

---

By: **Delegates Simmons, Bronrott, and Dumais**  
 Introduced and read first time: February 7, 2005  
 Assigned to: Judiciary

---

Committee Report: Favorable with amendments  
 House action: Adopted  
 Read second time: March 15, 2005

---

CHAPTER\_\_\_\_\_

1 AN ACT concerning

2 **Criminal Procedure - Probation Before Judgment - Provisional Driver's**  
3 **License**

4 FOR the purpose of prohibiting a court from staying an entry of judgment and placing  
5 a defendant on probation for a certain moving violation if the defendant holds a  
6 provisional license and the defendant has previously been placed on probation  
7 for a certain moving violation under certain circumstances; altering a certain  
8 definition of "offense" to include a probation before judgment for purposes of  
9 imposing certain sanctions; and generally relating to probation before judgment.

10 BY repealing and reenacting, with amendments,  
11 Article - Criminal Procedure  
12 Section 6-220(d)  
13 Annotated Code of Maryland  
14 (2001 Volume and 2004 Supplement)

15 BY repealing and reenacting, without amendments,  
16 Article - Transportation  
17 Section 11-136.1 and 16-111(d)  
18 Annotated Code of Maryland  
19 (2002 Replacement Volume and 2004 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article - Transportation  
22 Section 16-213  
23 Annotated Code of Maryland

1 (2002 Replacement Volume and 2004 Supplement)

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

4 **Article - Criminal Procedure**

5 6-220.

6 (d) Notwithstanding subsections (b) and (c) of this section, a court may not  
7 stay the entering of judgment and place a defendant on probation for:

8 (1) a violation of § 21-902 of the Transportation Article or § 2-503, §  
9 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article, if within the  
10 preceding 5 years the defendant has been convicted under § 21-902 of the  
11 Transportation Article or § 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the  
12 Criminal Law Article, or has been placed on probation in accordance with this section,  
13 after being charged with a violation of § 21-902 of the Transportation Article or §  
14 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article;

15 (2) a second or subsequent controlled dangerous substance crime under  
16 Title 5 of the Criminal Law Article; [or]

17 (3) a violation of any of the provisions of §§ 3-303 through 3-307 of the  
18 Criminal Law Article for a crime involving a person under the age of 16 years; OR

19 (4) A MOVING VIOLATION, AS DEFINED IN § 11-136.1 OF THE  
20 TRANSPORTATION ARTICLE, IF:

21 (I) THE DEFENDANT HOLDS A PROVISIONAL LICENSE UNDER §  
22 16-111 OF THE TRANSPORTATION ARTICLE; AND

23 (II) THE DEFENDANT HAS PREVIOUSLY BEEN PLACED ON  
24 PROBATION UNDER THIS SECTION FOR THE COMMISSION OF A MOVING VIOLATION  
25 WHILE THE DEFENDANT HELD A PROVISIONAL LICENSE.

26 **Article - Transportation**

27 11-136.1.

28 "Moving violation" means:

29 (1) A moving violation as defined in regulations adopted by the  
30 Administration for the purpose of assessing points under § 16-402 of this article; or

31 (2) A violation of a substantially similar nature reported from another  
32 jurisdiction, other than a violation of the jurisdiction's size, weight, load, equipment,  
33 or inspection provisions.

1 16-111.

2 (d) (1) An individual who holds a provisional license may not receive a  
3 license sooner than 18 months:

4 (i) After the individual first obtains the provisional license; or

5 (ii) If the individual has been convicted of a moving violation, after  
6 the date of the violation.

7 (2) Notwithstanding any other provision of this subtitle, the  
8 Administration may issue a license to an individual who was otherwise eligible to  
9 receive a license at the time a moving violation was committed.

10 16-213.

11 (a) In this section, "offense" means a moving violation committed by an  
12 individual who:

13 (1) Holds a provisional license under § 16-111 of this title;

14 (2) Was convicted of, OR GRANTED A PROBATION BEFORE JUDGMENT  
15 UNDER § 6-220 OF THE CRIMINAL PROCEDURE ARTICLE FOR, the violation; and

16 (3) Was not eligible for a license under § 16-111.1 of this title at the time  
17 of the violation.

18 (b) The sanctions under this section are in addition to any other penalty or  
19 sanctions that might apply as a result of a moving violation.

20 (c) The Administration:

21 (1) For a first offense, shall require the offender to attend a driver  
22 improvement program under § 16-212 of this subtitle;

23 (2) For a second offense, may suspend the offender's provisional license  
24 for up to 30 days; and

25 (3) For a third or subsequent offense, may suspend or revoke the  
26 offender's provisional license for up to 180 days.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2005.

