

HOUSE BILL 1392

D1, R3

4r1617
CF SB 1037

By: **Delegates Tomlinson, Miller, Rose, and Valentine**

Introduced and read first time: February 9, 2024

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Courts – Impaired Operation of Vehicle or Vessel – Expert Witnesses and**
3 **Evidence**

4 FOR the purpose of authorizing police officers who have completed a certain training
5 program to testify as expert witnesses on the ultimate issue of impairment in cases
6 involving driving a vehicle or operating a vessel while impaired by drugs;
7 establishing a certain presumption in cases involving driving a vehicle or operating
8 a vessel while impaired by a drug; and generally relating to driving a vehicle or
9 operating a vessel while impaired by drugs.

10 BY adding to

11 Article – Courts and Judicial Proceedings
12 Section 9–125
13 Annotated Code of Maryland
14 (2020 Replacement Volume and 2023 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Courts and Judicial Proceedings
17 Section 10–308
18 Annotated Code of Maryland
19 (2020 Replacement Volume and 2023 Supplement)

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

22 **Article – Courts and Judicial Proceedings**

23 **9–125.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A POLICE OFFICER
2 QUALIFIED AS AN EXPERT WITNESS MAY TESTIFY ON THE ULTIMATE ISSUE OF
3 WHETHER AN INDIVIDUAL WAS DRIVING A VEHICLE OR OPERATING A VESSEL WHILE
4 IMPAIRED BY A DRUG, A COMBINATION OF DRUGS, A COMBINATION OF ONE OR MORE
5 DRUGS AND ALCOHOL, OR WHILE IMPAIRED BY A CONTROLLED DANGEROUS
6 SUBSTANCE IF THE POLICE OFFICER HAS SUCCESSFULLY COMPLETED A PROGRAM
7 OF TRAINING THAT IS:

8 (1) DESIGNED TO TRAIN AND CERTIFY POLICE OFFICERS AS DRUG
9 RECOGNITION EXPERTS; AND

10 (2) CONDUCTED BY A LAW ENFORCEMENT AGENCY:

11 (i) IN CONJUNCTION WITH THE NATIONAL HIGHWAY TRAFFIC
12 SAFETY ADMINISTRATION; OR

13 (ii) AS A PROGRAM WHOSE REQUIREMENTS FOR SUCCESSFUL
14 COMPLETION ARE SUBSTANTIALLY THE SAME AS THE REQUIREMENTS OF THE DRUG
15 RECOGNITION TRAINING PROGRAM DEVELOPED BY THE NATIONAL HIGHWAY
16 TRAFFIC SAFETY ADMINISTRATION.

17 10-308.

18 (a) The evidence of the analysis does not limit the introduction of other evidence
19 bearing upon whether the defendant was under the influence of alcohol or whether the
20 defendant was driving while impaired by alcohol, while so far impaired by any drug, any
21 combination of drugs, or a combination of one or more drugs and alcohol that the person
22 cannot drive a vehicle safely, or while impaired by a controlled dangerous substance.

23 (b) The results of a test or tests to determine the drug or controlled dangerous
24 substance content of a person's blood:

25 (1) Are admissible as evidence in a criminal trial only in a prosecution for
26 a violation of § 21-902 of the Transportation Article, § 8-738 of the Natural Resources
27 Article, or Title 2, Subtitle 5, § 2-209, or § 3-211 of the Criminal Law Article and only if
28 other admissible evidence is introduced that creates an inference that the person was:

29 (i) Driving or attempting to drive while so far impaired by any drug,
30 any combination of drugs, or a combination of one or more drugs and alcohol that the person
31 could not drive a vehicle safely, or while impaired by a controlled dangerous substance; or

32 (ii) Operating or attempting to operate a vessel while the person was
33 so far impaired by any drug, any combination of drugs, or a combination of one or more
34 drugs and alcohol that the person could not operate a vessel safely, or while impaired by a
35 controlled dangerous substance; and

1 (2) Are not admissible in a prosecution other than a prosecution for a
2 violation of § 21-902 of the Transportation Article, § 8-738 of the Natural Resources
3 Article, or Title 2, Subtitle 5, § 2-209, or § 3-211 of the Criminal Law Article.

4 (C) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN A PROSECUTION FOR
5 A VIOLATION OF § 21-902 OF THE TRANSPORTATION ARTICLE, § 8-738 OF THE
6 NATURAL RESOURCES ARTICLE, OR TITLE 2, SUBTITLE 5, § 2-209, OR § 3-211 OF
7 THE CRIMINAL LAW ARTICLE, IF THE RESULTS OF A TEST INDICATE THAT A PERSON
8 HAS A DELTA-9-TETRAHYDROCANNABINOL (THC) CONCENTRATION OF 5
9 NANOGRAMS PER MILLILITER OR MORE, IT SHALL BE PRIMA FACIE EVIDENCE THAT
10 THE PERSON WAS DRIVING A VEHICLE OR OPERATING A VESSEL WHILE IMPAIRED BY
11 THC.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2024.