

SENATE BILL 592

Unofficial Copy  
R3  
SB 379/03 - JPR

2004 Regular Session  
4r2521

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By: ~~Senator Jacobs~~ **Senators Jacobs and Forehand**

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2004

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CHAPTER 468

1 AN ACT concerning

2 **Drunk and Drugged Driving - Death or Life Threatening Injury - Mandatory**  
3 **Tests**

4 FOR the purpose of requiring ~~a police officer to direct~~ a person to submit to a certain  
5 number of certain tests as directed by a police officer if the person is involved in  
6 a motor vehicle accident that results in the death of, or a life threatening injury  
7 to, another person and the police officer has reasonable grounds to believe that  
8 the person has been driving or attempting to drive in violation of certain  
9 alcohol- or drug-related driving offenses; clarifying that the test used to  
10 determine if a person has been driving or attempting to drive in violation of  
11 certain alcohol- or drug-related driving offenses shall be a test of blood or both  
12 breath and blood under certain circumstances; providing for the application of  
13 this Act; and generally relating to a requirement that ~~a police officer direct~~ a  
14 person ~~to~~ submit to certain tests if the person is involved in a motor vehicle  
15 accident that results in a death or life threatening injury under certain  
16 circumstances.

17 BY repealing and reenacting, with amendments,  
18 Article - Courts and Judicial Proceedings  
19 Section 10-305(a)  
20 Annotated Code of Maryland  
21 (2002 Replacement Volume and 2003 Supplement)

22 BY repealing and reenacting, without amendments,  
23 Article - Transportation  
24 Section 16-205.1(a)(1)(i) and (c)(2)  
25 Annotated Code of Maryland

1 (2002 Replacement Volume and 2003 Supplement)

2 BY repealing and reenacting, with amendments,  
 3 Article - Transportation  
 4 Section 16-205.1(a)(1)(iv) and (c)(1) ~~and (2)~~  
 5 Annotated Code of Maryland  
 6 (2002 Replacement Volume and 2003 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Courts and Judicial Proceedings**

10 10-305.

11 (a) The type of test administered to the defendant to determine alcohol  
 12 concentration shall be the test of breath except that the [test of blood shall be the]  
 13 type of test administered [if] SHALL BE:

14 (1) A TEST OF BLOOD IF:

15 (I) The defendant is unconscious or otherwise incapable of refusing  
 16 to take a test to determine alcohol concentration;

17 [(2)] (II) Injuries to the defendant require removal of the defendant to a  
 18 medical facility; [or]

19 [(3)] (III) The equipment for administering the test of breath is not  
 20 available; OR

21 [(4)] (IV) THE DEFENDANT IS REQUIRED TO SUBMIT TO A TEST OF ONE  
 22 SPECIMEN OF BLOOD UNDER § 16-205.1(C)(1)(II) OF THE TRANSPORTATION ARTICLE;  
 23 OR

24 (2) BOTH A TEST OF THE PERSON'S BREATH AND A TEST OF ONE  
 25 SPECIMEN OF THE PERSON'S BLOOD IF THE DEFENDANT IS REQUIRED TO SUBMIT TO  
 26 BOTH A TEST OF THE PERSON'S BREATH AND A TEST OF ONE SPECIMEN OF THE  
 27 PERSON'S BLOOD UNDER § 16-205.1(C)(1)(III) OF THE TRANSPORTATION ARTICLE.

28 **Article - Transportation**

29 16-205.1.

30 (a) (1) (i) In this section, the following words have the meanings  
 31 indicated.

32 (iv) "Test" means, UNLESS THE CONTEXT REQUIRES OTHERWISE:

1 1. A test of a person's breath or of 1 specimen of a person's  
2 blood to determine alcohol concentration;

3 2. A test or tests of 1 specimen of a person's blood to  
4 determine the drug or controlled dangerous substance content of the person's blood; or

5 3. Both:

6 A. A test of a person's breath or a test of 1 specimen of a  
7 person's blood, to determine alcohol concentration; and

8 B. A test or tests of 1 specimen of a person's blood to  
9 determine the drug or controlled dangerous substance content of the person's blood.

10 (c) (1) If a person is involved in a motor vehicle accident that results in the  
11 death of, or a life threatening injury to, another person and {the person is detained  
12 by} a police officer {who} has reasonable grounds to believe that the person has been  
13 driving or attempting to drive while under the influence of alcohol, while impaired by  
14 alcohol, while so far impaired by any drug, any combination of drugs, or a  
15 combination of one or more drugs and alcohol that the person could not drive a vehicle  
16 safely, while impaired by a controlled dangerous substance, or in violation of § 16-813  
17 of this title, the person shall be required to submit to a test, as directed by the  
18 officer, TO A TEST OF:

19 ~~(A) THE POLICE OFFICER SHALL DIRECT THAT THE PERSON~~  
20 ~~SUBMIT TO BOTH:~~

21 ~~1. A TEST OF THE PERSON'S BREATH OR A TEST OF 1~~  
22 ~~SPECIMEN OF THE PERSON'S BLOOD, TO DETERMINE ALCOHOL CONCENTRATION;~~  
23 ~~AND~~

24 ~~2. A TEST OR TESTS OF 1 SPECIMEN OF THE PERSON'S BLOOD~~  
25 ~~TO DETERMINE THE DRUG OR CONTROLLED DANGEROUS SUBSTANCE CONTENT OF~~  
26 ~~THE PERSON'S BLOOD; AND~~

27 ~~(H) THE PERSON SHALL SUBMIT TO BOTH:~~

28 ~~1. A TEST OF THE PERSON'S BREATH OR A TEST OF 1~~  
29 ~~SPECIMEN OF THE PERSON'S BLOOD, TO DETERMINE ALCOHOL CONCENTRATION;~~  
30 ~~AND~~

31 ~~2. A TEST OR TESTS OF 1 SPECIMEN OF THE PERSON'S BLOOD~~  
32 ~~TO DETERMINE THE DRUG OR CONTROLLED DANGEROUS SUBSTANCE CONTENT OF~~  
33 ~~THE PERSON'S BLOOD.~~

34 (I) THE PERSON'S BREATH TO DETERMINE ALCOHOL  
35 CONCENTRATION;

1                    (II) ONE SPECIMEN OF THE PERSON'S BLOOD, TO DETERMINE  
2 ALCOHOL CONCENTRATION OR TO DETERMINE THE DRUG OR CONTROLLED  
3 DANGEROUS SUBSTANCE CONTENT OF THE PERSON'S BLOOD; OR

4                    (III) BOTH THE PERSON'S BREATH UNDER ITEM (I) OF THIS  
5 PARAGRAPH AND ONE SPECIMEN OF THE PERSON'S BLOOD UNDER ITEM (II) OF THIS  
6 PARAGRAPH.

7                    (2) ~~{If a police officer directs that a person be tested, then the} ~~THE~~~~  
8 provisions of § 10-304 of the Courts and Judicial Proceedings Article shall apply ~~TO~~  
9 ~~EACH TEST DIRECTED BY A POLICE OFFICER.~~

10       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
11 construed to apply only prospectively and may not be applied or interpreted to have  
12 any effect on or application to any motor vehicle accident that occurs before the  
13 effective date of this Act.

14       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
15 effect October 1, 2004.