

SENATE BILL 260

R3

9lr0178
CF 9lr0232

By: **The President (By Request – Administration) (Task Force to Combat Driving Under the Influence of Drugs and Alcohol) and Senator Forehand**

Introduced and read first time: January 23, 2009

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Testing of Drivers Involved in Fatal or Life-Threatening**
3 **Accidents**

4 FOR the purpose of requiring a police officer to request a driver involved in a motor
5 vehicle accident that results in death or life-threatening injury to voluntarily
6 submit to a certain test for alcohol under certain circumstances; requiring a
7 police officer who asks a person to voluntarily submit to a certain test to advise
8 the person that there is no sanction or consequence for refusing to submit to the
9 test or for any test result; providing that a person is not subject to any criminal
10 or civil sanctions for refusing to voluntarily submit to a test under this Act;
11 prohibiting a certain test result from being used to prompt or be considered in
12 any criminal or civil proceeding or administrative action; prohibiting a certain
13 test result from being considered in the provision of motor vehicle insurance
14 coverage; providing that a certain test result may be used only for certain
15 research and statistical purposes; requiring a certain test result that is reported
16 on a police report to be coded or noted in a certain manner; prohibiting a police
17 officer from requesting a driver to submit to certain tests or charging a driver
18 with certain offenses under certain circumstances; and generally relating to
19 testing of a driver involved in a motor vehicle accident that results in a death or
20 a life-threatening injury under certain circumstances.

21 BY adding to
22 Article – Transportation
23 Section 16–205.3
24 Annotated Code of Maryland
25 (2006 Replacement Volume and 2008 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 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**16-205.3.**

(A) A POLICE OFFICER SHALL REQUEST A DRIVER WHO IS INVOLVED IN A MOTOR VEHICLE ACCIDENT THAT RESULTS IN A DEATH OR A LIFE-THREATENING INJURY TO VOLUNTARILY SUBMIT TO A PRELIMINARY BREATH TEST FOR ALCOHOL TO BE ADMINISTERED BY THE POLICE OFFICER USING A DEVICE APPROVED BY THE STATE TOXICOLOGIST IF:

(1) THE POLICE OFFICER LACKS REASONABLE GROUNDS TO BELIEVE THAT THE DRIVER 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, IN VIOLATION OF AN ALCOHOL RESTRICTION, OR IN VIOLATION OF § 16-813 OF THIS TITLE;

(2) THE DRIVER IS NOT TRANSPORTED TO A MEDICAL FACILITY;
AND

(3) A PRELIMINARY BREATH TEST DEVICE IS AVAILABLE.

(B) A POLICE OFFICER REQUESTING THAT A PERSON VOLUNTARILY SUBMIT TO A PRELIMINARY BREATH TEST UNDER THIS SECTION SHALL ADVISE THE PERSON THAT:

(1) REFUSAL TO VOLUNTARILY SUBMIT TO A TEST IS NOT A VIOLATION OF LAW AND WILL NOT SUBJECT THE PERSON TO ANY CRIMINAL OR CIVIL SANCTIONS; AND

(2) REFUSAL TO VOLUNTARILY SUBMIT TO A TEST UNDER THIS SECTION AND THE RESULT OF ANY TEST UNDER THIS SECTION:

(I) MAY NOT BE INTRODUCED OR CONSIDERED IN ANY CRIMINAL OR CIVIL PROCEEDING;

(II) MAY NOT PROMPT OR BE CONSIDERED IN ANY ADMINISTRATIVE ACTION; AND

(III) MAY NOT BE CONSIDERED IN THE PROVISION OF MOTOR VEHICLE INSURANCE COVERAGE.

1 (C) A PERSON IS NOT SUBJECT TO ANY CRIMINAL OR CIVIL SANCTIONS
2 FOR REFUSING TO VOLUNTARILY SUBMIT TO A TEST UNDER THIS SECTION.

3 (D) REFUSAL TO VOLUNTARILY SUBMIT TO A TEST UNDER THIS
4 SECTION AND THE RESULT OF A TEST UNDER THIS SECTION:

5 (1) MAY BE USED ONLY FOR RESEARCH AND STATISTICAL
6 PURPOSES;

7 (2) MAY NOT PROMPT OR BE CONSIDERED IN ANY CRIMINAL OR
8 CIVIL PROCEEDING;

9 (3) MAY NOT PROMPT OR BE CONSIDERED IN ANY
10 ADMINISTRATIVE ACTION; AND

11 (4) MAY NOT BE CONSIDERED IN THE PROVISION OF MOTOR
12 VEHICLE INSURANCE COVERAGE.

13 (E) IF THE RESULT OF A VOLUNTARY TEST IS REPORTED ON A POLICE
14 REPORT, THE RESULT SHALL BE CODED OR NOTED IN A MANNER THAT
15 INDICATES THAT IT MAY BE USED ONLY FOR STATISTICAL OR RESEARCH
16 PURPOSES.

17 (F) IF A POLICE OFFICER REQUESTS A DRIVER TO VOLUNTARILY
18 SUBMIT TO A PRELIMINARY BREATH TEST UNDER SUBSECTION (A) OF THIS
19 SECTION, NO POLICE OFFICER MAY REQUEST THE DRIVER TO SUBMIT TO A TEST
20 FOR ALCOHOL OR DRUGS UNDER ANY OTHER PROVISION OF LAW AND NO
21 POLICE OFFICER MAY CHARGE THE DRIVER WITH AN OFFENSE UNDER § 21-902
22 OF THIS ARTICLE OR § 2-209 OR TITLE 2, SUBTITLE 5 OF THE CRIMINAL LAW
23 ARTICLE.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2009.