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Department of Public Safety
Bureau of Highway Safety
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Augusta, Maine
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Michael J. Sauschuck
Commissioner

Lauren V. Stewart
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Testimony of Director Lauren V. Stewart

TESTIMONY NEITHER FOR NOR AGAINST LD 1815: 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

Senator Beebe-Center, Representative Hasenfus, and distinguished Members of the Joint Standing Committee on Criminal Justice and Public Safety, I am Lauren Stewart, Director of the Department of Public Safety's, Bureau of Highway Safety. I am here today to testify on behalf of the Department Neither for Nor Against LD 1815, and to provide you with some information and thoughts as you consider its merits.

As you are aware, driving impaired on alcohol, drugs, or a combination of alcohol and drugs continues to be a serious and primary concern undermining safety on our roadways. In the last five years, 195 people have lost their lives in impaired driving crashes. While those are the deaths associated with impaired driving, over that same period 7,739 impaired driving crashes have occurred that resulted in injury, serious injury, or property damage.

The Department supports efforts to strengthen Maine's already tough impaired driving laws, and we sincerely appreciate Senator Cyrway's attempts to do so. However, it is unclear if this bill is necessary given our current statutes. The Department maintains that Title 29-A, Section 2521 requires the Secretary of State's Office (SoS) to suspend a driver when there is probable cause of OUI, and the driver refuses a blood test. If that is the case, then this Bill is potentially duplicative of (and narrower than) Section 2521 requirement.

Next, this bill is potentially narrow in its application to cannabis. This bill appears to add a new definition of "THC Level" to Section 2401. This *THC Level* definition specifically states delta-9-tetrahydrocannabinol. Delta-9 is only one of several psychoactive (potentially impairing) isomers of THC (others include delta-8, delta-10, delta-7, delta-9,11, etc.). While all are psychoactive, delta-9 is the one that is most naturally occurring and most frequently seen (historically and currently). To avoid this narrow scope, the language could be changed to just state "tetrahydrocannabinol" if needed. It is also unclear if the bill's use of "or other drugs" would cover the other THC isomers. Further the bill uses "level" for THC and "presence" for other drugs. Using "presence or level" for all intoxicants, including alcohol (which should be added) AND drugs or drug metabolites, will avoid potential confusion and argument.

Buckle Up. Drive Safely.



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From a data collection and statistical standpoint, this could result in more samples being collected for fatal, near fatal, and serious injury crashes, which would provide us with valuable and a more accurate representation of the drug/alcohol prevalence in serious motor vehicle crashes. Using last year's preliminary fatal and serious injury crash numbers as an example, we would reasonably estimate necessary funding in the amount of \$148,500.00.

Finally, this bill requires the SoS to suspend the license of anyone who fails to submit to a test under this section for one year, unless they can prove they were not under the influence of THC or were not negligent in the crash. We would defer to the SoS for a position on this provision. However, the latter portion, that the person was not negligent in causing the crash is potentially inconsistent with existing Maine law as it relates to OUI with serious bodily injury or death (a Class B crime). In that regard and under Title 29-A, Section 2411(2), the State is not required to prove that impairment caused someone's injury just that the injury would not have occurred "but for" the Defendant's operation of the motor vehicle and that the defendant's operation alone was sufficient to cause the injury. (*See* 29-A M.R.S. § 2411(2) and 17-A M.R.S. § 33). While these two different standards will not overlap – one is in the criminal context, and one is in the administrative context – it may still lead to confusion.

Thank you for your time today and I would be happy to try to answer any questions you may have.

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