

Department of Legislative Services  
Maryland General Assembly  
2002 Session

FISCAL NOTE

House Bill 1233

(Delegates Burns and Vallario)

Judiciary

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**Drunk and Drugged Driving - Death or Life Threatening Injury - Mandatory Tests**

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This bill alters provisions relating to a requirement that a person involved in an alcohol and/or drug-related motor vehicle accident resulting in death or life-threatening injury submit to tests of blood and breath. The bill has prospective application.

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**Fiscal Summary**

**State Effect:** It is expected that any additional testing resulting from the bill could be handled within existing resources.

**Local Effect:** It is expected that any additional testing resulting from the bill could be handled with existing resources.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** If a police officer has reasonable grounds to believe that a person involved in a motor vehicle accident resulting in death or life-threatening injury has been driving or attempting to drive: (1) while under the influence of alcohol; (2) while impaired by alcohol; (3) while so far impaired by any combination of drugs and alcohol that the person may not safely operate a vehicle; (4) while impaired by a controlled dangerous substance; or (5) after the ingestion of any alcohol while operating a commercial vehicle, then the police officer shall direct that person to submit to two tests for alcohol concentration and drug content. The person must submit to a test of the

person's breath or a test of one specimen of blood, to determine alcohol concentration. The person must also submit to a test or tests of one specimen of the person's blood to determine the drug or controlled dangerous substance content of the person's blood. The bill removes the current law requirement that the person tested be detained by the officer. Statutory provisions governing the qualifications of the person administering these tests apply to each test directed by a police officer.

**Current Law:** If a police officer has reasonable grounds to believe that a person involved in a motor vehicle accident resulting in death or life-threatening injury who has been detained by the officer has been driving or attempting to drive: (1) while under the influence of alcohol; (2) while impaired by alcohol; (3) while so far impaired by any combination of drugs and alcohol that the person may not safely operate a vehicle; (4) while impaired by a controlled dangerous substance; or (5) after the ingestion of any alcohol while operating a commercial vehicle, then the person shall be required to submit to a test as directed by the officer.

“Test” means: (1) a test of a person's breath or of one specimen of a person's blood to determine alcohol concentration; (2) a test or tests of one specimen of a person's blood to determine the drug or controlled dangerous substance content of the person's blood; or (3) both: (a) a test of a person's breath or a test of one specimen of a person's blood, to determine alcohol concentration; and (b) a test or tests of one specimen of a person's blood to determine the drug or controlled dangerous substance content of the person's blood.

If a police officer directs that a person be tested, then the person administering the test must meet the qualifications set forth in statute.

**Background:** According to the National Conference of State Legislatures and the National Highway Traffic Safety Administration, the District of Columbia and 14 states, including Maryland, do not mandate breath or blood testing after a fatal accident. The other states are Alabama, Alaska, Delaware, Florida, Iowa, Maine, Montana, North Carolina, Oklahoma, Rhode Island, Vermont, Virginia, and Wyoming. Thirty states, including Pennsylvania, New Jersey, and West Virginia, mandate testing after a fatal accident. Of those 30 states, 27 mandate testing of any involved pedestrians, as well as the driver. Twelve of the 30 states also mandate testing of any passengers, as well as pedestrians and drivers. In six states (Georgia, Hawaii, Kentucky, Massachusetts, Tennessee, and Texas), testing after a fatality is possible or discretionary, depending on specified circumstances.

**State Fiscal Effect:** The Department of Transportation advises that requesting a blood test in severe accidents is a current practice.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 263 (Senator Baker) – Judicial Proceedings.

**Information Source(s):** Department of Transportation, National Conference of State Legislatures, National Highway Traffic Safety Administration, Department of Legislative Services

**Fiscal Note History:** First Reader - February 25, 2002  
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