

HOUSE BILL 338

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R3
HB 994/00 - JUD

2001 Regular Session
11r0523
CF 11r0655

By: **Delegates Giannetti, Amedori, Barkley, Barve, Benson, Boutin,
Bronrott, Brown, Burns, Carlson, Cryor, Dembrow, Dypski, Eckardt,
Elliott, Franchot, Glassman, Grosfeld, Hecht, Heller, Hurson, Hutchins,
Kagan, Leopold, Menes, Morhaim, Owings, Parrott, Patterson, Petzold,
Pitkin, Ports, Riley, Rosso, Shank, Sher, Shriver, Swain, Turner,
Valderrama, and Zirkin**

Introduced and read first time: January 29, 2001
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Drunk and Drugged Driving - Evidence - Refusal to Submit to Test for**
3 **Alcohol, Drugs, or Controlled Dangerous Substances**

4 FOR the purpose of repealing a prohibition against an inference or presumption
5 concerning guilt or innocence arising because of a person's refusal to submit to a
6 certain test for alcohol, drugs, or controlled dangerous substances; and generally
7 relating to evidence of a person's refusal to submit to a certain test for alcohol,
8 drugs, or controlled dangerous substances in prosecutions of certain alcohol or
9 drug related driving offenses.

10 BY repealing and reenacting, with amendments,
11 Article - Courts and Judicial Proceedings
12 Section 10-309
13 Annotated Code of Maryland
14 (1998 Replacement Volume and 2000 Supplement)

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

17 **Article - Courts and Judicial Proceedings**

18 10-309.

19 (a) (1) (i) Except as provided in § 16-205.1(c) of the Transportation
20 Article, a person may not be compelled to submit to a test or tests provided for in this
21 subtitle.

22 (ii) Evidence of a test or analysis provided for in this subtitle is not
23 admissible in a prosecution for a violation of § 16-113 or § 21-902 of the

1 Transportation Article, § 8-738 of the Natural Resources Article, or Article 27, § 388,
2 § 388A, or § 388B of the Code if obtained contrary to the provisions of this subtitle.

3 (2) [(i) No inference or presumption concerning either guilt or
4 innocence arises because of refusal to submit.

5 (ii)] The fact of refusal to submit is admissible in evidence at the
6 trial.

7 (b) This section does not limit the provisions of the vehicle laws regarding the
8 consequences of refusal to submit to a test or tests.

9 (c) Nothing in this section precludes or limits the admissibility of evidence of
10 a test or analysis to determine the alcohol concentration of a person's blood or breath
11 in any prosecution other than for a violation of § 16-113 or § 21-902 of the
12 Transportation Article, § 8-738 of the Natural Resources Article, or Article 27, § 388,
13 § 388A, or § 388B of the Code.

14 (d) Nothing in this section precludes or limits admissibility of evidence of a
15 test or analysis to determine the alcohol concentration of a person's blood or breath
16 which is obtained as provided in § 16-205.1(c) of the Transportation Article.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2001.