
WEST VIRGINIA CODE CHAPTER 17C
ARTICLE 5B

WV Legislature

§17C-5B-1. Blood test for alcohol in drivers and adult pedestrians killed in motor vehicle accidents; time limit for conducting test; who may conduct test; express consent to withdraw blood from dead body granted; granting civil and criminal immunity to person conducting test; fee for test.

When any motor vehicle driver or adult pedestrian dies in a motor vehicle accident in this state or dies within four hours after having been involved in a motor vehicle accident in this state, the physician in attendance, or law-enforcement officer having knowledge of such death, or the funeral director, or any other person present when such death occurred, shall immediately report such death to the medical examiner of the county in which such death occurred. Upon receipt of such notice, the medical examiner shall take charge of the dead body and shall conduct, or shall cause to be conducted, within twelve hours after receiving such notice and before the dead body is embalmed, a blood test to determine the presence and percentage concentration of alcohol in the blood of such dead body.

The blood test required under this section shall be conducted only by a person qualified to conduct an autopsy under article twelve, chapter sixty-one of this code or by a doctor of medicine, doctor of osteopathy, registered nurse, trained medical technician at the place of his employment or county coroner who is deemed qualified by the office of medical examinations to conduct such blood test.

Any person who is to conduct a blood test under the provisions of this section is hereby expressly authorized to withdraw blood from the dead body in the quantity necessary to conduct such blood test. Any person withdrawing blood from the dead body and testing such blood and any hospital or clinic in which such blood is withdrawn and tested under the provisions of this section shall be immune from all civil and criminal liability which might otherwise be imposed.

Any person conducting a blood test under the provisions of this section shall receive a standardized fee in the amount determined by the office of medical examinations, which fee shall be paid from funds appropriated to the office of medical examinations.

Nothing contained in this section shall be construed to preclude the taking of a blood test by any other person having the right to take any such test or cause such test to be taken while the medical examiner has charge of the body.

§17C-5B-2. To whom and how county medical examiners report results of blood tests; such reports admissible as evidence; use of reports only for statistical and highway safety purposes.

Each county medical examiner shall immediately report the results of each blood test conducted under the authority of section one of this article by him or conducted at his request, to the chief medical examiner of the office of medical examinations and to the department of public safety. Results of such blood test or any report thereof may be admissible in evidence, if material, in any action or proceeding of any kind in any court or before any tribunal, board, or agency.

The department of public safety shall compile the data from all such reports submitted to it on a monthly basis. The department shall forward such compilations to the Governor's highway safety administration and the department of motor vehicles. Such compilations shall be for statistical purposes and highway safety information and be disclosed or revealed in any manner necessary. The identity of any dead person whose blood was tested under the provisions of section one of this article may be disclosed or revealed when necessary for evidence in any action or proceeding of any kind in any court or before any tribunal, board or agency.

The department of public safety, the Governor's highway safety administration and the department of motor vehicles shall make use of such compilations in a manner to provide accurate and useful statistical information to government and the public relative to achieving a reduction in motor vehicle accidents arising in whole or in part from the imbibing of alcohol by motor vehicle drivers and adult pedestrians.