

# HOUSE BILL 1362

R3  
HB 417/06 – JUD

8lr2860

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By: **Delegates Conway, Barkley, Bohanan, Cane, Eckardt, Elmore, Gaines, Griffith, Jones, Levy, Mathias, Proctor, and Rudolph**  
Introduced and read first time: February 8, 2008  
Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Fatality or Life-Threatening Injury – Tests for Alcohol, Drugs,**  
3 **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 detained by a police officer who has  
6 reasonable grounds to believe that the person contributed to causing a motor  
7 vehicle accident that resulted in the death of, or a life-threatening injury to,  
8 another person; making a stylistic change; and generally relating to certain  
9 motor vehicle accidents and tests for alcohol, drugs, or controlled dangerous  
10 substances.

11 BY repealing and reenacting, with amendments,  
12 Article – Transportation  
13 Section 16–205.1(c)(1), (d)(1), and (f)(1), (7)(i), and (8)(i), (ii), and (iii)  
14 Annotated Code of Maryland  
15 (2006 Replacement Volume and 2007 Supplement)

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

18 **Article – Transportation**

19 16–205.1.

20 (c) (1) If a person is involved in a motor vehicle accident that results in  
21 the death of, or a [life threatening] **LIFE-THREATENING** injury to, another person  
22 and the person is detained by a police officer who has reasonable grounds to believe  
23 that the person [has been driving or attempting to drive while under the influence of  
24 alcohol, while impaired by alcohol, while so far impaired by any drug, any combination  
25 of drugs, or a combination of one or more drugs and alcohol that the person could not

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 drive a vehicle safely, while impaired by a controlled dangerous substance, or in  
2 violation of § 16–813 of this title] **CONTRIBUTED TO CAUSING THE MOTOR VEHICLE**  
3 **ACCIDENT**, the person shall be required to submit, as directed by the officer, to a test  
4 of:

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

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

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

11 (d) (1) If a police officer has reasonable grounds to believe that a person  
12 has been driving or attempting to drive a motor vehicle while under the influence of  
13 alcohol, while impaired by alcohol, while so far impaired by any drug, any combination  
14 of drugs, or a combination of one or more drugs and alcohol that the person could not  
15 drive a vehicle safely, while impaired by a controlled dangerous substance, or in  
16 violation of § 16–813 of this title, **OR CONTRIBUTED TO CAUSING A MOTOR**  
17 **VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF, OR LIFE–THREATENING**  
18 **INJURY TO, ANOTHER PERSON**, and if the police officer determines that the person is  
19 unconscious or otherwise incapable of refusing to take a test, the police officer shall:

20 (i) Obtain prompt medical attention for the person;

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

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

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

28 (i) The person is arrested for driving or attempting to drive a  
29 motor vehicle while under the influence of alcohol, while impaired by alcohol, while so  
30 far impaired by any drug, any combination of drugs, or a combination of one or more  
31 drugs and alcohol that the person could not drive a vehicle safely, while impaired by a  
32 controlled dangerous substance, in violation of an alcohol restriction, or in violation of  
33 § 16–813 of this title, **OR WAS INVOLVED IN A MOTOR VEHICLE ACCIDENT THAT**  
34 **RESULTED IN THE DEATH OF, OR LIFE–THREATENING INJURY TO, ANOTHER**  
35 **PERSON**; and

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

1 2. The person refused to take a test.

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

4 1. Whether the police officer who stops or detains a  
5 person had reasonable grounds to believe the person was driving or attempting to  
6 drive while under the influence of alcohol, while impaired by alcohol, while so far  
7 impaired by any drug, any combination of drugs, or a combination of one or more  
8 drugs and alcohol that the person could not drive a vehicle safely, while impaired by a  
9 controlled dangerous substance, in violation of an alcohol restriction, or in violation of  
10 § 16–813 of this title, **OR THE PERSON CONTRIBUTED TO CAUSING A MOTOR**  
11 **VEHICLE ACCIDENT THAT RESULTED IN THE DEATH OF, OR LIFE–THREATENING**  
12 **INJURY TO, ANOTHER PERSON;**

13 2. Whether there was evidence of the use by the person  
14 of alcohol, any drug, any combination of drugs, a combination of one or more drugs and  
15 alcohol, or a controlled dangerous substance;

16 3. Whether the police officer requested a test after the  
17 person was fully advised of the administrative sanctions that shall be imposed,  
18 including the fact that a person who refuses to take the test is ineligible for  
19 modification of a suspension or issuance of a restrictive license under subsection (n)(1)  
20 and (2) of this section;

21 4. Whether the person refused to take the test;

22 5. Whether the person drove or attempted to drive a  
23 motor vehicle while having an alcohol concentration of 0.08 or more at the time of  
24 testing; or

25 6. If the hearing involves disqualification of a  
26 commercial driver’s license, whether the person was operating a commercial motor  
27 vehicle or held a commercial driver’s license.

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

31 1. The police officer who stopped or detained the person  
32 had reasonable grounds to believe the person was driving or attempting to drive while  
33 under the influence of alcohol, while impaired by alcohol, while so far impaired by any  
34 drug, any combination of drugs, or a combination of one or more drugs and alcohol  
35 that the person could not drive a vehicle safely, while impaired by a controlled  
36 dangerous substance, in violation of an alcohol restriction, or in violation of § 16–813  
37 of this title, **OR CONTRIBUTED TO CAUSING A MOTOR VEHICLE ACCIDENT THAT**

1 **RESULTED IN THE DEATH OF, OR LIFE-THREATENING INJURY TO, ANOTHER**  
2 **PERSON;**

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

6           3. The police officer requested a test after the person  
7 was fully advised of the administrative sanctions that shall be imposed, including the  
8 fact that a person who refuses to take the test is ineligible for modification of a  
9 suspension or issuance of a restrictive license under subsection (n)(1) and (2) of this  
10 section; and

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

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

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

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

19           2. The police officer who stopped or detained the person  
20 had reasonable grounds to believe that the person was driving or attempting to drive  
21 while under the influence of alcohol, while impaired by alcohol, while so far impaired  
22 by any drug, any combination of drugs, or a combination of one or more drugs and  
23 alcohol that the person could not drive a vehicle safely, while impaired by a controlled  
24 dangerous substance, in violation of an alcohol restriction, or in violation of § 16-813  
25 of this title, **OR THE PERSON CONTRIBUTED TO CAUSING A MOTOR VEHICLE**  
26 **ACCIDENT THAT RESULTED IN THE DEATH OF, OR LIFE-THREATENING INJURY**  
27 **TO, ANOTHER PERSON;**

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

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

33           5. The person refused to take the test.

34           (iii) If the person is licensed to drive a commercial motor vehicle,  
35 the Administration shall disqualify the person in accordance with subparagraph (ii) of

1 this paragraph, but may not impose a suspension under subparagraph (i) of this  
2 paragraph, if:

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

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

8                   3. The police officer did not have reasonable grounds to  
9 believe the [driver] **PERSON** was driving while under the influence of alcohol, driving  
10 while impaired by alcohol, while so far impaired by any drug, any combination of  
11 drugs, or a combination of one or more drugs and alcohol that the person could not  
12 drive a vehicle safely, or while impaired by a controlled dangerous substance, **OR THE**  
13 **PERSON CONTRIBUTED TO CAUSING A MOTOR VEHICLE ACCIDENT THAT**  
14 **RESULTED IN THE DEATH OF, OR LIFE-THREATENING INJURY TO, ANOTHER**  
15 **PERSON**; and

16                   4. The driver refused to take a test.

17                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2008.