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HOUSE BILL NO. 786

House Amendments in [] — January 28, 2004

A BILL to amend and reenact §§ 18.2-268.5 and 46.2-341.26:5 of the Code of Virginia, relating to the procedure for taking blood samples.

Patron Prior to Engrossment—Delegate McDougle

Referred to Committee for Courts of Justice**Be it enacted by the General Assembly of Virginia:**

1. That §§ 18.2-268.5 and 46.2-341.26:5 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-268.5. Qualifications and liability of persons authorized to take blood sample; procedure for taking samples.

For purposes of this article, only a physician, registered professional nurse, graduate laboratory technician or a technician or nurse designated by order of a circuit court acting upon the recommendation of a licensed physician, using soap and water, [polyvinylpyrrolidone *iodine*, *pvp iodine*,] *povidone* iodine or benzalkonium chloride to cleanse the part of the body from which the blood is taken and using instruments sterilized by the accepted steam sterilizer or some other sterilizer which will not affect the accuracy of the test, or using chemically clean sterile disposable syringes, shall withdraw blood for the purpose of determining its alcohol or drug or both alcohol and drug content. It is a Class 3 misdemeanor to reuse single-use-only needles or syringes. No civil liability shall attach to any person authorized to withdraw blood as a result of the act of withdrawing blood as provided in this section from any person submitting thereto, provided the blood was withdrawn according to recognized medical procedures. However, the person shall not be relieved from liability for negligence in the withdrawing of any blood sample.

No person arrested for a violation of § 18.2-266 or § 18.2-266.1, or a similar ordinance shall be required to execute in favor of any person or corporation a waiver or release of liability in connection with the withdrawal of blood and as a condition precedent to the withdrawal of blood as provided for in this section.

§ 46.2-341.26:5. Qualifications and liability of persons authorized to take blood samples; procedure for taking samples.

For purposes of this article, only a physician, registered professional nurse, graduate laboratory technician or a technician or nurse designated by order of a circuit court acting on the recommendation of a licensed physician, using soap and water, [polyvinylpyrrolidone *iodine*, *pvp iodine*,] *povidone* iodine or benzalkonium chloride to cleanse the part of the body from which the blood is taken and using instruments sterilized by the accepted steam sterilizer or some other sterilizer which will not affect the accuracy of the test, or using chemically clean sterile disposable syringes, shall withdraw blood for the purpose of determining its alcohol or drug content. It is a Class 3 misdemeanor to reuse single-use-only needles or syringes. No civil liability shall attach to any person authorized by this section to withdraw blood as a result of the act of withdrawing blood from any person submitting thereto, provided the blood was withdrawn according to recognized medical procedures. However, the person shall not be relieved from liability for negligence in the withdrawing of any blood sample.

No person arrested for a violation of § 46.2-341.24 or § 46.2-341.31 shall be required to execute in favor of any person or corporation a waiver or release of liability in connection with the withdrawal of blood or as a condition precedent to the withdrawal of blood as provided for in this section.

ENGROSSED

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