

HOUSE BILL 1014

E2, R3

4lr1512

By: **Delegates Valentino-Smith, Clippinger, Howard, Hubbard, A. Kelly, Niemann, Swain, Valderrama, and Vaughn**

Introduced and read first time: February 6, 2014

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Preliminary Breath Test – Evidence**

3 FOR the purpose of authorizing a court, in a certain revocation of probation
4 proceeding, to consider the results of a certain preliminary breath test of alcohol
5 concentration as evidence that the defendant failed to abstain from the use of
6 alcohol under certain circumstances; limiting a certain prohibition on the use,
7 by the State as evidence in a court action, of the result of a preliminary breath
8 test to prohibit its use to prove guilt or innocence; authorizing the State to use
9 the results of a preliminary breath test to prove probable cause or reasonable
10 grounds or in a certain revocation of probation proceeding; making a conforming
11 change; and generally relating to preliminary breath tests.

12 BY repealing and reenacting, with amendments,
13 Article – Criminal Procedure
14 Section 6–231
15 Annotated Code of Maryland
16 (2008 Replacement Volume and 2013 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Transportation
19 Section 16–205.2
20 Annotated Code of Maryland
21 (2012 Replacement Volume and 2013 Supplement)

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

24 **Article – Criminal Procedure**

25 6–231.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2)** The results of the preliminary breath test may be used as evidence
2 by a defendant in a court action.

3 **(3)** [The] **EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS**
4 **SUBSECTION, THE** taking of or refusal to submit to a preliminary breath test is not
5 admissible in evidence in any court action.

6 **(4)** **THE STATE MAY USE THE RESULTS OF A PRELIMINARY**
7 **BREATH TEST:**

8 **(I)** **TO PROVE PROBABLE CAUSE OR REASONABLE**
9 **GROUND; AND**

10 **(II)** **IN A REVOCATION OF PROBATION PROCEEDING IN**
11 **ACCORDANCE WITH § 6–231 OF THE CRIMINAL PROCEDURE ARTICLE.**

12 **(5)** [Any] **EXCEPT AS PROVIDED IN § 6–231 OF THE CRIMINAL**
13 **PROCEDURE ARTICLE, ANY** evidence pertaining to a preliminary breath test may
14 not be used in a civil action.

15 (d) Refusal to submit to a preliminary breath test shall not constitute a
16 violation of § 16–205.1 of this subtitle and the taking of a preliminary breath test shall
17 not relieve the individual of the obligation to take the test required under § 16–205.1
18 of this subtitle if requested to do so by the police officer.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2014.