

SENATE BILL 498

R3

0lr1241

By: **Senators Ready, Carozza, Eckardt, and West**

Introduced and read first time: January 29, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Drunk and Drugged Driving – Testing – Warrants**

3 FOR the purpose of establishing an exception to the prohibition on compelling a person to
4 undergo a certain test of the person’s breath or blood for a test that is required by a
5 valid warrant; and generally relating to drunk and drugged driving.

6 BY repealing and reenacting, without amendments,
7 Article – Transportation
8 Section 16–205.1(a)
9 Annotated Code of Maryland
10 (2012 Replacement Volume and 2019 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Transportation
13 Section 16–205.1(b)(1)
14 Annotated Code of Maryland
15 (2012 Replacement Volume and 2019 Supplement)

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

18 **Article – Transportation**

19 16–205.1.

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

21 (ii) “Specimen of blood” and “1 specimen of blood” means 1 sample of
22 blood that is taken, in a single procedure, in 2 or more portions in 2 or more separate vials.

23 (iii) “Test” means, unless the context requires otherwise:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

5 3. Both:

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

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

10 (iv) "Under the influence of alcohol" includes under the influence of
11 alcohol per se as defined by § 11-174.1 of this article.

12 (2) Any person who drives or attempts to drive a motor vehicle on a
13 highway or on any private property that is used by the public in general in this State is
14 deemed to have consented, subject to the provisions of §§ 10-302 through 10-309, inclusive,
15 of the Courts and Judicial Proceedings Article, to take a test if the person should be
16 detained on suspicion of driving or attempting to drive while under the influence of alcohol,
17 while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or
18 a combination of one or more drugs and alcohol that the person could not drive a vehicle
19 safely, while impaired by a controlled dangerous substance, in violation of an alcohol
20 restriction, or in violation of § 16-813 of this title.

21 (b) (1) Except as provided in subsection (c) of this section **OR AS REQUIRED**
22 **BY A VALID WARRANT**, a person may not be compelled to take a test. However, the
23 detaining officer shall advise the person that, on receipt of a sworn statement from the
24 officer that the person was so charged and refused to take a test, or was tested and the
25 result indicated an alcohol concentration of 0.08 or more, the Administration shall:

26 (i) In the case of a person licensed under this title:

27 1. Except as provided in items 2, 3, and 4 of this item, for a
28 test result indicating an alcohol concentration of 0.08 or more at the time of testing:

29 A. For a first offense, suspend the driver's license for 180
30 days; or

31 B. For a second or subsequent offense, suspend the driver's
32 license for 180 days;

33 2. Except as provided in item 4 of this item, for a test result
34 indicating an alcohol concentration of 0.15 or more at the time of testing:

- 1 A. For a first offense, suspend the person's driving privilege
2 for 180 days; or
- 3 B. For a second or subsequent offense, suspend the person's
4 driving privilege for 270 days;
- 5 3. Except as provided in item 4 of this item, for a test result
6 indicating an alcohol concentration of 0.08 or more at the time of testing, if the person was
7 involved in a motor vehicle accident that resulted in the death of another person:
- 8 A. For a first offense, suspend the person's driving privilege
9 for 6 months; or
- 10 B. For a second or subsequent offense, suspend the person's
11 driving privilege for 1 year;
- 12 4. For a test result indicating an alcohol concentration of 0.15
13 or more at the time of testing, if the person was involved in a motor vehicle accident that
14 resulted in the death of another person:
- 15 A. For a first offense, suspend the person's driving privilege
16 for 1 year; or
- 17 B. For a second or subsequent offense, revoke the person's
18 driving privilege; or
- 19 5. For a test refusal:
- 20 A. For a first offense, suspend the driver's license for 270
21 days; or
- 22 B. For a second or subsequent offense, suspend the driver's
23 license for 2 years;
- 24 (ii) In the case of a nonresident or unlicensed person:
- 25 1. Except as provided in items 2, 3, and 4 of this item, for a
26 test result indicating an alcohol concentration of 0.08 or more at the time of testing:
- 27 A. For a first offense, suspend the person's driving privilege
28 for 180 days; or
- 29 B. For a second or subsequent offense, suspend the person's
30 driving privilege for 180 days;
- 31 2. Except as provided in item 4 of this item, for a test result

1 indicating an alcohol concentration of 0.15 or more at the time of testing:

2 A. For a first offense, suspend the person's driving privilege
3 for 180 days; or

4 B. For a second or subsequent offense, suspend the person's
5 driving privilege for 270 days;

6 3. Except as provided in item 4 of this item, for a test result
7 indicating an alcohol concentration of 0.08 or more at the time of testing, if the person was
8 involved in a motor vehicle accident that resulted in the death of another person:

9 A. For a first offense, suspend the person's driving privilege
10 for 6 months; or

11 B. For a second or subsequent offense, suspend the person's
12 driving privilege for 1 year;

13 4. For a test result indicating an alcohol concentration of 0.15
14 or more at the time of testing, if the person was involved in a motor vehicle accident that
15 resulted in the death of another person:

16 A. For a first offense, suspend the person's driving privilege
17 for 1 year; or

18 B. For a second or subsequent offense, revoke the person's
19 driving privilege; or

20 5. For a test refusal:

21 A. For a first offense, suspend the person's driving privilege
22 for 270 days; or

23 B. For a second or subsequent offense, suspend the person's
24 driving privilege for 2 years; and

25 (iii) In addition to any applicable driver's license suspensions
26 authorized under this section, in the case of a person operating a commercial motor vehicle
27 or who holds a commercial instructional permit or a commercial driver's license who refuses
28 to take a test:

29 1. Disqualify the person's commercial instructional permit or
30 commercial driver's license for a period of 1 year for a first offense, 3 years for a first offense
31 which occurs while transporting hazardous materials required to be placarded, and
32 disqualify for life if the person's commercial instructional permit or commercial driver's
33 license has been previously disqualified for at least 1 year under:

1 A. § 16–812(a) or (b) of this title;

2 B. A federal law; or

3 C. Any other state’s law; or

4 2. If the person holds a commercial instructional permit or a
5 commercial driver’s license issued by another state, disqualify the person’s privilege to
6 operate a commercial motor vehicle and report the refusal and disqualification to the
7 person’s resident state which may result in further penalties imposed by the person’s
8 resident state.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2020.