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By: **Delegates Dembrow, Doory, and Montague**  
Introduced and read first time: February 12, 1999  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Drunk Driving - Alcohol Concentration Levels**

3 FOR the purpose of reducing the level of alcohol concentration for a determination of  
4 driving or attempting to drive while intoxicated or intoxicated per se; reducing  
5 the level of alcohol concentration that will result in the suspension of a driver's  
6 license under certain circumstances; reducing the level of alcohol concentration  
7 that will result in administrative penalties under certain circumstances;  
8 altering certain provisions relating to the suspension or revocation of a driver's  
9 license on conviction of certain alcohol-related driving offenses; altering  
10 penalties for the offenses of driving or attempting to drive while intoxicated or  
11 intoxicated per se; establishing certain penalties for driving with a certain  
12 alcohol concentration; reducing the levels of alcohol concentration for the crime  
13 of homicide by motor vehicle or vessel while intoxicated per se and the crime of  
14 homicide by motor vehicle or vessel while under the influence; reducing the  
15 levels of alcohol concentration for the crime of life threatening injury by motor  
16 vehicle or vessel while intoxicated or intoxicated per se and the crime of life  
17 threatening injury by motor vehicle or vessel while under the influence of  
18 alcohol; making conforming and stylistic changes; providing for the application  
19 of this Act; and generally relating to certain criminal and administrative  
20 offenses involving driving while intoxicated or intoxicated per se or driving  
21 while under the influence of alcohol.

22 BY repealing and reenacting, with amendments,  
23 Article 27 - Crimes and Punishments  
24 Section 388A(a) and 388B(a)  
25 Annotated Code of Maryland  
26 (1996 Replacement Volume and 1998 Supplement)

27 BY repealing and reenacting, with amendments,  
28 Article - Courts and Judicial Proceedings  
29 Section 10-307  
30 Annotated Code of Maryland  
31 (1998 Replacement Volume)

1 BY repealing and reenacting, without amendments,  
2 Article - Transportation  
3 Section 21-902(a) and (b)  
4 Annotated Code of Maryland  
5 (1998 Replacement Volume and 1998 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Article - Transportation  
8 Section 11-127.1(a), 16-205, 16-205.1(b)(1), (2)(iii), and (3), (f)(1)(ii), (4)(i),  
9 (7)(i)5 and (ii), and (8)(i)4 and (v)1, and (h), 16-402(a)(22) and (31), 26-405,  
10 27-101(c)(23), (f), (j), (k), and (q), and 27-107(b)  
11 Annotated Code of Maryland  
12 (1998 Replacement Volume and 1998 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article 27 - Crimes and Punishments**

16 388A.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) (i) "Intoxicated per se" means an alcohol concentration at the time  
19 of testing of [0.10] 0.08 or more as measured by grams of alcohol per 100 milliliters of  
20 blood or grams of alcohol per 210 liters of breath.

21 (ii) If the alcohol concentration is measured by milligrams of  
22 alcohol per deciliter of blood or milligrams of alcohol per 100 milliliters of blood, a  
23 court shall convert the measurement into grams of alcohol per 100 milliliters of blood  
24 by dividing the measurement by 1000.

25 (3) "Under the influence of alcohol" has the meaning indicated in and is  
26 subject to the same presumptions and evidentiary rules of § 10-307 of the Courts  
27 Article regarding driving while under the influence of alcohol under § 21-902(b) of the  
28 Transportation Article.

29 (4) "Under the influence of drugs" means so far under the influence of a  
30 drug, a combination of drugs, or a combination of one or more drugs and alcohol that  
31 a person cannot drive, operate, or control a motor vehicle or vessel safely.

32 (5) "Under the influence of a controlled dangerous substance" means  
33 under the influence of a controlled dangerous substance, as that term is defined in §  
34 279 of this article, if the person is not entitled to use the controlled dangerous  
35 substance under the laws of this State.

1 388B.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) (i) "Intoxicated per se" means an alcohol concentration at the time  
4 of testing of [0.10] 0.08 or more as measured by grams of alcohol per 100 milliliters of  
5 blood or grams of alcohol per 210 liters of breath.

6 (ii) If the alcohol concentration is measured by milligrams of  
7 alcohol per deciliter of blood or milligrams of alcohol per 100 milliliters of blood, a  
8 court shall convert the measurement into grams of alcohol per 100 milliliters of blood  
9 by dividing the measurement by 1000.

10 (3) "Under the influence of alcohol" has the meaning indicated in and is  
11 subject to the same presumptions and evidentiary rules of § 10-307 of the Courts  
12 Article regarding driving while under the influence of alcohol under § 21-902(b) of the  
13 Transportation Article.

14 (4) "Under the influence of drugs" means so far under the influence of a  
15 drug, a combination of drugs, or a combination of one or more drugs and alcohol that  
16 a person cannot drive, operate, or control a motor vehicle or vessel safely.

17 (5) "Under the influence of a controlled dangerous substance" means  
18 under the influence of a controlled dangerous substance, as that term is defined in §  
19 279 of this article, if the person is not entitled to use the controlled dangerous  
20 substance under the laws of this State.

21 **Article - Courts and Judicial Proceedings**

22 10-307.

23 (a) (1) In a proceeding in which a person is charged with a violation of  
24 Article 27, § 388, § 388A, or § 388B of the Code, or with driving or attempting to drive  
25 a vehicle in violation of § 16-113(a)(2), § 16-813, or § 21-902 of the Transportation  
26 Article, the amount of alcohol in the person's breath or blood shown by analysis as  
27 provided in this subtitle is admissible in evidence and has the effect set forth in  
28 subsections (b) through (e) of this section.

29 (2) Alcohol concentration as used in this section shall be measured by:

30 (i) Grams of alcohol per 100 milliliters of blood; or

31 (ii) Grams of alcohol per 210 liters of breath.

32 (3) If the amount of alcohol in the person's blood shown by analysis as  
33 provided in this subtitle is measured by milligrams of alcohol per deciliters of blood or  
34 milligrams of alcohol per 100 milliliters of blood, a court or an administrative law  
35 judge, as the case may be, shall convert the measurement into grams of alcohol per  
36 100 milliliters of blood by dividing the measurement by 1000.

1 (b) If at the time of testing a person has an alcohol concentration of 0.05 or  
 2 less, as determined by an analysis of the person's blood or breath, it shall be presumed  
 3 that the defendant was not intoxicated and that the defendant was not driving while  
 4 under the influence of alcohol.

5 (c) If at the time of testing a person has an alcohol concentration of more than  
 6 0.05 but less than 0.07, as determined by an analysis of the person's blood or breath,  
 7 this fact may not give rise to any presumption that the defendant was or was not  
 8 intoxicated or that the defendant was or was not driving while under the influence of  
 9 alcohol, but this fact may be considered with other competent evidence in determining  
 10 the guilt or innocence of the defendant.

11 (d) If at the time of testing a person has an alcohol concentration of at least  
 12 0.07 but less than [0.10] 0.08, as determined by an analysis of the person's blood or  
 13 breath, it shall be prima facie evidence that the defendant was driving while under  
 14 the influence of alcohol.

15 (e) If at the time of testing a person has an alcohol concentration of 0.02 or  
 16 more, as determined by an analysis of the person's blood or breath, it shall be prima  
 17 facie evidence that the defendant was driving with alcohol in the defendant's blood.

18 (f) If at the time of testing a person has an alcohol concentration of 0.02 or  
 19 more, as determined by an analysis of the person's blood or breath, it shall be prima  
 20 facie evidence that a defendant was driving in violation of § 16-113(b) of the  
 21 Transportation Article.

22

#### **Article - Transportation**

23 11-127.1.

24 (a) "Intoxicated per se" means having an alcohol concentration at the time of  
 25 testing of [0.10] 0.08 or more as measured by grams of alcohol per 100 milliliters of  
 26 blood or grams of alcohol per 210 liters of breath.

27 16-205.

28 (a) The Administration may revoke the license of any person who:

29 (1) Is convicted under § 21-902(a) or (d) of this article of driving or  
 30 attempting to drive a motor vehicle while intoxicated[, while] OR intoxicated per se,  
 31 WITH AN ALCOHOL CONCENTRATION OF 0.10 OR MORE, or while under the influence  
 32 of a controlled dangerous substance; or

33 (2) Within a 3-year period, is convicted under § 21-902[(b)] (A), (B) or (c)  
 34 of this article of driving or attempting to drive a motor vehicle WHILE INTOXICATED  
 35 OR INTOXICATED PER SE WITH AN ALCOHOL CONCENTRATION OF LESS THAN 0.10,  
 36 while under the influence of alcohol [or], OR while so far under the influence of any  
 37 drug, any combination of drugs, or a combination of one or more drugs and alcohol  
 38 that the person cannot drive a vehicle safely and who was previously convicted of any  
 39 combination of two or more violations under:

1 (i) § 21-902(a) of this article of driving or attempting to drive a  
2 motor vehicle while intoxicated or while intoxicated per se;

3 (ii) § 21-902(b) of this article of driving or attempting to drive a  
4 motor vehicle while under the influence of alcohol;

5 (iii) § 21-902(c) of this article of driving or attempting to drive a  
6 motor vehicle while so far under the influence of any drug, any combination of drugs,  
7 or a combination of one or more drugs and alcohol that the person cannot drive a  
8 vehicle safely; or

9 (iv) § 21-902(d) of this article of driving or attempting to drive a  
10 motor vehicle while under the influence of a controlled dangerous substance.

11 (b) The Administration may suspend for not more than 60 days the license of  
12 any person who is convicted under § 21-902[(b)] (A), (B), or (c) of this article of driving  
13 or attempting to drive a motor vehicle while INTOXICATED OR INTOXICATED PER SE  
14 WITH AN ALCOHOL CONCENTRATION OF LESS THAN 0.10, WHILE under the influence  
15 of alcohol, or while so far under the influence of any drug, any combination of drugs,  
16 or a combination of one or more drugs and alcohol that the person cannot drive a  
17 vehicle safely.

18 (c) The Administration may suspend for not more than 120 days the license of  
19 any person who, within a 3-year period, is convicted under § 21-902[(b)] (A), (B), or  
20 (c) of this article of driving or attempting to drive a motor vehicle while INTOXICATED  
21 OR INTOXICATED PER SE WITH AN ALCOHOL CONCENTRATION OF LESS THAN 0.10,  
22 WHILE under the influence of alcohol [or], OR while so far under the influence of any  
23 drug, any combination of drugs, or a combination of one or more drugs and alcohol  
24 that the person cannot drive a motor vehicle safely and who was previously convicted  
25 of a violation under:

26 (1) § 21-902(a) of this article of driving or attempting to drive a motor  
27 vehicle while intoxicated or while intoxicated per se;

28 (2) § 21-902(b) of this article of driving or attempting to drive a motor  
29 vehicle while under the influence of alcohol;

30 (3) § 21-902(c) of this article of driving or attempting to drive a motor  
31 vehicle while so far under the influence of any drug, any combination of drugs, or a  
32 combination of one or more drugs and alcohol that the person cannot drive a motor  
33 vehicle safely; or

34 (4) § 21-902(d) of this article of driving or attempting to drive a motor  
35 vehicle while under the influence of a controlled dangerous substance.

36 (d) When a suspension imposed under subsections (b) and (c) of this section  
37 expires, the Administration immediately shall return the license or reinstate the  
38 privilege of the driver, unless the license or privilege has been refused, revoked,  
39 suspended, or canceled under any other provisions of the Maryland Vehicle Law.

1 16-205.1.

2 (b) (1) Except as provided in subsection (c) of this section, a person may not  
3 be compelled to take a test. However, the detaining officer shall advise the person  
4 that, on receipt of a sworn statement from the officer that the person was so charged  
5 and refused to take a test, or was tested and the result indicated an alcohol  
6 concentration of [0.10] 0.08 or more, the Administration shall:

7 (i) In the case of a person licensed under this title:

8 1. For a test result indicating an alcohol concentration of  
9 [0.10] 0.08 or more at the time of testing:

10 A. For a first offense, suspend the driver's license for 45 days;  
11 or

12 B. For a second or subsequent offense, suspend the driver's  
13 license for 90 days; or

14 2. For a test refusal:

15 A. For a first offense, suspend the driver's license for 120  
16 days; or

17 B. For a second or subsequent offense, suspend the driver's  
18 license for 1 year;

19 (ii) In the case of a nonresident or unlicensed person:

20 1. For a test result indicating an alcohol concentration of  
21 [0.10] 0.08 or more at the time of testing:

22 A. For a first offense, suspend the person's driving privilege  
23 for 45 days; or

24 B. For a second or subsequent offense, suspend the person's  
25 driving privilege for 90 days; or

26 2. For a test refusal:

27 A. For a first offense, suspend the person's driving privilege  
28 for 120 days; or

29 B. For a second or subsequent offense, suspend the person's  
30 driving privilege for 1 year; and

31 (iii) In addition to any applicable driver's license suspensions  
32 authorized under this section, in the case of a person operating a commercial motor  
33 vehicle who refuses to take a test:

1                                   1.           Disqualify the person's commercial driver's license for a  
2 period of 1 year for a first offense, 3 years for a first offense which occurs while  
3 transporting hazardous materials required to be placarded, and disqualify for life for  
4 a second or subsequent offense which occurs while operating any commercial motor  
5 vehicle; or

6                                   2.           If the person is licensed as a commercial driver by another  
7 state, disqualify the person's privilege to operate a commercial motor vehicle and  
8 report the refusal and disqualification to the person's resident state which may result  
9 in further penalties imposed by the person's resident state.

10                   (2)       Except as provided in subsection (c) of this section, if a police officer  
11 stops or detains any person who the police officer has reasonable grounds to believe is  
12 or has been driving or attempting to drive a motor vehicle while intoxicated, while  
13 under the influence of alcohol, while so far under the influence of any drug, any  
14 combination of drugs, or a combination of one or more drugs and alcohol that the  
15 person could not drive a vehicle safely, while under the influence of a controlled  
16 dangerous substance, in violation of an alcohol restriction, or in violation of § 16-813  
17 of this title, and who is not unconscious or otherwise incapable of refusing to take a  
18 test, the police officer shall:

19                                   (iii)       Advise the person of the administrative sanctions that shall be  
20 imposed for refusal to take the test, including ineligibility for modification of a  
21 suspension or issuance of a restrictive license under subsection (n)(1) or (2) of this  
22 section, and for test results indicating an alcohol concentration of [0.10] 0.08 or more  
23 at the time of testing.

24                   (3)       If the person refuses to take the test or takes a test which results in  
25 an alcohol concentration of [0.10] 0.08 or more at the time of testing, the police officer  
26 shall:

27                                   (i)       Confiscate the person's driver's license issued by this State;

28                                   (ii)       Acting on behalf of the Administration, personally serve an  
29 order of suspension on the person;

30                                   (iii)       Issue a temporary license to drive;

31                                   (iv)       Inform the person that the temporary license allows the person  
32 to continue driving for 45 days if the person is licensed under this title;

33                                   (v)       Inform the person that:

34   1.       The person has a right to request, at that time or within  
35 10 days, a hearing to show cause why the driver's license should not be suspended  
36 concerning the refusal to take the test or for test results indicating an alcohol  
37 concentration of [0.10] 0.08 or more at the time of testing, and the hearing will be  
38 scheduled within 45 days; and



- 1 A. For a first offense, for 45 days; or  
2 B. For a second or subsequent offense, for 90 days; or  
3 2. For a test refusal:  
4 A. For a first offense, for 120 days; or  
5 B. For a second offense or subsequent offense, for 1 year; and

6 (7) (i) At a hearing under this section, the person has the rights  
7 described in § 12-206 of this article, but at the hearing the only issues shall be:

8 5. Whether the person drove or attempted to drive a motor  
9 vehicle while having an alcohol concentration of [0.10] 0.08 or more at the time of  
10 testing; or

11 (ii) The sworn statement of the police officer and of the test  
12 technician or analyst shall be prima facie evidence of a test refusal or a test resulting  
13 in an alcohol concentration of [0.10] 0.08 or more at the time of testing.

14 (8) (i) After a hearing, the Administration shall suspend the driver's  
15 license or privilege to drive of the person charged under subsection (b) or (c) of this  
16 section if:

- 17 4. A. The person refused to take the test; or  
18 B. A test to determine alcohol concentration was taken and  
19 the test result indicated an alcohol concentration of [0.10] 0.08 or more at the time of  
20 testing.

21 (v) The suspension imposed shall be:

22 1. For a test result indicating an alcohol concentration of  
23 [0.10] 0.08 or more at the time of testing:

- 24 A. For a first offense, a suspension for 45 days; or  
25 B. For a second or subsequent offense, a suspension for 90  
26 days; or

27 (h) Notwithstanding any other provision of this section, if a driver's license is  
28 suspended based on multiple administrative offenses of refusal to take a test, or a test  
29 to determine alcohol concentration taken that indicated an alcohol concentration of  
30 [0.10] 0.08 or more at the time of testing, or any combination of these administrative  
31 offenses committed at the same time, or arising out of circumstances simultaneous in  
32 time and place, or arising out of the same incident, the Administration:

33 (1) Shall suspend the driver's license for the administrative offense that  
34 results in the lengthiest period of suspension; and

1 (2) May not impose any additional periods of suspension for the  
2 remainder of the administrative offenses.

3 16-402.

4 (a) After the conviction of an individual for a violation of Article 27, § 388, §  
5 388A, or § 388B of the Code, or of the vehicle laws or regulations of this State or of any  
6 local authority, points shall be assessed against the individual as of the date of  
7 violation and as follows:

8 (22) Driving while under the influence of alcohol, WHILE  
9 INTOXICATED OR INTOXICATED PER SE WITH AN ALCOHOL  
10 CONCENTRATION OF LESS THAN 0.10, or while under influence of a drug,  
11 combination of drugs, or combination of drugs and alcohol.....8 points

12 (31) Driving while intoxicated[, while] OR intoxicated per se  
13 WITH AN ALCOHOL CONCENTRATION OF 0.10 OR MORE, or while under the  
14 influence of illegally used controlled dangerous substance ..... 12 points

15 21-902.

16 (a) (1) A person may not drive or attempt to drive any vehicle while  
17 intoxicated.

18 (2) A person may not drive or attempt to drive any vehicle while the  
19 person is intoxicated per se.

20 (b) A person may not drive or attempt to drive any vehicle while under the  
21 influence of alcohol.

22 26-405.

23 If a person is charged with a violation of § 21-901.1 of this article ("Reckless and  
24 negligent driving") or § 21-902 of this article ("Driving while intoxicated, while  
25 intoxicated per se, WHILE under the influence of alcohol, or WHILE under the  
26 influence of a drug, a combination of alcohol and a drug, or a controlled dangerous  
27 substance"), the court may find [him] THE PERSON guilty of any lesser included  
28 offense under any subsection of the respective section.

29 27-101.

30 (c) Any person who is convicted of a violation of any of the provisions of the  
31 following sections of this article is subject to a fine of not more than \$500 or  
32 imprisonment for not more than 2 months or both:

33 (23) Except as provided in subsection (q) of this section, § 21-902(A)  
34 ("DRIVING WHILE INTOXICATED OR INTOXICATED PER SE WITH AN ALCOHOL  
35 CONCENTRATION OF LESS THAN 0.10 OR § 21-902(b) ("Driving while under the  
36 influence of alcohol");

1 (f) (1) Any person who is convicted of a violation of any of the provisions of  
2 § 14-103 of this article ("Possession of motor vehicle master key"), or of a second or  
3 subsequent violation of any of the provisions of § 16-101 of this article ("Drivers must  
4 be licensed") or, except as provided in subsection (q) of this section, § 21-902(A) OF THIS  
5 ARTICLE (DRIVING WHILE INTOXICATED OR INTOXICATED PER SE WITH AN ALCOHOL  
6 CONCENTRATION OF LESS THAN 0.10) OR § 21-902(b) of this article ("Driving while  
7 under the influence of alcohol") is subject to a fine of not more than \$500 or  
8 imprisonment for not more than 1 year or both.

9 (2) Except as provided in subsection (q) of this section, for the purpose of  
10 second or subsequent offender penalties for a violation of § 21-902[(b)] (A) OR (B) of  
11 this article (driving while intoxicated or intoxicated per se with an alcohol  
12 concentration of less than 0.10 or driving while under the influence of alcohol)  
13 provided under this subsection, a prior conviction of DRIVING WHILE INTOXICATED  
14 OR INTOXICATED PER SE WITH AN ALCOHOL CONCENTRATION OF 0.10 OR MORE IN  
15 VIOLATION OF § 21-902(a) of this article [("Driving while intoxicated")] shall be  
16 considered a conviction of DRIVING WHILE INTOXICATED OR INTOXICATED PER SE  
17 WITH AN ALCOHOL CONCENTRATION OF LESS THAN 0.10 IN VIOLATION OF § 21-902(A)  
18 OF THIS ARTICLE OR A CONVICTION OF DRIVING WHILE UNDER THE INFLUENCE OF  
19 ALCOHOL IN VIOLATION OF § 21-902(b) of this article.

20 (j) (1) In this subsection, "imprisonment" includes confinement in an  
21 inpatient rehabilitation or treatment center.

22 (2) A person who is convicted of [a] DRIVING WHILE INTOXICATED OR  
23 INTOXICATED PER SE WITH AN ALCOHOL CONCENTRATION OF 0.10 OR MORE IN  
24 violation of § 21-902(a) of this article within 3 years after a prior conviction [under  
25 that subsection] OF THAT OFFENSE is subject to a mandatory minimum penalty of:

26 (i) Imprisonment for not less than 48 consecutive hours; or

27 (ii) Community service for not less than 80 hours.

28 (3) The penalties provided by this subsection are mandatory and are not  
29 subject to suspension or probation.

30 (k) (1) Except as provided in subsection (q) of this section, any person who is  
31 convicted of [a] DRIVING WHILE INTOXICATED OR INTOXICATED PER SE WITH AN  
32 ALCOHOL CONCENTRATION OF AT LEAST 0.10, BUT LESS THAN 0.25 IN violation of  
33 [any of the provisions of] § 21-902(a) of this article [("Driving while intoxicated or  
34 intoxicated per se")]:

35 (i) For a first offense, shall be subject to a fine of not more than  
36 \$1,000, or imprisonment for not more than 1 year, or both;

37 (ii) For a second offense, shall be subject to a fine of not more than  
38 \$2,000, or imprisonment for not more than 2 years, or both; and

39 (iii) For a third or subsequent offense, shall be subject to a fine of  
40 not more than \$3,000, or imprisonment for not more than 3 years, or both.

1 (2) THE PENALTIES LISTED IN PARAGRAPH (1) OF THIS SUBSECTION  
2 SHALL BE DOUBLED IF:

3 (I) A PERSON IS CONVICTED OF A VIOLATION OF ANY OF THE  
4 PROVISIONS OF § 21-902(A) OF THIS ARTICLE ("DRIVING WHILE INTOXICATED OR  
5 INTOXICATED PER SE"); AND

6 (II) AT THE TIME OF THE VIOLATION, THE PERSON HAD AN  
7 ALCOHOL CONCENTRATION OF 0.25 OR MORE, AS MEASURED BY GRAMS OF ALCOHOL  
8 PER 100 MILLILITERS OF BLOOD OR GRAMS OF ALCOHOL PER 210 LITERS OF BREATH.

9 [(2)] (3) For the purpose of second or subsequent offender penalties  
10 UNDER THIS SUBSECTION for DRIVING WHILE INTOXICATED OR INTOXICATED PER  
11 SE WITH AN ALCOHOL CONCENTRATION OF 0.10 OR MORE IN violation of § 21-902(a)  
12 of this article [provided under this subsection], a prior conviction of DRIVING WHILE  
13 INTOXICATED OR INTOXICATED PER SE WITH AN ALCOHOL CONCENTRATION OF  
14 LESS THAN 0.10 IN VIOLATION OF § 21-902(A) OF THIS ARTICLE, OR OF § 21-902(b), (c),  
15 or (d) of this article, within 5 years of the conviction [for a] OF DRIVING WHILE  
16 INTOXICATED OR INTOXICATED PER SE WITH AN ALCOHOL CONCENTRATION OF 0.10  
17 OR MORE IN violation of § 21-902(a) of this article, shall be considered a conviction of  
18 DRIVING WHILE INTOXICATED OR INTOXICATED PER SE WITH AN ALCOHOL  
19 CONCENTRATION OF 0.10 OR MORE IN VIOLATION OF § 21-902(a) of this article.

20 (q) (1) Any person who is convicted of [a] DRIVING WHILE INTOXICATED OR  
21 INTOXICATED PER SE WITH AN ALCOHOL CONCENTRATION OF 0.10 OR MORE IN  
22 violation of § 21-902(a) of this article and who, at the time of the offense, was  
23 transporting a minor is subject to:

24 (i) For a first offense, a fine of not more than \$2,000 or  
25 imprisonment for not more than 2 years or both;

26 (ii) For a second offense, a fine of not more than \$3,000 or  
27 imprisonment for not more than 3 years or both; and

28 (iii) For a third or subsequent offense, a fine of not more than \$4,000  
29 or imprisonment for not more than 4 years or both.

30 (2) Any person who is convicted of [a] DRIVING WHILE INTOXICATED OR  
31 INTOXICATED PER SE WITH AN ALCOHOL CONCENTRATION OF LESS THAN 0.10 IN  
32 violation of § 21-902(A), OR A VIOLATION OF § 21-902(b), § 21-902(c), or § 21-902(d) of  
33 this article and who, at the time of the offense, was transporting a minor is subject to:

34 (i) For a first offense, a fine of not more than \$1,000 or  
35 imprisonment for not more than 6 months or both; and

36 (ii) For a second or subsequent offense, a fine of not more than  
37 \$2,000 or imprisonment for not more than 1 year or both.

38 (3) For the purpose of determining second or subsequent offender  
39 penalties provided under this subsection, a prior conviction of any provision of §

1 21-902 of this article that subjected a person to the penalties under this subsection  
2 shall be considered a prior conviction.

3 27-107.

4 (b) In addition to any other penalties provided in this title for a violation of  
5 any of the provisions of § 21-902(a) of this article ("Driving while intoxicated OR  
6 INTOXICATED PER SE"), or § 21-902(b) of this article ("Driving while under the  
7 influence of alcohol"), or in addition to any other condition of probation, a court may  
8 prohibit a person who is convicted of, or granted probation under Article 27, § 641 of  
9 the Code for, a violation of § 21-902(a) or § 21-902(b) of this article from operating for  
10 not more than 3 years a motor vehicle that is not equipped with an ignition interlock  
11 system.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
13 construed only prospectively and may not be applied or interpreted to have any effect  
14 on or application to any criminal or administrative violations that occur before the  
15 effective date of this Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 1999.