

SENATE BILL 559

R3
SB 498/20 – JPR

1lr1671

By: **Senator Ready**

Introduced and read first time: January 26, 2021

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, with amendments,
7 Article – Courts and Judicial Proceedings
8 Section 10–309(a)(1)(i)
9 Annotated Code of Maryland
10 (2020 Replacement Volume)

11 BY repealing and reenacting, without amendments,
12 Article – Transportation
13 Section 16–205.1(a)
14 Annotated Code of Maryland
15 (2020 Replacement Volume)

16 BY repealing and reenacting, with amendments,
17 Article – Transportation
18 Section 16–205.1(b)(1)
19 Annotated Code of Maryland
20 (2020 Replacement Volume)

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

23 **Article – Courts and Judicial Proceedings**

24 10–309.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) (1) (i) Except as provided in § 16–205.1(c) of the Transportation Article, [or] § 8–738.1 of the Natural Resources Article, **OR AS REQUIRED BY A VALID WARRANT**, a person may not be compelled to submit to a test or tests provided for in this subtitle.

Article – Transportation

16–205.1.

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

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

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

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

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

3. Both:

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

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

(iv) “Under the influence of alcohol” includes under the influence of alcohol per se as defined by § 11–174.1 of this article.

(2) Any person who drives or attempts to drive a motor vehicle on a highway or on any private property that is used by the public in general in this State is deemed to have consented, subject to the provisions of §§ 10–302 through 10–309, inclusive, of the Courts and Judicial Proceedings Article, to take a test if the person should be detained on suspicion of driving or attempting to drive 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. For a test refusal:

A. For a first offense, suspend the driver's license for 270 days; or

B. For a second or subsequent offense, suspend the driver's

license for 2 years;

(ii) In the case of a nonresident or unlicensed person:

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

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

B. For a second or subsequent offense, suspend the person's driving privilege for 180 days;

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

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

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

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

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

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

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

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

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

5. For a test refusal:

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

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

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

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

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

13 B. A federal law; or

14 C. Any other state's law; or

15 2. If the person holds a commercial instructional permit or a
16 commercial driver's license issued by another state, disqualify the person's privilege to
17 operate a commercial motor vehicle and report the refusal and disqualification to the
18 person's resident state which may result in further penalties imposed by the person's
19 resident state.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2021.