



State of Maryland
Department of State Police
Government Affairs Unit
Annapolis Office (410) 260-6100

POSITION ON PROPOSED LEGISLATION

DATE: March 6, 2024

BILL NUMBER: Senate Bill 1037 **POSITION:** Oppose

BILL TITLE: Courts – Impaired Operation of Vehicle or Vessel – Expert Witness and Evidence

REVIEW AND ANALYSIS

This legislation authorizes police officers trained and certified as Drug Recognition Experts (DRE) to testify as experts on the ultimate issue of whether a person was driving a vehicle or operating a vessel while impaired by drugs. The bill establishes a threshold for a blood result for drugs that a THC concentration of 5 nanograms per milliliter is prima facie evidence that the person was driving a vehicle or operating a vessel while impaired by THC.

Under current law, once a person is arrested or detained for driving under the influence of drugs or alcohol and drugs, a DRE is contacted to perform additional tests to determine the class of drug a person may have in their system. The DRE then requests a blood test and later appears in court to testify to their findings. Designating a person as an expert in court is not automatic, but follows a process.

Under our accrediting body, ANSI National Accreditation Board (ANAB), the Forensic Sciences Division, toxicology unit is only approved for qualitative determination of Ante-Mortem biological items. This means that we can only report that THC was present in someone's blood, not how much THC was present. Regarding the THC concentration standard established in the bill, it should be noted that any per se law for THC (including a zero-tolerance policy) is not endorsed by the forensic toxicology community, and is actively discouraged. There is no medical or scientific evidence to support the correlation of THC level in the blood to impairment.

The Department of State Police, Forensic Sciences Division is the only lab approved for testing blood for alcohol and drugs relating to driving a vehicle while under the influence. Should Senate Bill 1037 pass, there will be a significant cost to the Department of State Police to outsource the testing of all blood screened positive for THC until such time as we can purchase the necessary equipment, train our personnel, and have the accrediting body approve our process.

The Department has had a conversation with the sponsor regarding amendments to the bill. The discussion involved appropriate amendments to remove the specific reference to prima facie evidence for THC and the number of nanograms per milliliter in the bill. As such, the Department urges the Committee to consider an unfavorable report for Senate Bill 1037 unless the bill can be amended as discussed.