

# Andalman & Flynn

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## Drinking and Driving: Automatic Suspension of your Driver's License (Maryland Traffic Code § 16-205.1)

“Would you mind blowing into this machine to see how much you’ve had to drink tonight?” If this question is ever posed to you by a law enforcement officer in Maryland, it is **critical** that you have a working knowledge of the traffic laws of the State of Maryland.

The Maryland law states that if you are arrested for suspicion of driving drunk, you do not have to submit to the breathalyzer test. However, statement of the law alone is somewhat misleading. To be more specific, you **must** submit to the breathalyzer test on-site (where your car is pulled over), but need not submit to the test conducted back at the police station. The on-site test, usually administered as a breathalyzer, is only used to roughly measure the amount of alcohol in your system, and its results cannot to be used in a court of law. However, you cannot be compelled to submit to the test administered later, which is a much more sophisticated and scientific form of the breathalyzer and its evidence is **admissible** in a court of law.

So, if one does not have to submit to the breathalyzer test at the police station, is there a penalty for refusing? The answer is yes, and it is a fairly serious punishment. The first time that you refuse to blow into the breathalyzer, your license is automatically suspended for 120 days by the Maryland Motor Vehicle Administration or “MVA”. If you are then stopped again and you again refuse to blow into the breathalyzer, your license will be suspended for one full year. It is important to remember that this automatic suspension occurs whether or not you are later found guilty of driving under the influence or intoxicated in a court of law; it is the penalty for simply refusing the test.

It is worth mentioning at this point that, when you refuse the test at the police station, assuming you are then arrested, there will be no evidence of a chemical test to be admitted against you. Although the police officer will almost certainly testify that you failed the field sobriety tests, there will be no scientific showing of the amount of alcohol in your blood, even if you blew in the preliminary breath test on site.

There may also be an automatic suspension of your license if you do choose to submit to the breathalyzer and the test shows a certain amount of alcohol in your blood. If you take the test and it results in more than a .08 (the legal limit for drunk driving in the State of Maryland) then your license will automatically be suspended for 45 days. If you choose to submit to the chemical test, the result is a .08 or higher, and it is the second time that you have had a result higher than .08 in your life, then your driver’s license will be automatically suspended for 90 days.

If you take the test and it results in more than a .15 (almost twice the legal limit for drunk driving in the State of Maryland) then your license will automatically be suspended for 90 days. If you choose to submit to the chemical test, the result is a .15 or higher, and it is the second time that you have ever had a result over .15 in your life, then your driver’s license will be automatically suspended for 180 days.

Lastly, you can be compelled to take a breathalyzer or a blood test if you are involved in a motor vehicle accident that results in the death of or a life-threatening injury to another person and a police officer has reasonable grounds to believe that you have been driving under the influence of alcohol. You can also have blood drawn by qualified medical personnel if a police officer has reasonable grounds to believe that you have been driving under the influence of alcohol and you are unconscious or otherwise incapable of refusing to take a test.

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