
By: **Senator Hooper**

Introduced and read first time: February 2, 2006

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Drugged Driving - Test - Police Officers**

3 FOR the purpose of repealing a requirement that a certain test for drug or controlled
4 dangerous substance content may only be requested, required, or directed by a
5 police officer who has been or is being trained as a drug recognition expert or is
6 participating in a certain training program; providing for the application of this
7 Act; and generally relating to altering the qualification of a police officer who
8 may request, require, or direct a certain test for drugged driving under certain
9 circumstances.

10 BY repealing and reenacting, without amendments,
11 Article - Transportation
12 Section 16-205.1(a)(1)(i) and (iv)
13 Annotated Code of Maryland
14 (2002 Replacement Volume and 2005 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article - Transportation
17 Section 16-205.1(i)
18 Annotated Code of Maryland
19 (2002 Replacement Volume and 2005 Supplement)

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

22 **Article - Transportation**

23 16-205.1.

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

25 (iv) "Test" means, unless the context requires otherwise:

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

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

3 3. Both:

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

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

8 (i) Notwithstanding any other provision of this section, a test for drug or
9 controlled dangerous substance content under this section[:

10 (1) May] MAY not be requested as described under subsection (b) of this
11 section, required as described under subsection (c) of this section, or directed as
12 described under subsection (d) of this section, by a police officer unless the law
13 enforcement agency of which the officer is a member has the capacity to have such
14 tests conducted[;

15 (2) May only be requested as described under subsection (b) of this
16 section, required as described under subsection (c) of this section, or directed as
17 described under subsection (d) of this section, by a police officer who is a trainee, has
18 been trained, or is participating directly or indirectly in a program of training that is:

19 (i) Designed to train and certify police officers as drug recognition
20 experts; and

21 (ii) Conducted by a law enforcement agency of the State, or any
22 county, municipal, or other law enforcement agency in the State described in items
23 (3)(i)1 through 12 of this subsection:

24 1. In conjunction with the National Highway Traffic Safety
25 Administration; or

26 2. As a program of training of police officers as drug
27 recognition experts that contains requirements for successful completion of the
28 training program that are the substantial equivalent of the requirements of the Drug
29 Recognition Training Program developed by the National Highway Traffic Safety
30 Administration; and

31 (3) May only be requested as described under subsection (b) of this
32 section, required as described under subsection (c) of this section, or directed as
33 described under subsection (d) of this section:

34 (i) In the case of a police officer who is a trainee, or who is
35 participating directly or indirectly in a program of training described in paragraph (2)
36 of this subsection, if the police officer is a member of, and is designated as a trainee or
37 a participant by the head of:

- 1 1. The Department of State Police;
- 2 2. The Baltimore City Police Department;
- 3 3. A police department, bureau, or force of a county;
- 4 4. A police department, bureau, or force of an incorporated
- 5 city or town;
- 6 5. The Maryland Transit Administration Police Force;
- 7 6. The Maryland Port Administration Police Force of the
- 8 Department of Transportation;
- 9 7. The Maryland Transportation Authority Police Force;
- 10 8. The Police Force of the University of Maryland or Morgan
- 11 State University;
- 12 9. The police force for a State university or college under the
- 13 direction and control of the University System of Maryland;
- 14 10. A sheriff's department of any county or Baltimore City;
- 15 11. The Natural Resources Police Force or the Forest and
- 16 Park Service Police Force of the Department of Natural Resources; or
- 17 12. The security force of the Department of General Services;
- 18 or

19 (ii) In the case of a police officer who has been trained as a drug
 20 recognition expert, if the police officer is a member of, and certified as a drug
 21 recognition expert by the head of one of the law enforcement agencies described in
 22 items (3)(i)1 through 12 of this subsection].

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
 24 construed to apply only prospectively and may not be applied or interpreted to have
 25 any effect on or application to any test for drug or controlled dangerous substance
 26 content requested, required, or directed before the effective date of this Act.

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 28 October 1, 2006.