

# HOUSE BILL 1082

R3

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CF 2lr2368

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By: **Delegates Krebs, Elliott, Ready, and Stocksdale**

Introduced and read first time: February 10, 2012

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Drugged Driving – Evidence – Drug Recognition Expert**

3 FOR the purpose of altering the circumstances under which a test for drug or  
4 controlled dangerous substance content of a person driving or attempting to  
5 drive a vehicle may be required or directed under certain circumstances;  
6 providing that a police officer's opinion as to whether a person was impaired by  
7 a drug or a controlled dangerous substance shall be admissible in a criminal  
8 proceeding under certain circumstances; providing that the admission of certain  
9 test results or certain testimony of a police officer does not limit the  
10 introduction of certain other evidence; and generally relating to evidence  
11 concerning drugged driving.

12 BY repealing and reenacting, with amendments,  
13 Article – Transportation  
14 Section 16–205.1(i)  
15 Annotated Code of Maryland  
16 (2009 Replacement Volume and 2011 Supplement)

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

19 **Article – Transportation**

20 16–205.1.

21 (i) **(1)** Notwithstanding any other provision of this section, a test for drug  
22 or controlled dangerous substance content under this section:

23 **[(1)] (I)** May not be requested as described under subsection (b) of  
24 this section[, required as described under subsection (c) of this section, or directed as

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 described under subsection (d) of this section,] by a police officer unless the law  
 2 enforcement agency of which the officer is a member has the capacity to have such  
 3 tests conducted;

4 [(2) (II) May only be requested as described under subsection (b) of  
 5 this section[, required as described under subsection (c) of this section, or directed as  
 6 described under subsection (d) of this section,] by a police officer who is a trainee, has  
 7 been trained, or is participating directly or indirectly in a program of training that is:

8 [(i) 1. Designed to train and certify police officers as drug  
 9 recognition experts; and

10 [(ii) 2. Conducted by a law enforcement agency of the State,  
 11 or any county, municipal, or other law enforcement agency in the State described in  
 12 [items (3)(i)1 through 12 of this subsection] **ITEM (III)1A THROUGH L OF THIS**  
 13 **PARAGRAPH:**

14 [1.] **A.** In conjunction with the National Highway  
 15 Traffic Safety Administration; or

16 [2.] **B.** As a program of training of police officers as  
 17 drug recognition experts that contains requirements for successful completion of the  
 18 training program that are the substantial equivalent of the requirements of the Drug  
 19 Recognition Training Program developed by the National Highway Traffic Safety  
 20 Administration; and

21 [(3) (III) May only be requested as described under subsection (b) of  
 22 this section[, required as described under subsection (c) of this section, or directed as  
 23 described under subsection (d) of this section]:

24 [(i) 1. In the case of a police officer who is a trainee, or who  
 25 is participating directly or indirectly in a program of training described in [paragraph  
 26 (2) of this subsection] **ITEM (II) OF THIS PARAGRAPH**, if the police officer is a  
 27 member of, and is designated as a trainee or a participant by the head of:

28 [1.] **A.** The Department of State Police;

29 [2.] **B.** The Baltimore City Police Department;

30 [3.] **C.** A police department, bureau, or force of a  
 31 county;

32 [4.] **D.** A police department, bureau, or force of an  
 33 incorporated city or town;

1 [5.] E. The Maryland Transit Administration Police  
2 Force;

3 [6.] F. The Maryland Port Administration Police Force  
4 of the Department of Transportation;

5 [7.] G. The Maryland Transportation Authority Police  
6 Force;

7 [8.] H. The Police Force of the University of Maryland  
8 or Morgan State University;

9 [9.] I. The police force for a State university or college  
10 under the direction and control of the University System of Maryland;

11 [10.] J. A sheriff's department of any county or  
12 Baltimore City;

13 [11.] K. The Natural Resources Police Force or the  
14 Forest and Park Service Police Force of the Department of Natural Resources; or

15 [12.] L. The security force of the Department of General  
16 Services; or

17 [(ii)] 2. In the case of a police officer who has been trained as  
18 a drug recognition expert, if the police officer is a member of, and certified as a drug  
19 recognition expert by the head of one of the law enforcement agencies described in  
20 [items (3)(i)1 through 12 of this subsection] **ITEM 1A THROUGH L OF THIS ITEM.**

21 **(2) IF A POLICE OFFICER IS ENTITLED TO REQUEST A TEST FOR**  
22 **DRUG OR CONTROLLED DANGEROUS SUBSTANCE CONTENT UNDER THIS**  
23 **SUBSECTION, THE POLICE OFFICER'S OPINION AS TO WHETHER A PERSON**  
24 **DRIVING OR ATTEMPTING TO DRIVE A VEHICLE WAS IMPAIRED BY A DRUG OR A**  
25 **CONTROLLED DANGEROUS SUBSTANCE SHALL BE ADMISSIBLE IN A CRIMINAL**  
26 **PROCEEDING.**

27 **(3) THE ADMISSION OF THE RESULTS OF A TEST FOR DRUG OR**  
28 **CONTROLLED DANGEROUS SUBSTANCE CONTENT OR A POLICE OFFICER'S**  
29 **TESTIMONY DOES NOT LIMIT THE INTRODUCTION OF OTHER EVIDENCE**  
30 **BEARING ON WHETHER A PERSON WAS IMPAIRED BY A DRUG OR A CONTROLLED**  
31 **DANGEROUS SUBSTANCE.**

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 October 1, 2012.