

10-305.

(A) The defendant may select the type of test TO BE administered[, and if]. IF facilities or equipment are not available for that test then none may be given, and this fact does not create an inference or presumption concerning [either his] THE DEFENDANT'S guilt or innocence by reason of his inability to take a test DUE TO FACILITIES OR EQUIPMENT NOT BEING AVAILABLE. The fact of [his] THIS inability to take a test is not admissible in evidence at [his] THE trial, and this fact may not be considered a refusal to take a test under the vehicle laws.

(B) IF THE DEFENDANT SELECTS A TYPE OF TEST WHICH COULD BE ADMINISTERED WITHIN THE 2 HOUR TIME LIMITATION, BUT LATER CHANGES THE SELECTION TO A TYPE THAT, DUE TO THE UNAVAILABILITY OF FACILITIES OR EQUIPMENT, CANNOT BE ADMINISTERED WITHIN THE 2 HOUR TIME LIMITATION, THE POLICE OFFICER MAY SELECT THE TYPE OF TEST TO BE ADMINISTERED, PROVIDED THE FACILITIES OR EQUIPMENT ARE AVAILABLE AND THE TEST CAN BE ADMINISTERED WITHIN THE 2 HOUR TIME LIMITATION. FAILURE TO TAKE THE TEST SELECTED UNDER THE PROVISIONS OF THIS SUBSECTION SHALL BE DEEMED A REFUSAL TO TAKE THE TEST UNDER THE VEHICLE LAWS.

(C) ANY PERSON WHO IS DEAD, UNCONSCIOUS, OR OTHERWISE IN A CONDITION RENDERING HIM INCAPABLE OF TEST REFUSAL SHALL BE DEEMED NOT TO HAVE WITHDRAWN CONSENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1981.

Approved May 5, 1981.

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CHAPTER 241

(Senate Bill 494)

AN ACT concerning

Vehicle Laws - Preliminary Breath Test

FOR the purpose of providing that a police officer may administer a preliminary breath test under certain conditions; limiting the use of ~~the--results--of--the~~ evidence pertaining to a preliminary breath test; requiring the police officer to advise the person to be tested of the right to refuse the test or the taking of the test; providing for approval of the device used for testing; and generally relating to administering a preliminary breath test.