

## **WRITTEN TESTIMONY IN SUPPORT OF SB 497 and HB 1334**

Currently under Sections 16-205.1(b), (c) and (d) of the Transportation Article, a police officer may only *request* (b), *require* (c) or *direct* (d) a test of blood from a suspected impaired driver under certain limited circumstances. Those circumstances are as follows:

§16-205.1(b) – May request the driver to submit to a blood test if the police officer has reasonable grounds to believe that the driver is impaired by alcohol and/or drugs;

§16-205.1(c) - May require the driver to submit to a blood test if the police officer has reasonable grounds to believe the driver is impaired by alcohol and/or drugs and caused a fatality or life-threatening injury; or

§16-205.1(d) - May direct that hospital personnel take blood from the driver if the police officer has reasonable grounds to believe the driver is impaired by alcohol and/or drugs and the police officer determines that the person is unconscious or otherwise incapable of refusing to take a test.

However, when read in conjunction with subsection (j) of §16-205.1, otherwise known as the Drug Recognition Expert subsection, only a DRE can request, require or direct a test of blood for drugs. In other words, a non-DRE officer may not even *ask* a suspected impaired driver if he would be willing to submit to a blood test for drugs. This is true even if the officer were to have found a syringe sticking out of the driver's arm; found a vial marked "heroin" in the console; was told by the driver that he had just shot up heroin; and was told by the driver that he was stoned on heroin. In order to even *ask* that driver if he would be willing to take a blood test, the officer must first contact a DRE and ask the DRE to either report to the station to conduct a 12 step examination of the suspect or the officer can inform the DRE of all the evidence he had discovered and then have the DRE authorize the officer to ask the driver if he would be willing to take a blood test for drugs.

Police officers arrest and charge defendants all the time for *possession* of drugs, even though they may not have received special training regarding that particular drug. The arrest is based upon probable cause. Why should a DRE trained officer be required to simply ask a driver if he would be willing to submit to a blood test for drugs if the investigating officer has *reasonable grounds* to believe that the person is impaired by drugs? As in every other situation, those reasonable grounds can be based upon the officer's training, knowledge and experience.

In the case of *requiring* a test of blood for the presence of drugs, that can only currently be done in those circumstances where there is a fatality or life-threatening injury and the officer requiring that blood test is a DRE who has reasonable grounds to believe the driver is impaired by drugs.

This Bill seeks to allow specially trained drug-detection officers who have graduated from the A.R.I.D.E. (Advanced Roadside Impaired Driving Enforcement) training or comparable program of training to request, require or direct tests of blood in order to test for drugs.

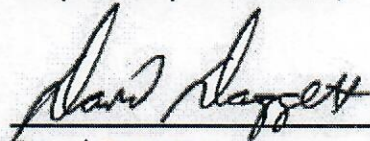


A.R.I.D.E. is a 16 hour course, developed by the National Highway Traffic Safety Administration, and designed to train officers in the detection of drugs and how they impact drivers. As there are a very limited number of certified DREs in the State, this would somewhat ease the already overburdened DREs from having to respond to the station after every impaired driving arrest or every fatality or life-threatening injury investigation in which drug use is suspected.

In addition, subsection (j) of TA §16-205.1 contains a lot of language regarding officers who are "trainees" or "participating either directly or indirectly in a program of training that is designed to train and certify police officers as drug recognition experts." This language is no longer necessary. Only certified DREs are allowed under current DRE protocols to conduct the DRE evaluation or to request, require or direct a test of blood for the presence of drugs. The current language in the statute was enacted back in the late 1980's. It does not accurately reflect the protocols of the current DRE program.

For the reasons stated above, it is respectfully requested that you give a favorable review to SB 497/HB 1334.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "David Daggett", is written over a horizontal line.

David Daggett,

Maryland State's Attorneys' Assoc.