

HOUSE BILL 1381

R3
SB 1150/18 – JPR

0lr2534

By: **Delegates Bartlett, Chisholm, and Valentino-Smith**

Introduced and read first time: February 7, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Accidents Resulting in Death – Mandatory Drug and Alcohol**
3 **Testing**
4 **(Danshaun’s Law)**

5 FOR the purpose of requiring a police officer who detains a driver who was involved in a
6 vehicle accident that resulted in the death of another person to require the driver to
7 submit to certain drug and alcohol testing; making certain conforming changes;
8 making a stylistic change; and generally relating to accidents resulting in death and
9 mandatory drug and alcohol testing.

10 BY repealing and reenacting, with amendments,
11 Article – Transportation
12 Section 16–205.1(a)(2), (c), (d)(1), and (f)(1), (7)(i), and (8)(i) and (ii)
13 Annotated Code of Maryland
14 (2012 Replacement Volume and 2019 Supplement)

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

17 **Article – Transportation**

18 16–205.1.

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

24 (I) ON suspicion of driving or attempting to drive while under the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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; **OR**

(II) AFTER HAVING DRIVEN A MOTOR VEHICLE THAT WAS INVOLVED IN AN ACCIDENT THAT RESULTED IN THE DEATH OF ANOTHER PERSON.

(c) (1) If a person is involved in a motor vehicle accident that results in [the death of, or] a [life threatening] **LIFE–THREATENING** injury to[,] another person and the person is detained by a police officer who has reasonable grounds to believe that the person has been 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, or in violation of § 16–813 of this title, the person shall be required to submit, as directed by the officer, to a test of:

(i) The person’s breath to determine alcohol concentration;

(ii) One specimen of the person’s blood[,] to determine alcohol concentration or to determine the drug or controlled dangerous substance content of the person’s blood; or

(iii) Both the person’s breath under item (i) of this paragraph and one specimen of the person’s blood under item (ii) of this paragraph.

(2) IF A PERSON WHO IS DRIVING A MOTOR VEHICLE IS INVOLVED IN A MOTOR VEHICLE ACCIDENT THAT RESULTS IN THE DEATH OF ANOTHER PERSON AND THE PERSON IS DETAINED BY A POLICE OFFICER, THE POLICE OFFICER SHALL REQUIRE THE PERSON TO SUBMIT TO A TEST OF:

(I) THE PERSON’S BREATH TO DETERMINE ALCOHOL CONCENTRATION AND ONE SPECIMEN OF THE PERSON’S BLOOD TO DETERMINE THE DRUG OR CONTROLLED DANGEROUS SUBSTANCE CONTENT OF THE PERSON’S BLOOD; OR

(II) ONE SPECIMEN OF THE PERSON’S BLOOD TO DETERMINE ALCOHOL CONCENTRATION AND TO DETERMINE THE DRUG OR CONTROLLED DANGEROUS SUBSTANCE CONTENT OF THE PERSON’S BLOOD.

(3) If a police officer directs that a person be tested, then the provisions of § 10–304 of the Courts and Judicial Proceedings Article shall apply.

[(3)] (4) Any medical personnel who perform any test required by this section are not liable for any civil damages as the result of any act or omission related to

1 such test, not amounting to gross negligence.

2 (d) (1) If a police officer has reasonable grounds to believe that a person has
3 been driving or attempting to drive a motor vehicle while under the influence of alcohol,
4 while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or
5 a combination of one or more drugs and alcohol that the person could not drive a vehicle
6 safely, while impaired by a controlled dangerous substance, or in violation of § 16–813 of
7 this title, **OR HAS DRIVEN A MOTOR VEHICLE THAT WAS INVOLVED IN AN ACCIDENT**
8 **THAT RESULTED IN THE DEATH OF ANOTHER PERSON**, and if the police officer
9 determines that the person is unconscious or otherwise incapable of refusing to take a test,
10 the police officer shall:

11 (i) Obtain prompt medical attention for the person;

12 (ii) If necessary, arrange for removal of the person to a nearby
13 medical facility; and

14 (iii) If a test would not jeopardize the health or well-being of the
15 person, direct a qualified medical person to withdraw blood for a test.

16 (f) (1) Subject to the provisions of this subsection, at the time of, or within 30
17 days from the date of, the issuance of an order of suspension, a person may submit a written
18 request for a hearing before an officer of the Administration if:

19 (i) **1.** The person is arrested for driving or attempting to drive a
20 motor vehicle while under the influence of alcohol, while impaired by alcohol, while so far
21 impaired by any drug, any combination of drugs, or a combination of one or more drugs and
22 alcohol that the person could not drive a vehicle safely, while impaired by a controlled
23 dangerous substance, in violation of an alcohol restriction, or in violation of § 16–813 of this
24 title; [and] **OR**

25 **2. THE PERSON IS DETAINED AFTER HAVING DRIVEN A**
26 **MOTOR VEHICLE THAT WAS INVOLVED IN AN ACCIDENT THAT RESULTED IN THE**
27 **DEATH OF ANOTHER PERSON; AND**

28 (ii) 1. There is an alcohol concentration of 0.08 or more at the
29 time of testing; or

30 2. The person refused to take a test.

31 (7) (i) At a hearing under this section, the person has the rights
32 described in § 12–206 of this article, but at the hearing the only issues shall be:

33 1. Whether the police officer who stops or detains a person
34 had reasonable grounds to believe [the]:

1 **A. THE** person was driving or attempting to drive while
2 under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug,
3 any combination of drugs, or a combination of one or more drugs and alcohol that the person
4 could not drive a vehicle safely, while impaired by a controlled dangerous substance, in
5 violation of an alcohol restriction, or in violation of § 16–813 of this title; **OR**

6 **B. THE PERSON HAD DRIVEN A MOTOR VEHICLE THAT**
7 **WAS INVOLVED IN AN ACCIDENT THAT RESULTED IN THE DEATH OF ANOTHER**
8 **PERSON;**

9 2. [Whether] **EXCEPT IN THE CASE OF A PERSON**
10 **DETAINED UNDER SUBSECTION (C) OF THIS SECTION, WHETHER** there was evidence
11 of the use by the person of alcohol, any drug, any combination of drugs, a combination of
12 one or more drugs and alcohol, or a controlled dangerous substance;

13 3. Whether the police officer requested a test after the person
14 was fully advised, as required under subsection (b)(2) of this section, of the administrative
15 sanctions that shall be imposed;

16 4. Whether the person refused to take the test;

17 5. Whether the person drove or attempted to drive a motor
18 vehicle while having an alcohol concentration of 0.08 or more at the time of testing;

19 6. Whether the person drove or attempted to drive a motor
20 vehicle while having an alcohol concentration of 0.15 or more at the time of testing;

21 7. If the hearing involves disqualification of a commercial
22 instructional permit or a commercial driver's license, whether the person was operating a
23 commercial motor vehicle or held a commercial instructional permit or a commercial
24 driver's license; or

25 8. Whether the person was involved in a motor vehicle
26 accident that resulted in the death of another person.

27 (8) (i) After a hearing, the Administration shall suspend or revoke the
28 person's license or privilege to drive if:

29 1. The police officer who stopped or detained the person had
30 reasonable grounds to believe [the]:

31 **A. THE** person was driving or attempting to drive while
32 under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug,
33 any combination of drugs, or a combination of one or more drugs and alcohol that the person
34 could not drive a vehicle safely, while impaired by a controlled dangerous substance, in
35 violation of an alcohol restriction, or in violation of § 16–813 of this title; **OR**

1 **B. THE PERSON HAD DRIVEN A MOTOR VEHICLE THAT**
2 **WAS INVOLVED IN AN ACCIDENT THAT RESULTED IN THE DEATH OF ANOTHER**
3 **PERSON;**

4 2. **[There] EXCEPT IN THE CASE OF A PERSON DETAINED**
5 **UNDER SUBSECTION (C) OF THIS SECTION, THERE** was evidence of the use by the person
6 of alcohol, any drug, any combination of drugs, a combination of one or more drugs and
7 alcohol, or a controlled dangerous substance;

8 3. The police officer requested a test after the person was
9 fully advised, as required under subsection (b)(2) of this section, of the administrative
10 sanctions that shall be imposed; **AND**

11 4. A. The person refused to take the test; or

12 B. A test to determine alcohol concentration was taken and
13 the test result indicated an alcohol concentration of 0.08 or more at the time of testing[;
14 and

15 5. When applicable, the person was involved in a motor
16 vehicle accident that resulted in the death of another person].

17 (ii) After a hearing, the Administration shall disqualify the person
18 from driving a commercial motor vehicle if:

19 1. The person was detained while operating a commercial
20 motor vehicle or while holding a commercial instructional permit or a commercial driver's
21 license;

22 2. The police officer who stopped or detained the person had
23 reasonable grounds to believe that **[the]**:

24 A. **THE** person was driving or attempting to drive while
25 under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug,
26 any combination of drugs, or a combination of one or more drugs and alcohol that the person
27 could not drive a vehicle safely, while impaired by a controlled dangerous substance, in
28 violation of an alcohol restriction, or in violation of § 16–813 of this title; **OR**

29 **B. THE PERSON HAD DRIVEN A MOTOR VEHICLE THAT**
30 **WAS INVOLVED IN AN ACCIDENT THAT RESULTED IN THE DEATH OF ANOTHER**
31 **PERSON;**

32 3. **[There] EXCEPT IN THE CASE OF A PERSON DETAINED**
33 **UNDER SUBSECTION (C) OF THIS SECTION, THERE** was evidence of the use by the person

1 of alcohol, any drug, any combination of drugs, a combination of one or more drugs and
2 alcohol, or a controlled dangerous substance;

3 4. The police officer requested a test after the person was
4 fully advised of the administrative sanctions that shall be imposed; and

5 5. The person refused to take the test.

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