, or manslaughter difficult: it, for example, could be argued that parts of Maine's "implied consent" laws do not apply because, due to immunity, there was no OUI crime. Again, adding OUI to the list of crimes excluded from immunity would remove such untenable scenarios.

The next point we would like to make is that immunity also applies to whomever is calling in the drug related overdose and/or whomever is "looking after" the overdose victim (such as other passengers in the car). Thus, a drunk caller and driver who sees someone overdosing and calls it in (including one who is another driver in a crash) cannot be prosecuted.

Last, the simple fact that people are overdosing while driving is an extreme danger to public safety that cannot be ignored. While it is right, proper, and necessary to get such individuals medical help, the conduct of administering drugs to oneself while the operator – or shortly before being the operator – of a motor vehicle must be punished and deterred. If not, the lives of everyone on Maine's roadways are put in greater danger.

For these reasons, we respectfully ask you to vote Ought to Pass on LD 2054 which will enhance public safety by excluding immunity for impaired driving cases.

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