

Testimony of Alexander M. Hughes – Assistant State’s Attorney for Carroll County in Support of HB 1334

Good Morning/Afternoon, I am Alex Hughes, Assistant State’s Attorney for Carroll County. I am currently assigned to the District Court Division. The vast majority of Drunk and Drugged Driving cases start in the District Courts of Maryland. That being the case, I have personally handled thousands of DUI cases throughout my career as a prosecutor.

In an alcohol DUI case, the State relies upon the observations of police officers, standardized field sobriety tests, and occasionally an alcohol breath test to prosecute and prove that an individual is impaired by alcohol. There are three field sobriety tests that are utilized by law enforcement: the horizontal gaze nystagmus test, or the eye test; the walk and turn test; and the one leg stand test. Police officers receive training and certification in standardized field sobriety testing through their various police academies. The purpose of these tests is to determine whether a suspected drunk driver’s coordination is impaired and their ability to drive is compromised.

Suspected drunk drivers also have the ability to submit to an alcohol concentration breath test. By obtaining a driver’s license in Maryland, drivers are implied to have consented to such tests, but have the ability to refuse a breath test. A refusal typically results in sanctions from the MVA, including suspension of driving privileges. Alcohol breath concentration tests are incredibly useful in DUI investigations and prosecutions, in that they provide an objective method through which law enforcement and the Courts can determine whether someone is impaired by alcohol. Any police officer has the ability to ask a suspected drunk driver to submit to an alcohol breath test. However, law enforcement’s ability to obtain objective evidence of drug impairment is limited during the investigation and prosecution of drug impaired driving.

An individual suspected of drug impaired driving will typically submit to the same battery of standardized field sobriety testing during the investigation phase. If a police officer suspects an individual to be under the influence of drugs as opposed to alcohol, they can then request a Drug Recognition Expert (DRE) to perform an evaluation on the individual. DREs receive special certification and training in recognizing whether an individual is impaired by drugs and what specific type of drug that person is impaired by. A DRE also has the ability to request that an individual submit to a blood test to show whether there are any drugs in their system, impairing their ability to drive.

As the law currently stands, a DRE is the only type of police officer that can ask for a blood test. Currently there are only three DRE certified officers in Carroll County. As a result, when a police officer suspects an individual of drug impaired driving and puts out a request for a DRE, they receive a response from a DRE less than 50% of the time.

A blood test is a powerful tool for both investigating and prosecuting drug impaired driving. It can provide exculpatory evidence preventing a suspected drug impaired driver from being charged and convicted. But at the same time, it provides law enforcement and prosecutors with a powerful tool to definitively prove to a judge or jury that an individual was driving under the influence of drugs.

Under the current law, police could encounter an individual passed out behind the wheel of a running car, with a needle in their arm or drug paraphernalia on their lap. And they would only could request that individual to submit to a blood drug test if a DRE was available to respond to the scene. In jurisdictions such as Carroll County, that is not practical in every case. I personally have handled cases where there is significant evidence that an individual was using drugs while driving. However, the difference between winning and losing these cases is often whether the State can provide objective proof to a judge or jury that a driver had drugs in their system. HB 1334 would serve to improve access to this type of evidence and would serve both interests of public safety and justice.