

HOUSE BILL 1417

R3

71r3299

By: **Delegates Conway, Mathias, and Rudolph**

Rules Suspended

Introduced and read first time: March 6, 2007

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Fatality or Life-Threatening Injury – Mandatory Tests for**
3 **Alcohol, Drugs, or Controlled Dangerous Substances**

4 FOR the purpose of requiring a person to submit to certain tests for alcohol, drugs, or
5 controlled dangerous substances if the person is involved in a motor vehicle
6 accident that resulted in the death of, or a life-threatening injury to, another
7 person; authorizing a person to request a certain hearing if the person's license
8 is suspended under certain circumstances; including certain issues among the
9 issues that may be considered at a certain hearing; requiring the Motor Vehicle
10 Administration to suspend a certain driver's license under certain
11 circumstances; requiring the Administration to disqualify a certain person from
12 driving a commercial motor vehicle under certain circumstances; altering the
13 circumstances under which the Administration is prohibited from imposing a
14 license suspension on a person licensed to drive a commercial motor vehicle;
15 making a stylistic change; and generally relating to certain motor vehicle
16 accidents and tests for alcohol, drugs, or controlled dangerous substances.

17 BY repealing and reenacting, with amendments,

18 Article – Transportation

19 Section 16-205.1(c)(1), (d), and (f)(1), (7)(i), and (8)(i), (ii), and (iii)

20 Annotated Code of Maryland

21 (2006 Replacement Volume and 2006 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Transportation

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16–205.1.

(c) (1) If a person is involved in a motor vehicle accident that results in the death of, or a [life threatening] **LIFE-THREATENING** injury to, another person [and the person is detained by a police officer who has reasonable grounds to believe that the person has been driving or attempting to drive while under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, while impaired by a controlled dangerous substance, or in violation of § 16–813 of this title], the person shall be required to submit, as directed by the officer, to a test of:

(i) The person’s breath to determine alcohol concentration;

(ii) One specimen of the person’s blood, to determine alcohol concentration or to determine the drug or controlled dangerous substance content of the person’s blood; or

(iii) Both the person’s breath under item (i) of this paragraph and one specimen of the person’s blood under item (ii) of this paragraph.

(d) (1) If a police officer has reasonable grounds to believe that a person has been driving or attempting to drive a motor vehicle while under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, while impaired by a controlled dangerous substance, or in violation of § 16–813 of this title, and if the police officer determines that the person is unconscious or otherwise incapable of refusing to take a test, the police officer shall:

(i) Obtain prompt medical attention for the person;

(ii) If necessary, arrange for removal of the person to a nearby medical facility; and

(iii) If a test would not jeopardize the health or well-being of the person, direct a qualified medical person to withdraw blood for a test.

(2) IF A PERSON IS INVOLVED IN A MOTOR VEHICLE ACCIDENT THAT RESULTS IN THE DEATH OF, OR LIFE-THREATENING INJURY TO, ANOTHER

1 PERSON, AND IF THE POLICE OFFICER DETERMINES THAT THE PERSON IS
2 UNCONSCIOUS OR OTHERWISE INCAPABLE OF REFUSING TO TAKE A TEST, THE
3 POLICE OFFICER SHALL:

4 (I) OBTAIN PROMPT MEDICAL ATTENTION FOR THE
5 PERSON;

6 (II) IF NECESSARY, ARRANGE FOR REMOVAL OF THE
7 PERSON TO A NEARBY MEDICAL FACILITY; AND

8 (III) IF A TEST WOULD NOT JEOPARDIZE THE HEALTH OR
9 WELL-BEING OF THE PERSON, DIRECT A QUALIFIED MEDICAL PERSON TO
10 WITHDRAW BLOOD FOR A TEST.

11 [(2)](3) If a person regains consciousness or otherwise becomes
12 capable of refusing before the taking of a test, the police officer shall follow the
13 procedure set forth in subsection (b) or (c) of this section.

14 (f) (1) Subject to the provisions of this subsection, at the time of, or
15 within 30 days from the date of, the issuance of an order of suspension, a person may
16 submit a written request for a hearing before an officer of the Administration if:

17 (i) The person is arrested for driving or attempting to drive a
18 motor vehicle while under the influence of alcohol, while impaired by alcohol, while so
19 far impaired by any drug, any combination of drugs, or a combination of one or more
20 drugs and alcohol that the person could not drive a vehicle safely, while impaired by a
21 controlled dangerous substance, in violation of an alcohol restriction, or in violation of
22 § 16-813 of this title, **OR WAS INVOLVED IN A MOTOR VEHICLE ACCIDENT THAT**
23 **RESULTED IN THE DEATH OF, OR LIFE-THREATENING INJURY TO, ANOTHER**
24 **PERSON;** and

25 (ii) 1. There is an alcohol concentration of 0.08 or more at
26 the time of testing; or

27 2. The person refused to take a test.

28 (7) (i) At a hearing under this section, the person has the rights
29 described in § 12-206 of this article, but at the hearing the only issues shall be:

30 1. Whether the police officer who stops or detains a
31 person had reasonable grounds to believe the person was driving or attempting to

1 drive while under the influence of alcohol, while impaired by alcohol, while so far
2 impaired by any drug, any combination of drugs, or a combination of one or more
3 drugs and alcohol that the person could not drive a vehicle safely, while impaired by a
4 controlled dangerous substance, in violation of an alcohol restriction, or in violation of
5 § 16–813 of this title;

6 **2. WHETHER THE PERSON WAS INVOLVED IN A**
7 **MOTOR VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF, OR**
8 **LIFE–THREATENING INJURY TO, ANOTHER PERSON;**

9 [2.] **3.** Whether there was evidence of the use by the
10 person of alcohol, any drug, any combination of drugs, a combination of one or more
11 drugs and alcohol, or a controlled dangerous substance;

12 [3.] **4.** Whether the police officer requested a test after
13 the person was fully advised, as required under subsection (b)(2) of this section, of the
14 administrative sanctions that shall be imposed;

15 [4.] **5.** Whether the person refused to take the test;

16 [5.] **6.** Whether the person drove or attempted to drive
17 a motor vehicle while having an alcohol concentration of 0.08 or more at the time of
18 testing;

19 [6.] **7.** Whether the person drove or attempted to drive
20 a motor vehicle while having an alcohol concentration of 0.15 or more at the time of
21 testing; or

22 [7.] **8.** If the hearing involves disqualification of a
23 commercial driver’s license, whether the person was operating a commercial motor
24 vehicle or held a commercial driver’s license.

25 (8) (i) After a hearing, the Administration shall suspend the
26 driver’s license or privilege to drive of the person charged under subsection (b) or (c) of
27 this section if:

28 1. **A.** The police officer who stopped or detained the
29 person had reasonable grounds to believe the person was driving or attempting to
30 drive while under the influence of alcohol, while impaired by alcohol, while so far
31 impaired by any drug, any combination of drugs, or a combination of one or more
32 drugs and alcohol that the person could not drive a vehicle safely, while impaired by a

1 controlled dangerous substance, in violation of an alcohol restriction, or in violation of
2 § 16–813 of this title; **OR**

3 **B. THE PERSON WAS INVOLVED IN A MOTOR**
4 **VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF, OR LIFE–THREATENING**
5 **INJURY TO, ANOTHER PERSON;**

6 2. There was evidence of the use by the person of
7 alcohol, any drug, any combination of drugs, a combination of one or more drugs and
8 alcohol, or a controlled dangerous substance;

9 3. The police officer requested a test after the person
10 was fully advised, as required under subsection (b)(2) of this section, of the
11 administrative sanctions that shall be imposed; and

12 4. A. The person refused to take the test; or

13 B. A test to determine alcohol concentration was taken
14 and the test result indicated an alcohol concentration of 0.08 or more at the time of
15 testing.

16 (ii) After a hearing, the Administration shall disqualify the
17 person from driving a commercial motor vehicle if:

18 1. The person was detained while operating a
19 commercial motor vehicle or while holding a commercial driver's license;

20 2. A. The police officer who stopped or detained the
21 person had reasonable grounds to believe that the person was driving or attempting to
22 drive while under the influence of alcohol, while impaired by alcohol, while so far
23 impaired by any drug, any combination of drugs, or a combination of one or more
24 drugs and alcohol that the person could not drive a vehicle safely, while impaired by a
25 controlled dangerous substance, in violation of an alcohol restriction, or in violation of
26 § 16–813 of this title;

27 **B. THE PERSON WAS INVOLVED IN A MOTOR**
28 **VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF, OR LIFE–THREATENING**
29 **INJURY TO, ANOTHER PERSON;**

30 3. There was evidence of the use by the person of
31 alcohol, any drug, any combination of drugs, a combination of one or more drugs and
32 alcohol, or a controlled dangerous substance;

1 4. The police officer requested a test after the person
2 was fully advised of the administrative sanctions that shall be imposed; and

3 5. The person refused to take the test.

4 (iii) If the person is licensed to drive a commercial motor vehicle,
5 the Administration shall disqualify the person in accordance with subparagraph (ii) of
6 this paragraph, but may not impose a suspension under subparagraph (i) of this
7 paragraph, if:

8 1. The person was detained while operating a
9 commercial motor vehicle or while holding a commercial driver's license;

10 2. The police officer had reasonable grounds to believe
11 the person was in violation of an alcohol restriction or in violation of § 16-813 of this
12 title;

13 3. **A.** The police officer did not have reasonable
14 grounds to believe the [driver] **PERSON** was driving while under the influence of
15 alcohol, driving while impaired by alcohol, while so far impaired by any drug, any
16 combination of drugs, or a combination of one or more drugs and alcohol that the
17 person could not drive a vehicle safely, or while impaired by a controlled dangerous
18 substance; **OR**

19 **B. THE PERSON WAS NOT INVOLVED IN A MOTOR**
20 **VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF, OR LIFE-THREATENING**
21 **INJURY TO, ANOTHER PERSON; and**

22 4. The driver refused to take a test.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2007.