

Approved May 24, 1983.

CHAPTER 289

(Senate Bill 513)

AN ACT concerning

Chemical Tests for Alcohol
or Drugs --~~Selection~~

FOR the purpose of ~~permitting the police officer to select the type of test for alcohol or drugs to be administered to a defendant~~ designating the type of test for alcohol or drugs to be administered to a defendant under certain circumstances; prohibiting the officer arresting the individual from administering the chemical test for breath; and generally relating to the selection of chemical tests for alcohol or drugs.

BY repealing and reenacting, with amendments,

Article - Courts and Judicial Proceedings
Section 10-304 (b) and 10-305
Annotated Code of Maryland
(1980 Replacement Volume and 1982 Supplement)

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

Article - Courts and Judicial Proceedings

10-304.

(b) The chemical test of breath shall be administered by a qualified person with equipment approved by the toxicologist under the Postmortem Examiners Commission at the direction of a police officer. THE OFFICER ARRESTING THE INDIVIDUAL MAY NOT ADMINISTER THE CHEMICAL TEST OF BREATH.

10-305.

[(a) The defendant may select the type of test to be administered. 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 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 this inability to take a test is not admissible in evidence at the trial, and this fact may not be considered a refusal to take a test under the vehicle laws.