

BY adding to

Article - Transportation  
 Section 16-205.2  
 Annotated Code of Maryland  
 (1977 Volume and 1980 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That section(s) of the Annotated Code of Maryland be repealed, amended, or enacted to read as follows:

Article - Transportation

16-205.2.

(A) A POLICE OFFICER WHO HAS REASONABLE GROUNDS TO BELIEVE THAT AN INDIVIDUAL IS OR HAS BEEN DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WHILE INTOXICATED OR WHILE THE INDIVIDUAL'S DRIVING ABILITY IS IMPAIRED BY THE CONSUMPTION OF ALCOHOL MAY, WITHOUT MAKING AN ARREST AND PRIOR TO THE ISSUANCE OF A CITATION, REQUEST THE INDIVIDUAL TO SUBMIT TO A PRELIMINARY BREATH TEST TO BE ADMINISTERED BY THE OFFICER USING A DEVICE APPROVED BY THE STATE TOXICOLOGIST.

(B) THE POLICE OFFICER REQUESTING THE PRELIMINARY BREATH TEST SHALL ADVISE THE PERSON TO BE TESTED THAT NEITHER A REFUSAL TO TAKE THE TEST NOR THE TAKING OF THE TEST SHALL PREVENT OR REQUIRE A SUBSEQUENT CHEMICAL TEST PURSUANT TO § 16-205.1 OF THIS ARTICLE.

(C) THE RESULTS OF THE PRELIMINARY BREATH TEST SHALL BE USED ~~ONLY~~ AS A GUIDE FOR THE POLICE OFFICER IN DECIDING WHETHER AN ARREST SHOULD BE MADE AND MAY NOT BE ~~ADMITTED--OR~~ USED AS EVIDENCE BY THE STATE IN ANY COURT ACTION. THE RESULTS OF THE PRELIMINARY BREATH TEST MAY BE USED AS EVIDENCE BY A DEFENDANT IN A COURT ACTION. ~~THE-FACT-OR THE~~ TAKING OF OR REFUSAL TO SUBMIT TO A PRELIMINARY BREATH TEST IS NOT ADMISSIBLE IN EVIDENCE ~~AT-THE-TRIAL-~~ IN ANY COURT ACTION. ANY EVIDENCE PERTAINING TO A PRELIMINARY BREATH TEST MAY NOT BE USED IN A CIVIL ACTION.

(D) REFUSAL TO SUBMIT TO A PRELIMINARY BREATH TEST SHALL NOT CONSTITUTE A VIOLATION OF § 16.205.1 OF THIS ARTICLE AND THE TAKING OF A PRELIMINARY BREATH TEST SHALL NOT RELIEVE THE INDIVIDUAL OF THE OBLIGATION TO TAKE THE TEST REQUIRED UNDER § 16-205.1 OF THIS ARTICLE IF REQUESTED TO DO SO BY THE POLICE OFFICER.

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

Approved May 5, 1981.

-----