

1 H.599

2 Introduced by Representative Nease of Johnson

3 Referred to Committee on

4 Date:

5 Subject: Motor vehicles; driving under the influence of alcohol; blood test

6 Statement of purpose: This bill proposes to require a driver who has been

7 involved in a fatal motor vehicle accident to provide a breath test and a blood

8 alcohol test.

9 An act relating to mandatory breath tests and blood alcohol tests for drivers
10 involved in fatal car accidents

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 23 V.S.A. § 1202 is amended to read:

13 § 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD

14 ALCOHOL CONTENT

15 (a)(1) Implied consent. Every person who operates, attempts to operate, or
16 is in actual physical control of any vehicle on a highway in this state is deemed
17 to have given consent to an evidentiary test of that person's breath for the
18 purpose of determining the person's alcohol concentration or the presence of
19 other drug in the blood. The test shall be administered at the direction of a law
20 enforcement officer.

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(4) Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a fatal incident or collision or an incident or collision resulting in serious bodily injury ~~and the law enforcement officer has reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system.~~

* * *

(f) If a person ~~who~~ has been involved in an accident or collision resulting in serious bodily injury or death to another ~~refuses an evidentiary test~~, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of blood for an evidentiary test. If a blood sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test. Once a law enforcement official begins the application process for a search warrant, the law enforcement official is not obligated to discontinue the process even if the person later agrees to provide an evidentiary breath sample. The limitation created by Rule 41(g) of the Vermont Rules of Criminal Procedure regarding blood specimens shall not apply to search warrants authorized by this section.

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1 Sec. 2. EFFECTIVE DATE

2 This act shall take effect on July 1, 2010.