

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1012

Short Title: Mandatory Blood Chemical Analysis.

(Public)

Sponsors: Representatives Decker; Bowman, Brown, Cromer, Esposito, Justus, Lilley, Privette, Rhodes, and P. Wilson.

Referred to: Judiciary.

April 4, 1989

A BILL TO BE ENTITLED

AN ACT TO REQUIRE MANDATORY BLOOD OR BREATH TESTS IN MOTOR VEHICLE CRASHES IN WHICH DEATH OR PERSONAL INJURY RESULTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-16.2(a) reads as rewritten:

"(a) Basis for Charging Officer to Require Chemical Analysis; Notification of Rights. – Any person who drives a vehicle on a highway or public vehicular area thereby gives consent to a chemical analysis if he is charged with an implied-consent offense. The charging officer must designate the type of chemical analysis to be administered, and it may be administered when he has reasonable grounds to believe that the person charged has committed the implied-consent offense and it must be administered to all drivers in any case where there has been a motor vehicle accident involving death or personal injury to any person. Except as provided in subsection (b), the person charged must be taken before a chemical analyst authorized to administer a test of a person's breath, who must inform the person orally and also give him a notice in writing that:

- (1) He has a right to refuse to be tested.
- (2) Refusal to take any required test or tests will result in an immediate revocation of his driving privilege for at least 10 days and an additional 12-month revocation by the Division of Motor Vehicles.
- (3) The test results, or the fact of his refusal, will be admissible in evidence at trial on the offense charged.

- 1 (4) If any test reveals an alcohol concentration of 0.10 or more, his driving
2 privilege will be revoked immediately for at least 10 days.
- 3 (5) He may have a qualified person of his own choosing administer a
4 chemical test or tests in addition to any test administered at the
5 direction of the charging officer.
- 6 (6) He has the right to call an attorney and select a witness to view for him
7 the testing procedures, but the testing may not be delayed for these
8 purposes longer than 30 minutes from the time he is notified of his
9 rights."

10 Sec. 2. G.S. 20-16.2(b) reads as rewritten:

11 "(b) Unconscious Person May Be Tested. – If a charging officer has reasonable
12 grounds to believe that a person has committed an implied-consent offense, and the
13 person is unconscious or otherwise in a condition that makes him incapable of refusal,
14 the charging officer may direct the taking of a blood sample by a person qualified under
15 G.S. 20-139.1 or may direct the administration of any other chemical analysis that may
16 be effectively performed. An officer shall direct the taking of a blood sample by a
17 person qualified under G.S. 20-139.1 or shall direct the administration of any other
18 chemical analysis that may be effectively performed on all drivers involved in any
19 motor vehicle accident involving death or personal injury to any person. In this instance
20 the notification of rights set out in subsection (a) and the request required by subsection
21 (c) are not necessary."

22 Sec. 3. This act is effective upon ratification.