

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE

Senate Bill 379 (Senator Jacobs, *et al.*)
 Judicial Proceedings

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

This bill requires that a person involved in an alcohol- and/or drug-related motor vehicle accident resulting in death or life-threatening injury submit to a test of breath or blood to determine alcohol concentration and a test or tests of blood to determine the drug or controlled dangerous substance content of the person’s blood. The bill has prospective application and may not be applied to any motor vehicle accident that occurs before the bill’s October 1, 2003 effective date.

Fiscal Summary

State Effect: General fund expenditures increase by \$680,900 for the Department of State Police in FY 2004 for one-time equipment expenditures and additional positions to process blood samples for alcohol and drug content. Out-years include annualization and inflation.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	680,900	278,100	293,400	309,900	327,600
Net Effect	(\$680,900)	(\$278,100)	(\$293,400)	(\$309,900)	(\$327,600)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Increases in expenditures to process additional blood tests for drugs as well as alcohol content.

Small Business Effect: None.

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 drug, combination of drugs, or 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 person is involved in an accident resulting in death or life-threatening injury and the person has been detained by an officer who has reasonable grounds to believe that the person 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 drug, combination of drugs, or 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 both.

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 latest information available from 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 all fatal accidents. However, Maryland does require testing after a fatal accident if the officer has reasonable grounds to believe that the driver was driving while under the influence of or impaired by alcohol or impaired by drugs. 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 all fatal accidents. Of those 30 states, 27 mandate testing of any involved pedestrians, as well as the driver. Eleven 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 Expenditures: General fund expenditures increase by \$680,874 for four additional forensic chemists to analyze blood for alcohol and drugs as required by the bill. Other expenditures are for equipment to complete blood analysis.

The Department of State Police (DSP) advises that in calendar 2001, there were about 3,251 personal injury and 115 fatal vehicle accidents involving alcohol- and drug-related driving offenses. Currently, DSP analyzes about 800-900 blood samples annually to determine blood alcohol content. Assuming half of the personal injury accidents involved life-threatening injuries, then the vast majority of those drivers, and any surviving drivers of the 115 fatal accidents, would be directed to take a blood test even though they could choose a breath test, because they would need to take a blood test for drugs anyway. As a result, more people are likely to choose a blood test for alcohol under the bill. Based upon this information it is estimated that the number of blood alcohol tests currently conducted would increase by about 891. DSP would need one forensic chemist to process the additional blood alcohol content tests. Each blood sample is tested using a gas chromatograph. DSP has one gas chromatograph, which is being used to capacity. Another gas chromatograph, at a cost of \$150,000, would be needed to process additional blood alcohol tests. Other equipment needed would be a propane gas tank for the gas chromatograph and a pipetter/diluter.

With regard to blood tests for drug content, DSP advises that about 1,741 additional tests would be required under this bill. Those tests are much more time consuming and complicated. Unless there was prior knowledge of a drug an offender was using, the blood sample would have to be processed through the entire spectrum of controlled dangerous substances. Currently, DSP contracts with a lab in Virginia to process some samples for drug content. Due to the substantial increase in blood tests for drug content that would be required under this bill, DSP would need to terminate the contractual arrangement and complete testing at the DSP lab.

Three additional forensic chemists would be needed to complete analysis of samples submitted for drug testing. A forensic chemist can complete about three full analyses of blood for drug content daily. To process about 1,741 samples at three per day over the course of a year would require three additional chemists. To complete testing at the DSP laboratory, one additional gas chromatograph and gas tank would be needed. DSP also

advises that an automated sampler, at a cost of \$50,000, would be needed to barcode samples and load them into a gas chromatograph. A Fourier Transform Infrared would be needed to break down blood molecules for analysis. Two commercial refrigerators and two smaller refrigerators would also be needed to store blood vials for up to a year after testing and to store vials before tests are conducted.

Hospital medical personnel draw the blood from a person when directed to do so by a police officer. Hospital personnel are already withdrawing samples from about 850 people. To provide about 891 additional samples for blood alcohol content and for drug content analysis would cost \$6,683 in fiscal 2004.

	<u>Fiscal 2004</u>
Positions	4
Salaries	\$188,871
Blood Withdrawal Services	6,683
Specialized Equipment	463,000
Other Operating Expenses	<u>22,320</u>
Total Expenditures	\$680,874

Future year expenditures reflect: (1) annualization; (2) full salaries with 4.5% annual increases and 3% turnover; and (3) 1% increases in ongoing operating expenses.

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

Local Fiscal Effect: Montgomery County advises that it would incur increased expenditures of \$11,400 as a result of the bill. Prince George’s County advises that more time to process tests may be required but the impact is expected to be negligible. Frederick County advises that its expenditures for blood tests may increase by \$8,500.

Additional Information

Prior Introductions: This bill is a reintroduction of SB 263 from the 2002 session. SB 263 was referred to the Judicial Proceedings Committee, but was withdrawn. The cross filed bill, HB 1233, was referred to Judiciary, where it received an unfavorable report.

Cross File: None.

Information Source(s): Somerset County, Montgomery County, Prince George’s County, Charles County, Department of State Police, Baltimore County, Frederick

County, Department of Transportation, National Conference of State Legislatures,
National Highway Traffic Safety Administration, Department of Legislative Services

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Analysis by: Karen D. Morgan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510