
By: **Delegate Morhaim**

Introduced and read first time: February 6, 2002

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Drunk and Drugged Driving - Evidence - Statements by Qualified Medical**
3 **Persons and Toxicologist**

4 FOR the purpose of repealing a requirement that the State provide certain notice and
5 deliver a copy of a certain certified statement of a qualified medical person who
6 obtained blood of a defendant charged with certain alcohol- or drug-related
7 driving offenses; repealing certain procedures by which a defendant charged
8 with certain alcohol- or drug-related driving offenses may exercise the right to
9 the presence and testimony of the qualified medical person who obtained blood;
10 providing that a statement signed by the toxicologist under the Postmortem
11 Examiners Commission shall be prima facie evidence that a blood test was
12 performed in a laboratory approved by the toxicologist and the statement is
13 admissible in evidence without the necessity of the toxicologist personally
14 appearing in court; requiring that a subpoena for the toxicologist shall be
15 quashed if the defendant fails to comply with certain requirements; and
16 generally relating to certain certified statements by qualified medical persons
17 and the toxicologist.

18 BY repealing and reenacting, with amendments,
19 Article - Courts and Judicial Proceedings
20 Section 10-304
21 Annotated Code of Maryland
22 (1998 Replacement Volume and 2001 Supplement)

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

25 **Article - Courts and Judicial Proceedings**

26 10-304.

27 (a) (1) In this section the following words have the meanings indicated.

28 (2) "Qualified medical person" means any person permitted by law to
29 withdraw blood from humans.

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

6 (b) (1) The test of breath shall be administered by a qualified person with
7 equipment approved by the toxicologist under the Postmortem Examiners
8 Commission at the direction of a police officer.

9 (2) The officer arresting the individual may not administer the test of
10 breath.

11 (c) (1) (i) The blood shall be obtained by a qualified medical person using
12 equipment approved by the toxicologist under the Postmortem Examiners
13 Commission acting at the request of a police officer.

14 (ii) A certified statement by the qualified medical person who
15 obtained the blood [shall]:

16 1. SHALL be prima facie evidence of that person's
17 qualifications and that the blood was obtained in compliance with this section[.

18 (iii) 1. A certified statement that complies with the requirements
19 of this paragraph is]; AND

20 2. IS admissible as substantive evidence without the
21 presence or testimony of the qualified medical person who obtained the blood.

22 [2. If the State decides to offer the certified statement without
23 the testimony of the qualified medical person, the State shall, at least 30 days before
24 trial, notify the defendant or the defendant's attorney in writing of the State's
25 intention and deliver to the defendant or the defendant's attorney a copy of the
26 certified statement to be offered.

27 3. If the District Court is deprived of jurisdiction under
28 circumstances in which a defendant is entitled to and demands a jury trial, or appeals
29 from the District Court to a circuit court, the State is not required to file a second
30 notice.

31 (iv) 1. If the defendant desires the qualified medical person to be
32 present and testify at trial, the defendant shall notify the court and the State in
33 writing no later than 20 days before trial.

34 2. If the District Court is deprived of jurisdiction under
35 circumstances in which a defendant is entitled to and demands a jury trial, or appeals
36 from the District Court to a circuit court, the defendant shall notify the circuit court
37 and the State in writing no later than 20 days before trial.

1 (e) The person tested is permitted to have a physician of the person's own
2 choosing administer tests in addition to the one administered at the direction of the
3 police officer, and in the event no test is offered or requested by the police officer, the
4 person may request, and the officer shall have administered, one or more of the tests
5 provided for in this section.

6 (f) Nothing in this section precludes the right to introduce any other
7 competent evidence bearing upon the date of the certificate or change in the
8 equipment since the date of the certificate.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2002.