

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 18.2-268.9 of the Code of Virginia, relating to chemical analysis of*
3 *breath test.*

4 [H 1751]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 18.2-268.9 of the Code of Virginia is amended and reenacted as follows:**

8 § 18.2-268.9. Assurance of breath-test validity; use of test results as evidence.

9 To be capable of being considered valid as evidence in a prosecution under §§ 18.2-266, 18.2-266.1,
10 or a similar ordinance, chemical analysis of a person's breath shall be performed by an individual
11 possessing a valid license to conduct such tests, with a type of equipment and in accordance with
12 methods approved by the Department of Criminal Justice Services, Division of Forensic Science. The
13 Division shall test the accuracy of the breath-testing equipment at least once every six months.

14 The Division shall establish a training program for all individuals who are to administer the breath
15 tests. ~~The program shall include at least forty hours of instruction in the operation of the breath-test~~
16 ~~equipment and the administration of such tests.~~ Upon a person's successful completion of the training
17 program, the Division may license him to conduct breath-test analyses. *Such license shall identify the*
18 *specific types of breath test equipment upon which the individual has successfully completed training.*

19 Any individual conducting a breath test under the provisions of § 18.2-268.2 shall issue a certificate
20 which will indicate that the test was conducted in accordance with the Division's specifications, the
21 equipment on which the breath test was conducted has been tested within the past six months and has
22 been found to be accurate, the name of the accused, that prior to administration of the test the accused
23 was advised of his right to observe the process and see the blood alcohol reading on the equipment used
24 to perform the breath test, the date and time the sample was taken from the accused, the sample's
25 alcohol content, and the name of the person who examined the sample. This certificate, when attested by
26 the individual conducting the breath test, shall be admissible in any court in any criminal or civil
27 proceeding as evidence of the facts therein stated and of the results of such analysis. Any such
28 certificate of analysis purporting to be signed by a person authorized by the Division shall be admissible
29 in evidence without proof of seal or signature of the person whose name is signed to it. A copy of the
30 certificate shall be promptly delivered to the accused.

31 The officer making the arrest, or anyone with him at the time of the arrest, or anyone participating in
32 the arrest of the accused, if otherwise qualified to conduct such test as provided by this section, may
33 make the breath test or analyze the results.

ENROLLED

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