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HOUSE BILL NO. 522

Offered January 20, 1998

A BILL to amend and reenact § 18.2-268.5 of the Code of Virginia, relating to civil immunity of persons authorized to take blood samples.

Patrons—Armstrong and Day; Senator: Reynolds

Referred to Committee for Courts of Justice**Be it enacted by the General Assembly of Virginia:****1. That § 18.2-268.5 of the Code of Virginia is 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 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 (i) any person submitting thereto or (ii) any person involved in a motor vehicle accident involving serious physical injury or death who is unable to submit to the withdrawal of his blood, provided the blood was withdrawn according to recognized medical procedures.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. *Immunity from civil liability, other than negligence, pursuant to clause (ii) shall attach only to persons withdrawing blood at the written request of a law-enforcement officer.*

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.

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