

**CHAPTER 119**  
**SB 50 - FINAL VERSION**

2019 SESSION

19-0949  
11/03

SENATE BILL            **50**

AN ACT                relative to testing to determine alcohol concentration.

SPONSORS:            Sen. Chandley, Dist 11; Sen. Carson, Dist 14; Rep. Fields, Belk. 4; Rep. Murphy, Hills. 21; Rep. Pantelakos, Rock. 25; Rep. Welch, Rock. 13

COMMITTEE:          Judiciary

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ANALYSIS

This bill clarifies when phlebotomy tests are given to determine alcohol concentration.

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Explanation:          Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nineteen*

AN ACT                      relative to testing to determine alcohol concentration.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            119:1 Driving or Operating Under the Influence of Drugs or Liquor; Additional Tests. Amend  
2 RSA 265-A:7, III to read as follows:

3            III. A sample of breath taken pursuant to paragraph I shall be analyzed in accordance with  
4 rules adopted by the commissioner of the department of safety pursuant to RSA 265-A:5, V. A  
5 subject who submits to an infrared molecular absorption test at the request of a law enforcement  
6 officer shall have the right at his or her own expense to have a blood sample drawn and a blood test  
7 made by a person of his or her own choosing who is competent to conduct the tests, as determined by  
8 the commissioner of the department of safety under RSA 265-A:5. The person shall be so informed  
9 by the law enforcement officer at the same time as the person is requested to permit a test under the  
10 provisions of RSA 265-A:4. ***After the person submits to the infrared molecular absorption test***  
11 ***and the test is completed,*** ~~[At that same time]~~ the person shall also be provided contact  
12 information for individuals and the nearest facilities that make themselves available to draw and  
13 test blood. The individuals listed, by virtue of their residence or work location, should have a  
14 reasonable probability of performing the blood draw within 2 hours of the initial breath sample  
15 having been taken by the police. The failure or inability of an arrested person to obtain an  
16 additional test shall not preclude the admission of any test taken at the direction of a law  
17 enforcement officer, authorized agent, or peace officer. Nothing in this paragraph shall require the  
18 release from custody of the arrested person for the purpose of having such additional test taken,  
19 however, an arrested person who remains in custody shall be permitted to have his or her blood  
20 drawn by a person who has been determined to be competent by the commissioner of the department  
21 of safety under RSA 265-A:5.

119:2 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 21, 2019  
Effective Date: August 20, 2019