E1 8lr0124 CF SB 296

By: The Speaker (By Request - Administration) and Delegates Adams, Afzali, Anderton, Arentz, Aumann, Buckel, Carozza, Cassilly, Ciliberti, Clark, Cluster, Corderman, Fisher, Flanagan, Folden, Ghrist, Glass, Grammer, Hornberger, Jacobs, Kipke, Krebs, Malone, Mautz, McComas, McKay, Metzgar, Miele, Morgan, Parrott, Reilly, Rey, Rose, Shoemaker, Szeliga, Vogt, West, and Wivell

Introduced and read first time: January 23, 2018

Assigned to: Judiciary

## A BILL ENTITLED

1 AN ACT concerning

Vehicle Laws - Drunk and Drugged Driving - Subsequent Offenders - Felonies
 (Repeat Drunk Driving Offenders Act of 2018)

- FOR the purpose of increasing certain penalties for drunk and drugged driving offenses for individuals who have been convicted previously of certain other crimes under certain circumstances; making certain drunk and drugged driving offenses felonies; establishing that the District Court and circuit courts have concurrent jurisdiction over certain drunk and drugged driving offenses; requiring certain procedures; making certain conforming changes; and generally relating to drunk and drugged driving.
- 11 BY repealing and reenacting, with amendments,
- 12 Article Courts and Judicial Proceedings
- 13 Section 4–301(b)(24) and (25) and 4–302(a) and (d)(1)
- 14 Annotated Code of Maryland
- 15 (2013 Replacement Volume and 2017 Supplement)
- 16 BY adding to
- 17 Article Courts and Judicial Proceedings
- 18 Section 4–301(b)(26)
- 19 Annotated Code of Maryland
- 20 (2013 Replacement Volume and 2017 Supplement)
- 21 BY repealing and reenacting, without amendments,
- 22 Article Transportation
- 23 Section 1-101(c)

1 Annotated Code of Maryland 2 (2015 Replacement Volume and 2017 Supplement) 3 BY repealing and reenacting, with amendments, Article – Transportation 4 5 Section 21–902 Annotated Code of Maryland 6 7 (2012 Replacement Volume and 2017 Supplement) 8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, 9 That the Laws of Maryland read as follows: 10 Article - Courts and Judicial Proceedings 4-301. 11 12 (b) Except as provided in § 4–302 of this subtitle, the District Court also has 13 exclusive original jurisdiction in a criminal case in which a person at least 18 years old or 14 a corporation is charged with: Violation of § 11–721 of the Criminal Procedure Article as a second or 15 16 subsequent offense; [or] 17 (25)Violation of § 11–303(b) of the Criminal Law Article; OR (26) VIOLATION OF § 21–902 OF THE TRANSPORTATION ARTICLE 18 THAT IS PUNISHABLE UNDER § 21–902(H) OF THE TRANSPORTATION ARTICLE. 19 20 4 - 302. 21 Except as provided in § 4–301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13), (14), 22 (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), [and] (25), AND (26) of this subtitle, the 23 District Court does not have jurisdiction to try a criminal case charging the commission of 24a felony. 25Except as provided in paragraph (2) of this subsection, the jurisdiction 26of the District Court is concurrent with that of the circuit court in a criminal case: 27 (i) In which the penalty may be confinement for 3 years or more or 28 a fine of \$2,500 or more; or 29 (ii) That is a felony, as provided in § 4–301(b)(2), (6), (7), (8), (9), (10),

(11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), [and] (25), AND (26)

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of this subtitle.

1	1–101.										
2	(c)	(c) "Any state" means:									
3		(1) A	ny st	tate, possession, or territory of the United States;							
4		(2) T	he D	District of Columbia; and							
5		(3) T	he Co	Commonwealth of Puerto Rico.							
6	21–902.										
7 8	(a) under the inf	(1) (i luence d		A person may not drive or attempt to drive any vehicle while ohol.							
9	person is und	`		A person may not drive or attempt to drive any vehicle while the ence of alcohol per se.							
1		(i	ii)	A person convicted of a violation of this paragraph is subject to:							
12 13	a fine not exc	eeding	\$1,00	1. For a first offense, imprisonment not exceeding 1 year or 00 or both;							
14 15	or a fine not e	exceedir		2. For a second offense, imprisonment not exceeding 2 years ,000 or both; and							
16 17	exceeding 3 y	ears or		3. For a third [or subsequent] offense, imprisonment not e not exceeding \$3,000 or both.							
18 19 20 21	(iv) For the purpose of determining subsequent offender penalties for a violation of this paragraph, a prior conviction under this subsection or subsection (b), (c), or (d) of this section, within 5 years before the conviction for a violation of this paragraph, shall be considered a prior conviction.										
22 23	transporting	(2) (i a minor		A person may not violate paragraph (1) of this subsection while							
24		(i	i)	A person convicted of a violation of this paragraph is subject to:							
25 26	a fine not exc	eeding		1. For a first offense, imprisonment not exceeding 2 years or 00 or both;							
27 28	or a fine not e	exceedir		2. For a second offense, imprisonment not exceeding 3 years ,000 or both; and							

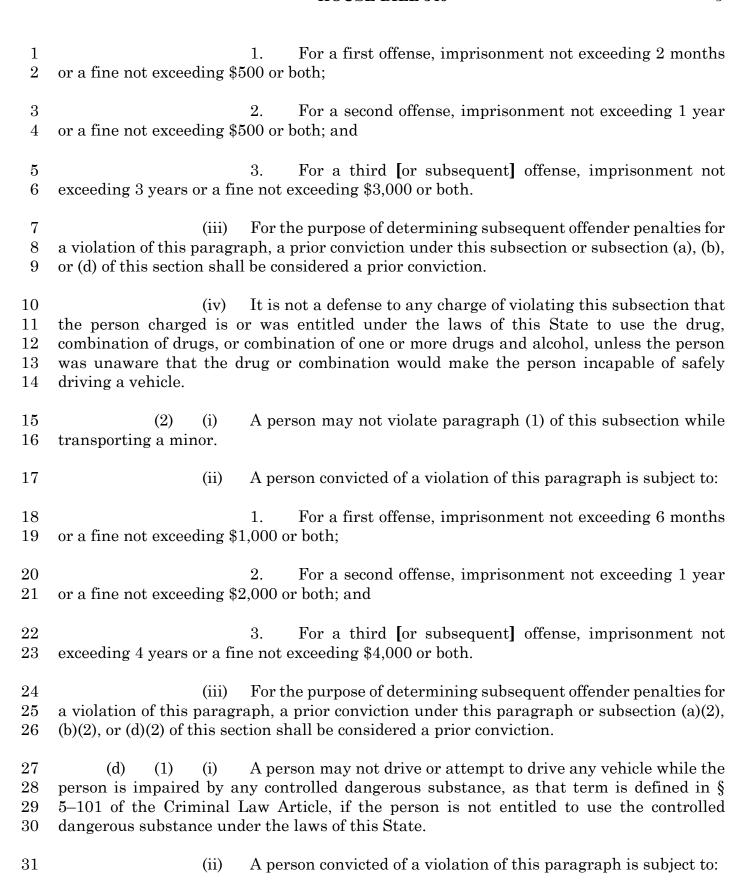
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For a third [or subsequent] offense, imprisonment not

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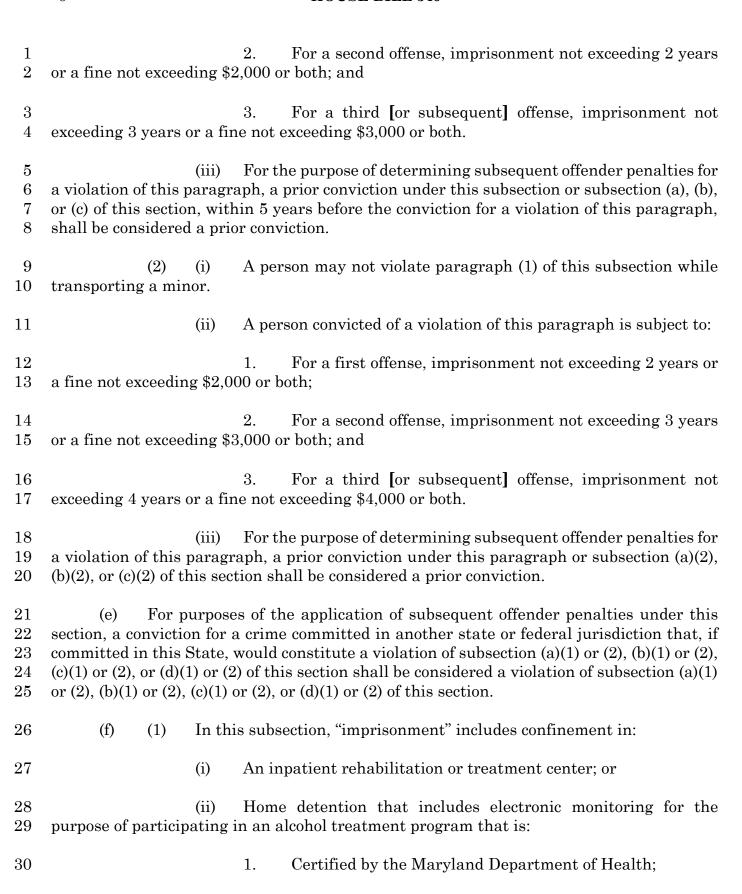
- 1 exceeding 4 years or a fine not exceeding \$4,000 or both. 2 For the purpose of determining subsequent offender penalties for (iii) 3 a violation of this paragraph, a prior conviction under this paragraph or subsection (b)(2), (c)(2), or (d)(2) of this section shall be considered a prior conviction. 4 5 (b) (1)A person may not drive or attempt to drive any vehicle while 6 impaired by alcohol. 7 A person convicted of a violation of this paragraph is subject to: (ii) 8 1. For a first offense, imprisonment not exceeding 2 months 9 or a fine not exceeding \$500 or both; 10 For a second offense, imprisonment not exceeding 1 year 11 or a fine not exceeding \$500 or both; and 12 For a third [or subsequent] offense, imprisonment not 3. 13 exceeding 3 years or a fine not exceeding \$3,000 or both. 14 For the purpose of determining subsequent offender penalties for 15 a violation of this paragraph, a prior conviction under this subsection or subsection (a), (c), or (d) of this section shall be considered a prior conviction. 16 17 (2)A person may not violate paragraph (1) of this subsection while (i) 18 transporting a minor. 19 (ii) A person convicted of a violation of this paragraph is subject to: 20 1. For a first offense, imprisonment not exceeding 6 months 21or a fine not exceeding \$1,000 or both; 222. For a second offense, imprisonment not exceeding 1 year 23or a fine not exceeding \$2,000 or both; and 243. For a third [or subsequent] offense, imprisonment not exceeding 4 years or a fine not exceeding \$4,000 or both. 2526 For the purpose of determining subsequent offender penalties for 27a violation of this paragraph, a prior conviction under this paragraph or subsection (a)(2), 28 (c)(2), or (d)(2) of this section shall be considered a prior conviction.
- (c) (1) (i) A person may not drive or attempt to drive any vehicle while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a vehicle safely.
  - (ii) A person convicted of a violation of this paragraph is subject to:



32 1. For a first offense, imprisonment not exceeding 1 year or 33 a fine not exceeding \$1,000 or both;

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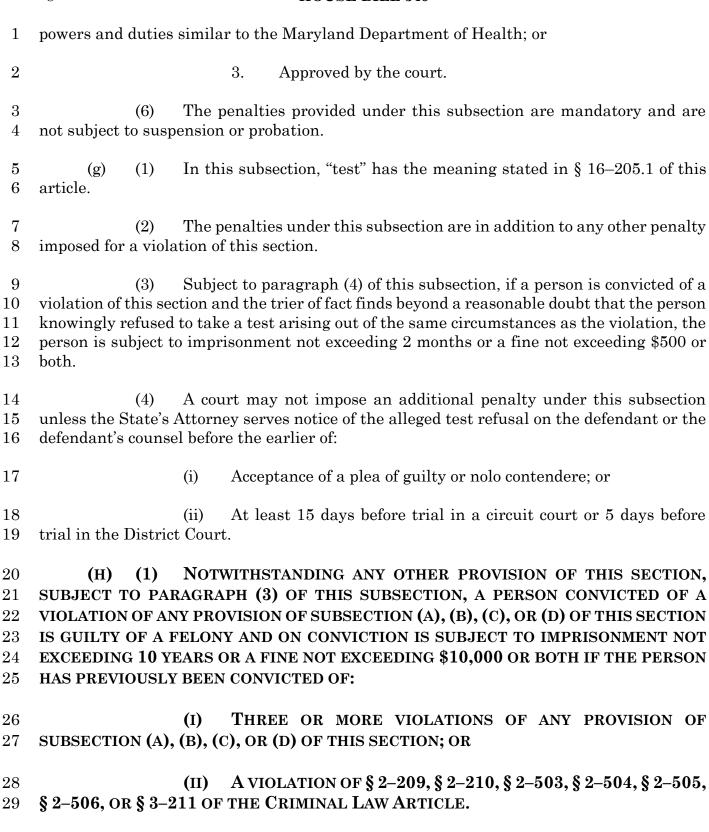


Certified by an agency in an adjacent state that has

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powers and duties similar to the Maryland Department of Health; or

1	3. Approved by the court.
2 3 4	(2) (i) A person who is convicted of a violation of subsection (a) of this section within 5 years after a prior conviction under that subsection is subject to a mandatory minimum penalty of imprisonment for not less than 5 days.
5 6 7	(ii) A person who is convicted of a third or subsequent offense under subsection (a) of this section within 5 years after a prior conviction under that subsection is subject to a mandatory minimum penalty of imprisonment for not less than 10 days.
8 9 10	(3) (i) A person who is convicted of a violation of subsection (d) of this section within 5 years after a prior conviction under that subsection is subject to a mandatory minimum penalty of imprisonment for not less than 5 days.
11 12 13	(ii) A person who is convicted of a third or subsequent offense under subsection (d) of this section within 5 years after a prior conviction under that subsection is subject to a mandatory minimum penalty of imprisonment for not less than 10 days.
14 15 16	(4) A person who is convicted of an offense under subsection (a) of this section within 5 years after a prior conviction under that subsection shall be required by the court to:
17	(i) Undergo a comprehensive alcohol abuse assessment; and
18 19	(ii) If recommended at the conclusion of the assessment, participate in an alcohol program as ordered by the court that is:
20	1. Certified by the Maryland Department of Health;
21 22	2. Certified by an agency in an adjacent state that has powers and duties similar to the Maryland Department of Health; or
23	3. Approved by the court.
24 25 26	(5) A person who is convicted of an offense under subsection (d) of this section within 5 years after a prior conviction under that subsection shall be required by the court to:
27	(i) Undergo a comprehensive drug abuse assessment; and
28 29	(ii) If recommended at the conclusion of the assessment, participate in a drug program as ordered by the court that is:
30	1. Certified by the Maryland Department of Health;
31	2. Certified by an agency in an adjacent state that has



30 (2) FOR PURPOSES OF THIS SUBSECTION, A CONVICTION FOR A
31 CRIME UNDER THE LAWS OF ANY STATE OR THE UNITED STATES THAT WOULD BE A
32 CRIME INCLUDED IN PARAGRAPH (1) OF THIS SUBSECTION IF COMMITTED IN THIS
33 STATE SHALL BE CONSIDERED A PRIOR CONVICTION UNDER THIS SUBSECTION.

1	(	3) IF	<b>A</b> :	PROSE	CUTING	ATTC	RNEY	INTENI	OS TO	SEEK	THE
2	ADDITIONAL	PENAI	LTIES	PROVI	DED IN	THIS	SUBSE	CTION,	THE 1	PROSECU	TING
3	ATTORNEY S	SHALL	HAVE	THE	DEFEN	DANT	CHARG	ED BY	INFO	RMATION	OR
4	INDICTMENT										

- 5 (4) A COURT MAY NOT IMPOSE THE ADDITIONAL PENALTIES UNDER 6 THIS SUBSECTION UNLESS THE PROSECUTING ATTORNEY SERVES NOTICE OF THE 7 ALLEGED PRIOR CONVICTIONS ON THE DEFENDANT OR THE DEFENDANT'S COUNSEL 8 BEFORE THE EARLIER OF:
- 9 (I) ACCEPTANCE OF A PLEA OF GUILTY OR NOLO CONTENDERE; 10 OR
- 11 (II) AT LEAST 15 DAYS BEFORE TRIAL IN A CIRCUIT COURT OR 5
  12 DAYS BEFORE TRIAL IN THE DISTRICT COURT.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.