

SENATE BILL 592

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SB 379/03 - JPR

2004 Regular Session
4lr2521

By: ~~Senator Jacobs~~ **Senators Jacobs and Forehand**

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2004

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of requiring ~~a police officer to direct~~ a person to submit to a certain
5 number of certain tests as directed by a police officer if the person is involved in
6 a motor vehicle accident that results in the death of, or a life threatening injury
7 to, another person and the police officer has reasonable grounds to believe that
8 the person has been driving or attempting to drive in violation of certain
9 alcohol- or drug-related driving offenses; clarifying that the test used to
10 determine if a person has been driving or attempting to drive in violation of
11 certain alcohol- or drug-related driving offenses shall be a test of blood or both
12 breath and blood under certain circumstances; providing for the application of
13 this Act; and generally relating to a requirement that ~~a police officer direct~~ a
14 person ~~to~~ submit to certain tests if the person is involved in a motor vehicle
15 accident that results in a death or life threatening injury under certain
16 circumstances.

17 BY repealing and reenacting, with amendments,
18 Article - Courts and Judicial Proceedings
19 Section 10-305(a)
20 Annotated Code of Maryland
21 (2002 Replacement Volume and 2003 Supplement)

22 BY repealing and reenacting, without amendments,
23 Article - Transportation
24 Section 16-205.1(a)(1)(i) and (c)(2)
25 Annotated Code of Maryland

1 (2002 Replacement Volume and 2003 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Transportation

4 Section 16-205.1(a)(1)(iv) and (c)(1) ~~and (2)~~

5 Annotated Code of Maryland

6 (2002 Replacement Volume and 2003 Supplement)

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

9 **Article - Courts and Judicial Proceedings**

10 10-305.

11 (a) The type of test administered to the defendant to determine alcohol
12 concentration shall be the test of breath except that the [test of blood shall be the]
13 type of test administered [if] SHALL BE:

14 (1) A TEST OF BLOOD IF:

15 (I) The defendant is unconscious or otherwise incapable of refusing
16 to take a test to determine alcohol concentration:

17 [(2)] (II) Injuries to the defendant require removal of the defendant to a
18 medical facility; [or]

19 [(3)] (III) The equipment for administering the test of breath is not
20 available; OR

21 [(4)] (IV) THE DEFENDANT IS REQUIRED TO SUBMIT TO A TEST OF ONE
22 SPECIMEN OF BLOOD UNDER § 16-205.1(C)(1)(II) OF THE TRANSPORTATION ARTICLE;
23 OR

24 (2) BOTH A TEST OF THE PERSON'S BREATH AND A TEST OF ONE
25 SPECIMEN OF THE PERSON'S BLOOD IF THE DEFENDANT IS REQUIRED TO SUBMIT TO
26 BOTH A TEST OF THE PERSON'S BREATH AND A TEST OF ONE SPECIMEN OF THE
27 PERSON'S BLOOD UNDER § 16-205.1(C)(1)(III) OF THE TRANSPORTATION ARTICLE.

28 **Article - Transportation**

29 16-205.1.

30 (a) (1) (i) In this section, the following words have the meanings
31 indicated.

32 (iv) "Test" means, UNLESS THE CONTEXT REQUIRES OTHERWISE:

1 1. A test of a person's breath or of 1 specimen of a person's
2 blood to determine alcohol concentration;

3 2. A test or tests of 1 specimen of a person's blood to
4 determine the drug or controlled dangerous substance content of the person's blood; or

5 3. Both:

6 A. A test of a person's breath or a test of 1 specimen of a
7 person's blood, to determine alcohol concentration; and

8 B. A test or tests of 1 specimen of a person's blood to
9 determine the drug or controlled dangerous substance content of the person's blood.

10 (c) (1) If a person is involved in a motor vehicle accident that results in the
11 death of, or a life threatening injury to, another person and {the person is detained
12 by} a police officer {who} has reasonable grounds to believe that the person has been
13 driving or attempting to drive while under the influence of alcohol, while impaired by
14 alcohol, while so far impaired by any drug, any combination of drugs, or a
15 combination of one or more drugs and alcohol that the person could not drive a vehicle
16 safely, while impaired by a controlled dangerous substance, or in violation of § 16-813
17 of this title, the person shall be required to submit to a test, as directed by the
18 officer, TO A TEST OF:

19 ~~(I) THE POLICE OFFICER SHALL DIRECT THAT THE PERSON~~
20 ~~SUBMIT TO BOTH:~~

21 ~~1. A TEST OF THE PERSON'S BREATH OR A TEST OF 1~~
22 ~~SPECIMEN OF THE PERSON'S BLOOD, TO DETERMINE ALCOHOL CONCENTRATION;~~
23 ~~AND~~

24 ~~2. A TEST OR TESTS OF 1 SPECIMEN OF THE PERSON'S BLOOD~~
25 ~~TO DETERMINE THE DRUG OR CONTROLLED DANGEROUS SUBSTANCE CONTENT OF~~
26 ~~THE PERSON'S BLOOD; AND~~

27 ~~(II) THE PERSON SHALL SUBMIT TO BOTH:~~

28 ~~1. A TEST OF THE PERSON'S BREATH OR A TEST OF 1~~
29 ~~SPECIMEN OF THE PERSON'S BLOOD, TO DETERMINE ALCOHOL CONCENTRATION;~~
30 ~~AND~~

31 ~~2. A TEST OR TESTS OF 1 SPECIMEN OF THE PERSON'S BLOOD~~
32 ~~TO DETERMINE THE DRUG OR CONTROLLED DANGEROUS SUBSTANCE CONTENT OF~~
33 ~~THE PERSON'S BLOOD.~~

34 (I) THE PERSON'S BREATH TO DETERMINE ALCOHOL
35 CONCENTRATION;

1 (II) ONE SPECIMEN OF THE PERSON'S BLOOD, TO DETERMINE
2 ALCOHOL CONCENTRATION OR TO DETERMINE THE DRUG OR CONTROLLED
3 DANGEROUS SUBSTANCE CONTENT OF THE PERSON'S BLOOD; OR

4 (III) BOTH THE PERSON'S BREATH UNDER ITEM (I) OF THIS
5 PARAGRAPH AND ONE SPECIMEN OF THE PERSON'S BLOOD UNDER ITEM (II) OF THIS
6 PARAGRAPH.

7 (2) ~~{If a police officer directs that a person be tested, then the} THE~~
8 provisions of § 10-304 of the Courts and Judicial Proceedings Article shall apply ~~TO~~
9 ~~EACH TEST DIRECTED BY A POLICE OFFICER.~~

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
11 construed to apply only prospectively and may not be applied or interpreted to have
12 any effect on or application to any motor vehicle accident that occurs before the
13 effective date of this Act.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
15 effect October 1, 2004.