Testimony of Jake Lachance, Executive Director,
Maine Better Transportation Assoc.

Before the Joint Standing Committee on Labor
In Opposition of

LD 2110, An Act to Update Employer Substance Use Policy Requirements

January 21st, 2026

Senator Tipping, Representative Roeder, and distinguished members of the Joint Standing Committee on Labor. My name is Jake Lachance and I am testifying today on behalf of my employer, the Maine Better Transportation Association, in opposition of ***LD 2110, An Act to Update Employer Substance Use Policy Requirements.***

MBTA is a statewide coalition with a diverse membership including members who plan, design, build, maintain, or use our transportation system. These include transportation contractors, engineers and suppliers, bus and rail companies, airports, marine and port interests, municipalities, and others committed to investing in our multimodal transportation infrastructure to boost the state's economy and quality of life.

I would like to thank the department for bringing this bill forward, as I think the goal of everyone in this room is to make sure that folks are able to participate in the workforce safely, while also getting the services and support that they need. I think the first 3 sections of this bill express that sentiment soundly: "ensure that an employee with a substance use disorder receives an opportunity for rehabilitation and treatment of the disease and returns to work as quickly as possible, eliminate drug use in the workplace, and protect employees in the State from injuries and illnesses caused by impairment in the workplace." The members that I represent in the transportation and infrastructure sector could not agree with that sentiment more and it is no secret that our industry has had its own struggles in this regard. It

is partly why MBTA and AGC now host a mental health summit every year, where resources can be available and conversations can be had to help destigmatize what many people today feel and go through.

Unfortunately, I think that this bill opens "Pandora's Box" of concerns that my members feel could bring about the opposite outcome of that stated in those first three sections, most of which are industry specific concerns, but could certainly be extrapolated to other areas of the workforce.

For my members, their number one priority is safety. I believe this is recognized within Sec. 6 of this bill, which I believe is the only section where exemptions are given. This section references the federal Omnibus Transportation Employee Testing Act of 1991, which includes testing to enhance aviation safety, testing to enhance railroad safety, testing to enhance motor carrier safety (specifically the testing of the operators of commercial vehicles), and testing to enhance mass transportation safety. While this section provides the appropriate exemption for those that have a CDL and operate dump trucks, excavators, and other heavy machinery on a public way, this same protection does not apply for those operating heavy machinery on private property or on a job site, where a CDL is not necessary by law. My members feel as though this oversight is a missing piece of the puzzle when it comes to workplace safety of both the operator and those around them.

In Sec. 9 of the bill, 3-B gives the perimeters on what is considered a "legitimate medical explanation". While the section does use the clause "includes, but is not limited to", the characterization that just holding a valid prescription for a controlled substance is not enough to ensure the appropriate safety measures that are needed on a job site. For example, someone could have a valid prescription for a medication that helps them sleep at night. These sleeping pills could be valid by law to possess and take, while also fitting under the current definition of "legitimate medical explanation", but does not give account to if that prescription is being followed or if that individual is impaired by taking these medications even at a prescribed dose. It is our position, that the definition of "legitimate medical explanation" must account for the level of impairment an individual can be, not just the fact a valid prescription exists.

Skipping to Sec. 23 and 24, given the safety implications that have already been described by folks that could be impaired and operating heavy machinery, my members feel as though it is counterproductive for a legitimate medical explanation to result in the employer being told that a non-negative test is negative and that all

records of the test must be destroyed. Again, this concern is rooted in safety in the workplace. How can an employer help facilitate the resources the employee needs or know whether an employee is safe to operate a dangerous piece of heavy machinery if the employer is given a negative result when in fact someone had a non-negative result and could be clearly impaired. This is another reason why the level of impairment needs to be considered when operating in a workplace.

This mindset is again mentioned in Sec. 26 when talking about the stipulations for random or arbitrary testing of employees. Subsection B states "the employee works in a position the nature of which would create an unreasonable threat to the health or safety of the public or the employee's coworkers if the employee were under the influence of a substance." It is undoubtedly the case that most, if not all, job sites that my members work on would reach this standard.

Thank you for considering this bill and thank you to the Department of Labor for their intent listening ears. I am hopefully that we can come to a place where folks get the resources they need while maximizing the safety of those in the workforce. I am happy to answer any questions.