

SENATE BILL 96

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R3

1998 Regular Session
8r0847

By: **Senator Boozer**

Introduced and read first time: January 19, 1998

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Drunk Driving - Alcohol Concentration - Blood Test**

3 FOR the purpose of authorizing the administration of a blood test to determine
4 alcohol concentration if a person qualified to administer a breath test is not
5 available; and generally relating to drunk driving and the administration of a
6 blood test to determine alcohol concentration.

7 BY repealing and reenacting, without amendments,
8 Article - Courts and Judicial Proceedings
9 Section 10-304(a)(3)
10 Annotated Code of Maryland
11 (1995 Replacement Volume and 1997 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article - Courts and Judicial Proceedings
14 Section 10-305
15 Annotated Code of Maryland
16 (1995 Replacement Volume and 1997 Supplement)

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

19 **Article - Courts and Judicial Proceedings**

20 10-304.

21 (a) (3) "Qualified person" means a person who has received training in the
22 use of the equipment in a training program approved by the toxicologist under the
23 Postmortem Examiners Commission and who is either a police officer, a police
24 employee, an employee of the office of the Chief Medical Examiner, or a person
25 authorized by the toxicologist under the Postmortem Examiners Commission.

1 10-305.

2 (a) The type of test administered to the defendant to determine alcohol
3 concentration shall be the test of breath except that the test of blood shall be the type
4 of test administered if:

5 (1) The defendant is unconscious or otherwise incapable of refusing to
6 take a test to determine alcohol concentration;

7 (2) Injuries to the defendant require removal of the defendant to a
8 medical facility; or

9 (3) The QUALIFIED PERSON AS DEFINED IN § 10-304 OF THIS SUBTITLE
10 OR equipment for administering the test of breath is not available.

11 (b) The type of specimen obtained from the defendant for the purpose of a test
12 or tests to determine drug or controlled dangerous substance content shall be a blood
13 specimen.

14 (c) Any person who is dead, unconscious, or otherwise in a condition rendering
15 him incapable of test refusal shall be deemed not to have withdrawn consent.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 1998.