

Department of Legislative Services  
Maryland General Assembly  
2004 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 592

(Senators Jacobs and Forehand)

Judicial Proceedings

Judiciary

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

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This bill requires a person involved in an alcohol- and/or drug-related motor vehicle accident resulting in death or life-threatening injury to submit, at the direction of a police officer, to a test of breath or blood or to tests of both breath or blood to determine the person's alcohol concentration or the content of any drug or controlled dangerous substance in the person's blood. An exception to the requirement that a breath test be used to determine alcohol concentration is also provided by the bill.

The bill has prospective application and may not be applied to any motor vehicle accident that occurs before the bill's October 1, 2004 effective date.

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**Fiscal Summary**

**State Effect:** The bill's requirements could be met by the Department of State Police within existing resources.

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

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** This bill provides that a police officer must direct a person to submit to a test of the person's breath, blood, or both to determine alcohol concentration or the presence of drugs or a controlled dangerous substance if the police officer has reasonable

grounds to believe that the 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. Under specified circumstances, the bill provides an exception to the requirement that the breath test is the default test for determining alcohol concentration, when a test for blood or both breath and blood are ordered.

**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 Mothers Against Drunk Driving, 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, Indiana, Iowa, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Vermont, Virginia, and Wyoming. Thirty states, including Pennsylvania, New Jersey, and West Virginia, mandate testing after all fatal accidents.

**State Fiscal Effect:** The Maryland Department of Transportation and the Department of State Police advise that requesting a blood test in severe accidents is a current practice.

**Local Fiscal Effect:** Montgomery County advises that it could handle the bill’s requirements with existing resources, as the bill reflects current practice in that county.

Baltimore City advises that it could handle the bill's requirements with existing resources. Caroline County advises that the fiscal impact would be negligible, since the Maryland State Police do all accident investigations, unless there is no one available, then the Caroline County Sheriff's Department completes the investigation. Calvert County reports that there were 16 fatal accidents in the county in 2003. The fiscal impact might be \$1,600 if the cost of administering tests was \$100. As a result, the bill would have a minimal fiscal impact in Calvert County.

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### **Additional Information**

**Prior Introductions:** This bill is a reintroduction of SB 379 from the 2003 session. SB 379 was heard by the Judicial Proceedings Committee, but no further action took place. An identical bill was introduced as SB 263 in 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):** Montgomery County, Prince George's County, Caroline County, Calvert County, Howard County, Department of State Police, Maryland Department of Transportation, Baltimore City, Mothers Against Drunk Driving, American Automobile Association, Department of Legislative Services

**Fiscal Note History:** First Reader - February 25, 2004  
lc/jr Revised - Senate Third Reader - March 29, 2004

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