SENATE BILL 959

By: **Senator Getty**
Introduced and read first time: February 14, 2013
Assigned to: Rules

A BILL ENTITLED

1   AN ACT concerning

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

3   FOR the purpose of establishing that a police officer who is certified as a drug
4   recognition expert may be qualified to testify under certain circumstances;
5   establishing that the opinion of a certain police officer as to certain matters
6   concerning drugs and controlled dangerous substances may be admissible at
7   trial; establishing that a certain drug evaluation and classification protocol is
8   deemed to be generally accepted within the scientific community and based on
9   generally accepted scientific principles; removing certain limitations on a police
10   officer requiring or directing a test for drug or controlled dangerous substance
11   content under certain circumstances; and generally relating to evidence in
12   drugged driving trials.

13   BY repealing and reenacting, with amendments,
14   Article – Transportation
15   Section 16–205.1(i)
16   Annotated Code of Maryland
17   (2012 Replacement Volume)

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

20   **Article – Transportation**

21   16–205.1.

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

1   **[(1)]** **(I)**   May not be requested as described under subsection (b) of
2   this section**[**, required as described under subsection (c) of this section, or directed as
3   described under subsection (d) of this section,**]** by a police officer unless the law
4   enforcement agency of which the officer is a member has the capacity to have such
5   tests conducted;

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

10   **[(i)]** **1.**   Designed to train and certify police officers as drug
11   recognition experts; and

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

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

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

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

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

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

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

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

33   **[4.]** **D.**   A police department, bureau, or force of an
34   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**]** ITEMS 1A THROUGH L OF THIS ITEM.

21 **(2) (I) IF A POLICE OFFICER IS ENTITLED UNDER THIS**
22 **SUBSECTION TO REQUEST A TEST FOR DRUG OR CONTROLLED DANGEROUS**
23 **SUBSTANCE CONTENT, A POLICE OFFICER WHO IS CERTIFIED AS A DRUG**
24 **RECOGNITION EXPERT AT THE TIME THE POLICE OFFICER CONDUCTED THE**
25 **EVALUATION MAY BE QUALIFIED TO TESTIFY IN ANY CASE IN WHICH THE**
26 **TESTIMONY MAY BE RELEVANT.**

27 **(II) THE OPINION OF A POLICE OFFICER DESCRIBED IN**
28 **SUBPARAGRAPH (I) OF THIS PARAGRAPH AS TO WHETHER A PERSON WAS**
29 **UNDER THE INFLUENCE OF ONE OR MORE DRUGS OR CONTROLLED DANGEROUS**
30 **SUBSTANCES AND AS TO THE CATEGORY OF THAT DRUG OR CONTROLLED**
31 **DANGEROUS SUBSTANCE MAY BE ADMISSIBLE AT TRIAL.**

32 **(III) THE DRUG EVALUATION AND CLASSIFICATION**
33 **PROTOCOL UTILIZED BY A DRUG RECOGNITION EXPERT IS DEEMED TO BE**

1   **GENERALLY ACCEPTED WITHIN THE SCIENTIFIC COMMUNITY AND BASED ON**
2   **GENERALLY ACCEPTED SCIENTIFIC PRINCIPLES.**

3   **(3)   THE ADMISSION INTO EVIDENCE OF THE RESULTS OF A TEST**
4   **FOR DRUG OR CONTROLLED DANGEROUS CONTENT OR A POLICE OFFICER'S**
5   **TESTIMONY DOES NOT LIMIT THE ADMISSIBILITY OF OTHER EVIDENCE BEARING**
6   **ON WHETHER A PERSON WAS IMPAIRED BY A DRUG OR CONTROLLED**
7   **DANGEROUS SUBSTANCE.**

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