

HOUSE BILL 150

R3

3lr0435

By: **Delegates Kipke, Aumann, Beidle, Dwyer, Eckardt, Frick, Frush, George, Hough, Kach, Kaiser, Krebs, McComas, McDonough, A. Miller, W. Miller, Norman, Schuh, Sophocleus, and M. Washington**

Introduced and read first time: January 18, 2013

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Accidents Resulting in Death or Life–Threatening Injury –**
3 **Mandatory Drug and Alcohol Testing**
4 **(Kara’s Law)**

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

11 BY repealing and reenacting, with amendments,
12 Article – Transportation
13 Section 16–205.1(a)(2), (c), (d)(1), and (f)(1), (7)(i), and (8)(i) and (ii)
14 Annotated Code of Maryland
15 (2012 Replacement Volume)

16 Preamble

17 WHEREAS, On July 12, 2011, Kara Micciche was struck and killed by a vehicle
18 while crossing a road in Anne Arundel County; and

19 WHEREAS, The driver of the vehicle that struck Kara was not required to
20 submit to drug or alcohol testing, although it was later suspected that the driver was
21 under the influence of a controlled dangerous substance; and

22 WHEREAS, Mandating drug and alcohol testing following certain serious
23 accidents, such as the one that ended Kara’s life, will help bring justice to victims and
24 their families and honor the memory of Kara Micciche; now, therefore,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Transportation**

4 16–205.1.

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

10 (I) ON suspicion of driving or attempting to drive while under
11 the influence of alcohol, while impaired by alcohol, while so far impaired by any drug,
12 any combination of drugs, or a combination of one or more drugs and alcohol that the
13 person could not drive a vehicle safely, while impaired by a controlled dangerous
14 substance, in violation of an alcohol restriction, or in violation of § 16–813 of this title;
15 **OR**

16 (II) **AFTER HAVING DRIVEN A MOTOR VEHICLE THAT WAS**
17 **INVOLVED IN AN ACCIDENT THAT RESULTED IN THE DEATH OF, OR A**
18 **LIFE–THREATENING INJURY TO, ANOTHER PERSON.**

19 (c) (1) If a person **WHO IS DRIVING A MOTOR VEHICLE** is involved in a
20 motor vehicle accident that results in the death of, or a [life threatening injury]
21 **LIFE–THREATENING INJURY** to, another person and the person is detained by a
22 police officer [who has reasonable grounds to believe that the person has been driving
23 or attempting to drive while under the influence of alcohol, while impaired by alcohol,
24 while so far impaired by any drug, any combination of drugs, or a combination of one
25 or more drugs and alcohol that the person could not drive a vehicle safely, while
26 impaired by a controlled dangerous substance, or in violation of § 16–813 of this title,
27 the person shall be required to submit, as directed by the officer], **THE POLICE**
28 **OFFICER SHALL REQUIRE THE PERSON TO SUBMIT** to a test of:

29 (i) The person’s breath to determine alcohol concentration **AND**
30 **ONE SPECIMEN OF THE PERSON’S BLOOD TO DETERMINE THE DRUG OR**
31 **CONTROLLED DANGEROUS SUBSTANCE CONTENT OF THE PERSON’S BLOOD; OR**

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

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

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

5 (3) Any medical personnel who perform any test required by this
6 section are not liable for any civil damages as the result of any act or omission related
7 to such test, not amounting to gross negligence.

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

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

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

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

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

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

32 **2. THE PERSON IS DETAINED AFTER HAVING DRIVEN**
33 **A MOTOR VEHICLE THAT WAS INVOLVED IN AN ACCIDENT THAT RESULTED IN**
34 **THE DEATH OF, OR A LIFE–THREATENING INJURY TO, ANOTHER PERSON;** and

35 (ii) **1.** There is an alcohol concentration of 0.08 or more at
36 the time of testing; or

1 2. The person refused to take a test.

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

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

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

12 **B. THE PERSON HAD DRIVEN A MOTOR VEHICLE**
13 **THAT WAS INVOLVED IN AN ACCIDENT THAT RESULTED IN THE DEATH OF, OR A**
14 **LIFE–THREATENING INJURY TO, ANOTHER PERSON;**

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

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

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

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

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

29 7. If the hearing involves disqualification of a
30 commercial driver’s license, whether the person was operating a commercial motor
31 vehicle or held a commercial driver’s license.

32 (8) (i) After a hearing, the Administration shall suspend the
33 driver’s license or privilege to drive of the person charged under subsection (b) or (c) of
34 this section if:

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

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

9 **B. THE PERSON HAD DRIVEN A MOTOR VEHICLE**
10 **THAT WAS INVOLVED IN AN ACCIDENT THAT RESULTED IN THE DEATH OF, OR A**
11 **LIFE–THREATENING INJURY TO, ANOTHER PERSON;**

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

16 3. The police officer requested a test after the person
17 was fully advised, as required under subsection (b)(2) of this section, of the
18 administrative sanctions that shall be imposed; and

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

20 **B.** A test to determine alcohol concentration was taken
21 and the test result indicated an alcohol concentration of 0.08 or more at the time of
22 testing.

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

25 1. The person was detained while operating a
26 commercial motor vehicle or while holding a commercial driver’s license;

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

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

1 **B. THE PERSON HAD DRIVEN A MOTOR VEHICLE**
2 **THAT WAS INVOLVED IN AN ACCIDENT THAT RESULTED IN THE DEATH OF, OR A**
3 **LIFE-THREATENING INJURY TO, ANOTHER PERSON;**

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

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

10 5. The person refused to take the test.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2013.