
By: Delegate Curran (Administrative Judges Committee of the District Court of Maryland)

Introduced and read first time: February 9, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Offenses - Decriminalization**

3 FOR the purpose of decriminalizing vehicle offenses for which a period of incarceration
4 is not provided and providing that certain fines constitute civil penalties;
5 authorizing a State's Attorney to prosecute and take certain actions pertaining to
6 civil offenses under the Maryland Vehicle Law; providing that a defendant in a civil
7 offense has certain rights and that the burden of proof and evidentiary standards
8 applicable to criminal cases shall apply; modifying certain provisions relating to
9 proceedings in various courts to reflect the decriminalization of certain vehicle
10 offenses, including provisions concerning jurisdiction, limitations of actions, venue,
11 costs and appearance fees, evidence, appeals, and the collection of fines; providing
12 for the awarding to certain drivers safe points and for the effect of safe points
13 awarded; making technical and stylistic changes; and generally relating to offenses
14 under the Maryland Vehicle Law, the prosecution and adjudication of those
15 offenses, statutory modifications to reflect the decriminalization of certain offenses,
16 and, as it relates to drivers' performance and certain offenses, the administration of
17 the Maryland Vehicle Law.

18 BY adding to

19 Article 27 - Crimes and Punishments
20 Section 641(d)
21 Annotated Code of Maryland
22 (1992 Replacement Volume and 1995 Supplement)

23 BY repealing and reenacting, without amendments,

24 Article - Courts and Judicial Proceedings
25 Section 3-801(a), 3-806(a), 4-301(a), 4-302(b), 5-106(c), 6-203(a), 10-302,
26 10-306(b)(1)(ii) and (2)(ii), 10-307(a)(1) and (f), 12-101(a), 12-302(a),
27 12-303.1(a)(2), and 12-702(b)
28 Annotated Code of Maryland
29 (1995 Replacement Volume and 1995 Supplement)

30 BY repealing and reenacting, with amendments,

31 Article - Courts and Judicial Proceedings

2
1 Section 3-801(k), 3-804(e)(2) and (f), 3-806(c), 3-810(k)(1), 3-824(a)(3), 4-101,
2 4-303, 4-401(10)(viii) and (ix), 5-106(a), 7-203, 7-204(a)(3), 7-206, 7-301,
3 10-306(a)(1)(i), 12-101(e) and (f), 12-301, 12-302(c), 12-401, 12-404, and
4 12-702(c)
5 Annotated Code of Maryland
6 (1995 Replacement Volume and 1995 Supplement)

7 BY adding to
8 Article - Courts and Judicial Proceedings
9 Section 3-801(c-1) and (s-1), 4-401(10)(x), 4-402(e)(3), and 6-203(f)
10 Annotated Code of Maryland
11 (1995 Replacement Volume and 1995 Supplement)

12 BY repealing and reenacting, without amendments,
13 Article - Transportation
14 Section 26-201(c)(1)
15 Annotated Code of Maryland
16 (1992 Replacement Volume and 1995 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Transportation
19 Section 11-110(b), 16-117(b)(2), 26-201(e), 26-202(a)(1), and 27-101(a)
20 Annotated Code of Maryland
21 (1992 Replacement Volume and 1995 Supplement)

22 BY adding to
23 Article - Transportation
24 Section 11-107.1, 11-121.2, 16-408, and 26-405.2
25 Annotated Code of Maryland
26 (1992 Replacement Volume and 1995 Supplement)

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

29 **Article 27 - Crimes and Punishments**

30 641.

31 (D) THIS SECTION DOES NOT APPLY TO A CIVIL OFFENSE AS DEFINED IN §
32 11-701.1 OF THE TRANSPORTATION ARTICLE.

33 **Article - Courts and Judicial Proceedings**

34 3-801.

35 (a) In this subtitle, the following words have the meanings indicated, unless the
36 context of their use indicates otherwise.

3

1 (C-1) "ARRESTING POLICE OFFICER" INCLUDES AN OFFICER WHO CHARGES
2 COMMISSION OF A CIVIL OFFENSE AS DEFINED IN § 11-107.1 OF THE
3 TRANSPORTATION ARTICLE.

4 (k) "Delinquent act" means:

5 (1) [An] AN act which would be a crime if committed by an adult; OR

6 (2) A CIVIL OFFENSE AS DEFINED IN § 11-107.1 OF THE
7 TRANSPORTATION ARTICLE.

8 (S-1) "VEHICLE OFFENSE" MEANS A VIOLATION OF A TRAFFIC LAW,
9 INCLUDING AN ORDINANCE OF THE TRANSPORTATION ARTICLE, WHETHER THE
10 VIOLATION IS INCARCERABLE OR NONINCARCERABLE.

11 3-804.

12 (e) The court does not have jurisdiction over:

13 (2) A child at least 16 years old alleged to have [done an act in violation of
14 any provision of the Transportation Article or other traffic law or ordinance, except an
15 act that prescribes a] COMMITTED A VEHICLE OFFENSE FOR WHICH A penalty of
16 incarceration IS NOT AUTHORIZED;

17 (f) (1) If the child is charged with two or more violations of [the Maryland
18 Vehicle Law, another traffic law or ordinance, or] the State Boat Act, allegedly arising
19 out of the same incident and which would result in the child being brought before both
20 the court and a court exercising criminal jurisdiction, the court has exclusive jurisdiction
21 over all of the charges.

22 (2) IF A CHILD IS CHARGED WITH TWO OR MORE VEHICLE OFFENSES
23 ALLEGEDLY ARISING OUT OF THE SAME INCIDENT AND WHICH WOULD RESULT IN
24 THE CHILD BEING BROUGHT BEFORE THE JUVENILE COURT AND ANOTHER COURT,
25 THE JUVENILE COURT HAS EXCLUSIVE JURISDICTION OVER ALL OF THE CHARGES.

26 3-806.

27 (a) If the court obtains jurisdiction over a child, that jurisdiction continues until
28 that person reaches 21 years of age unless terminated sooner.

29 (c) Unless otherwise ordered by the court, the court's jurisdiction is terminated
30 over a person who has reached 18 years of age when [he] THE PERSON is convicted of a
31 crime, including manslaughter by automobile, unauthorized use or occupancy of a motor
32 vehicle, or operating a vehicle while under the influence of intoxicating liquors or drugs,
33 but excluding a conviction for a violation of any [other traffic law or ordinance or]
34 NONINCARCERABLE VEHICLE OFFENSE, any provision of the State Boat Act, or ANY
35 PROVISION OF the fish and wildlife laws of the State.

36 3-810.

37 (k) (1) If the complaint alleges that a minor 16 years of age or older has
38 committed an [act in violation of any provision of the Maryland Vehicle Law or other
39 traffic law or ordinance] VEHICLE OFFENSE under the jurisdiction of the juvenile court,

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1 the complaint shall be filed directly with the State's Attorney of the jurisdiction in which
2 the [alleged violation] VEHICLE OFFENSE ALLEGEDLY occurred.

3 3-824.

4 (a) (3) However, THE CLERK OF THE COURT SHALL REPORT an adjudication
5 of a child as delinquent by reason of [his violation of the State vehicle laws shall be
6 reported by the clerk of the court] A VEHICLE OFFENSE to the Motor Vehicle
7 Administration, which shall assess points against the child under Title 16, Subtitle 4 of the
8 Transportation Article, in the same manner and to the same effect as if the child had
9 been convicted of the offense.

10 4-101.

11 (a) In this title, the following terms have the meanings indicated.

12 (b) "CIVIL OFFENSE" HAS THE MEANING STATED IN § 11-107.1 OF THE
13 TRANSPORTATION ARTICLE.

14 (C) (1) "Criminal case" means a criminal case within the jurisdiction of the
15 District Court [and].

16 (2) "CRIMINAL CASE" includes a case charging:

17 (I) [a] A violation of motor vehicle or traffic laws OTHER THAN A
18 CIVIL OFFENSE; and

19 (II) [a case charging a] A violation of a law, rule, or regulation if a fine
20 or imprisonment may be imposed.

21 4-301.

22 (a) Except as provided in § 4-302 and § 3-804, the District Court has exclusive
23 original jurisdiction in a criminal case in which a person at least 16 years old or a
24 corporation is charged with violation of the vehicle laws, or the State Boat Act, or rules
25 and regulations adopted pursuant to it.

26 4-302.

27 (b) Except as provided in § 4-303 of this subtitle, the District Court does not have
28 criminal jurisdiction to try a case in which a juvenile court has exclusive original
29 jurisdiction.

30 4-303.

31 The District Court has jurisdiction over a person who is brought before a court
32 sitting as a juvenile court if:

33 (1) The juvenile court waives jurisdiction or the person elects to be tried
34 according to the regular criminal procedure; and

35 (2) The offense charged is within the jurisdiction conferred by § 4-301 OF
36 THIS SUBTITLE.

5

1 4-401.

2 Except as provided in § 4-402 of this subtitle, and subject to the venue provisions of
3 Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

4 (10) A proceeding for adjudication of:

5 (viii) A violation of an ordinance or regulation enacted by a county
6 without home rule, under authority granted under Article 25 of the Code, or any
7 provision of the Code of Public Local Laws for that county, for which acivil penalty is
8 provided; [or]

9 (ix) A civil infraction that is authorized by law to be prosecuted by a
10 sanitary commission; OR

11 (X) A CIVIL OFFENSE;

12 4-402.

13 (e) (3) IN PROSECUTION OF A CIVIL OFFENSE, THE RIGHT TO A JURY TRIAL
14 SHALL BE GOVERNED UNDER § 4-302 OF THIS TITLE AS IF THE PENALTY
15 AUTHORIZED FOR THE CIVIL OFFENSE IS A FINE.

16 5-106.

17 (a) Except as provided by this section, a prosecution for A CIVIL OFFENSE AS
18 DEFINED IN § 11-107.1 OF THE TRANSPORTATION ARTICLE OR a misdemeanor shall be
19 instituted within one year after the offense was committed.

20 (c) A prosecution under the vehicle code shall be instituted within two years after
21 the offense was committed if the charge is:

22 (1) Unlawfully using a driver's license; or

23 (2) Fraudulently using a false or fictitious name when applyingfor a driver's
24 license.

25 6-203.

26 (a) The general rule of § 6-201 does not apply to actions enumeratedin this
27 section.

28 (F) VENUE FOR PROSECUTION OF A CIVIL OFFENSE AS DEFINED IN § 11-107.1
29 OF THE TRANSPORTATION ARTICLE SHALL BE GOVERNED UNDER § 26-401 OF THAT
30 ARTICLE.

31 7-203.

32 (a) (1) In this section, the [term "not] FOLLOWING WORDS HAVE THE
33 MEANINGS INDICATED.

34 (2) "CIVIL OFFENSE" HAS THE MEANING STATED IN § 11-107.1 OF THE
35 TRANSPORTATION ARTICLE.

36 (3) "NOT guilty" does not include a finding of probation beforejudgment
37 under Article 27, § 641 of the Code.

6

1 (b) (1) The clerk of the circuit court may not charge a county or Baltimore City
2 with fees or costs IN THE PROSECUTION OF A CIVIL OFFENSE OR IN of a criminal
3 proceeding, regardless of whether the fee or cost was imposed or allowed by statute or
4 common law.

5 (2) The clerk of a circuit court may not charge a defendant WHOIS FOUND
6 NOT GUILTY with the costs of:

7 (I) THE PROSECUTION OF A CIVIL OFFENSE; OR

8 (II) [a] A criminal proceeding [in which the defendant is found not
9 guilty].

10 7-204.

11 (a) (3) The Clerk of the Circuit Court for St. Mary's County shall collect, in
12 advance, a \$10 fee for docketing the appearance of counsel when bringing or defending a
13 civil action in the court, OTHER THAN A PROSECUTION OF A CIVIL OFFENSE AS
14 DEFINED IN § 11-107.1.

15 7-206.

16 (a) IN THIS SECTION, "CIVIL OFFENSE" HAS THE MEANING STATED IN §
17 11-107.1 OF THE TRANSPORTATION ARTICLE.

18 (B) If a criminal CASE, CIVIL OFFENSE, or traffic case is appealed from the
19 District Court to a circuit court, the fine and costs collected in the District Court,
20 including costs collected under Maryland Rule 7-103, shall be forwarded to the circuit
21 court for disposition in accordance with this section.

22 [(b)] (C) If the appeal in a criminal CASE, CIVIL OFFENSE, or traffic case is
23 disposed of other than by acquittal, nolle prosequi, or stet, a fine imposed by the circuit
24 court and the circuit court costs, including the sum paid under Maryland Rule [1311c2]
25 7-103, shall be disposed of in the same manner as are fines and costs in a criminal case
26 heard by the circuit court in the exercise of its original jurisdiction. The District Court
27 costs shall be returned to the District Court.

28 [(c)] (D) [In a civil case] EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
29 the court costs IN A CIVIL CASE shall be disposed of in the same manner as are other
30 costs in a civil case heard by the circuit court in the exercise of its original jurisdiction.

31 7-301.

32 (a) IN THIS SECTION, "FINE" HAS THE MEANING STATED IN § 11-121.2 OF THE
33 TRANSPORTATION ARTICLE.

34 (B) (1) The court costs in a traffic case, including parking and impounding cases
35 in which costs are imposed AND THE PROSECUTION OF A CIVIL OFFENSE AS DEFINED
36 IN § 11-107.1 OF THE TRANSPORTATION ARTICLE, are \$15.00. Such costs shall also be
37 applicable to those cases in which the defendant elects to waive his right to trial and pay
38 the fine or penalty deposit established by the Chief Judge of the District Court by
39 administrative regulation.

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1 (2) In an uncontested parking or impounding case in which the fines are
2 paid directly to a political subdivision or municipality, costs are \$2.00, which costs shall be
3 paid to and retained by the political subdivision or municipality. In an uncontested case in
4 which the fine is paid directly to an agency of State government authorized by law to
5 regulate parking of motor vehicles, the costs are \$2.00. The fine and the costs shall be
6 paid to the agency, which shall receive and account for these funds as in all other cases
7 involving sums due the State through a State agency.

8 [(b)] (C) (1) The court costs in a criminal case in which costs are imposed are
9 \$15.00.

10 (2) The costs shall be in addition to any costs imposed in a criminal case
11 under the Criminal Injuries Compensation Act.

12 [(c)] (D) (1) [The] EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
13 THE filing fees and costs in a civil case are those prescribed by law subject to modification
14 by law, rule, or administrative regulation.

15 (2) The Court of Appeals may provide by rule for waiver of prepayment of
16 filing fees and other costs in cases of indigency.

17 [(d)] (E) When a person pays court costs or a fine with a check in any [motor
18 vehicle,] criminal[,] or civil case in the District Court, and the check is returned to the
19 [court] DISTRICT COURT by the financial institution on which it is drawn because of
20 insufficient funds in the account, or because the account has been closed or never existed,
21 then the [court] DISTRICT COURT may impose additional costs of \$10 against the party
22 issuing the check. These costs shall be in addition to any other penalty now prescribed by
23 law.

24 [(e)] (F) The Comptroller shall establish a Law Enforcement and Correctional
25 Training Fund, as provided in Article 41, § 4-1301 of the Code, and the Comptroller shall
26 pay into the Fund one third of all court costs collected by the District Court under
27 subsections [(a) and (b)(1)] (B) AND (C)(1) of this section.

28 10-302.

29 In a prosecution for a violation of a law concerning a person who is driving or
30 attempting to drive a vehicle in violation of § 16-113, § 16-813, or § 21-902 of the
31 Transportation Article, or in violation of Article 27, § 388 or § 388A of the Code, a test
32 of the person's breath or blood may be administered for the purpose of determining
33 alcohol concentration and a test or tests of 1 specimen of the person's blood may be
34 administered for the purpose of determining the drug or controlled dangerous substance
35 content of the person's blood.

36 10-306.

37 (a) (1) (i) Subject to the provisions of paragraph (2) of this subsection, in
38 [any criminal trial in which] A CIVIL PROSECUTION FOR a violation of §
39 16-113(a)(2)[,] OR § 16-813[,], OF THE TRANSPORTATION ARTICLE or A CRIMINAL
40 TRIAL IN WHICH A VIOLATION OF § 21-902 of the Transportation Article[,], or [a
41 violation] of Article 27, § 388 or § 388A of the Code is charged or is an issue, a copy of
42 a report of the results of a test of breath or blood to determine alcohol concentration

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1 signed by the technician or analyst who performed the test, is admissible as substantive
2 evidence without the presence or testimony of the technician or analyst who performed
3 the test.

4 (b) (1) (ii) If the District Court is deprived of jurisdiction under
5 circumstances in which a defendant is entitled to and demands a jury trial, or appeals
6 from the District Court to the circuit court, the State is not required to file a second
7 notice.

8 (2) (ii) If the District Court is deprived of jurisdiction under
9 circumstances in which a defendant is entitled to and demands a jury trial, or appeals
10 from the District Court to a circuit court, the defendant shall notify the circuit court and
11 the State in writing no later than 20 days before trial.

12 10-307.

13 (a) (1) In a proceeding in which a person is charged with a violation of Article
14 27, § 388 or § 388A of the Code, or with driving or attempting to drive a vehicle in
15 violation of § 16-113(a)(2), § 16-813, or § 21-902 of the Transportation Article, the
16 amount of alcohol in the person's breath or blood shown by analysis as provided in this
17 subtitle is admissible in evidence and has the effect set forth in subsections (b) through
18 (e) of this section.

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

23 12-101.

24 (a) In this title, the following terms have the meanings indicated.

25 (e) "Criminal action", "criminal case", "criminal cause", or "criminal proceeding"
26 includes a case charging violation of:

27 (1) [motor] MOTOR vehicle or traffic laws FOR WHICH A PENALTY OF
28 INCARCERATION IS AUTHORIZED; OR

29 (2) [and a case charging violation of a] A rule or regulation if a criminal
30 penalty may be incurred.

31 (f) "CIVIL VEHICLE CASE" MEANS PROSECUTION OF A CIVIL OFFENSE AS
32 DEFINED IN § 11-107.1 OF THE TRANSPORTATION ARTICLE.

33 (G) "Final judgment" means a judgment, decree, sentence, order, determination,
34 decision, or other action by a court, including an orphans' court, from which an appeal,
35 application for leave to appeal, or petition for certiorari may be taken.

36 12-301.

37 Except as provided in § 12-302 of this subtitle, a party may appeal from a final
38 judgment entered in a civil or criminal case by a circuit court. The right of appeal exists
39 from a final judgment entered by a court in the exercise of original, special, limited,
40 statutory jurisdiction, unless in a particular case the right of appeal is expressly denied by

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1 law. In a criminal OR CIVIL VEHICLE case, the defendant may appeal eventhough
2 imposition or execution of sentence has been suspended. In a civil case, a plaintiff who
3 has accepted a remittitur may cross-appeal from the final judgment.

4 12-302.

5 (a) Unless a right to appeal is expressly granted by law, § 12-301 does not permit
6 an appeal from a final judgment of a court entered or made in the exercise of appellate
7 jurisdiction in reviewing the decision of the District Court, an administrative agency, or a
8 local legislative body.

9 (c) (1) In a criminal OR CIVIL VEHICLE case, the State may appeal asprovided
10 in this subsection.

11 [(1)] (2) The State may appeal from a final judgment granting amotion to
12 dismiss or quashing or dismissing any indictment, information, presentment, or
13 inquisition.

14 [(2)] (3) The State may appeal from a final judgment if the State alleges
15 that the trial judge failed to impose the sentence specifically mandated by the Code.

16 [(3)] (4) (i) In a case involving a crime of violence as defined in § 643B of
17 Article 27, and in cases under §§ 286 and 286A of Article 27, the Statemay appeal from
18 a decision of a trial court that excludes evidence offered by the Stateor requires the
19 return of property alleged to have been seized in violation of the Constitution of the
20 United States, the Constitution of Maryland, or the Maryland Declaration of Rights.

21 (ii) The appeal shall be made before jeopardy attaches to the
22 defendant. However, in all cases the appeal shall be taken no more than15 days after the
23 decision has been rendered and shall be diligently prosecuted.

24 (iii) Before taking the appeal, the State shall certify tothe court that
25 the appeal is not taken for purposes of delay and that the evidence excluded or the
26 property required to be returned is substantial proof of a material fact in the proceeding.
27 The appeal shall be heard and the decision rendered within 120 days of the time that the
28 record on appeal is filed in the appellate court. Otherwise, the decision of the trial court
29 shall be final.

30 (iv) If the State appeals on the basis of this paragraph, and if on final
31 appeal the decision of the trial court is affirmed, the charges againstthe defendant shall
32 be dismissed in the case from which the appeal was taken. In that case,the State may not
33 prosecute the defendant on those specific charges or on any other related charges arising
34 out of the same incident.

35 (v) Pending the prosecution and determination of an appealtaken
36 under paragraph [(1)] (2) or [(3)] (4) of this subsection, the defendant shall be released
37 on personal recognizance bail. If the defendant fails to appear as required by the terms of
38 the recognizance bail, the trial court shall subject the defendant to the penalties provided
39 in Article 27, § 12B.

10

1 (vi) If the State loses the appeal, the jurisdiction shall pay all the costs
2 related to the appeal, including reasonable attorney fees incurred by the defendant as a
3 result of the appeal.

4 12-303.1.

5 (a) (2) "Victim of a violent crime" does not include a victim of an offense that
6 is not punishable by imprisonment under the Maryland Vehicle Law or under Title 8,
7 Subtitle 7 of the Natural Resources Article ("State Boat Act").

8 12-401.

9 (a) A party in a civil case may appeal from a final judgment entered in the District
10 Court.

11 (b) In a criminal OR CIVIL VEHICLE case:

12 (1) The State may appeal from a final judgment entered in the District
13 Court:

14 (i) If the State alleges that the trial judge failed to impose the
15 sentence specifically mandated by the Code; or

16 (ii) Granting a motion to dismiss, or quashing or dismissing a charging
17 document.

18 (2) The defendant may appeal [even] from a final judgment entered in the
19 District Court EVEN though imposition or execution of sentence has been suspended.

20 (c) Notwithstanding any other provision of law, an appeal taken under subsection
21 (b)(1)(ii) of this section shall be:

22 (1) To the circuit court solely for the purpose of reviewing the judgment of
23 the District Court; and

24 (2) Heard on the record made in the District Court.

25 (d) A defendant who has been found guilty of a municipal infraction[,] as
26 defined in Article 23A, § 3(b)(1) of the Code [or], a Code violation under Article 27, §
27 403 of the Code, OR A CIVIL OFFENSE AS DEFINED IN § 11-107.5 OF THE
28 TRANSPORTATION ARTICLE, may appeal from the final judgment entered in the District
29 Court. The costs and procedures for taking the appeal shall be as provided for appeals
30 from criminal cases in the District Court. Except, however, as provided in subsection (f)
31 of this section, the appellate court shall docket and hear the appeal as a civil appeal from
32 the District Court.

33 (e) (1) Except as provided in paragraph (2) of this subsection, an appeal shall
34 be taken by filing an order for appeal with the clerk of the District Court within 30 days
35 from the date of the final judgment from which appealed.

36 (2) If the final judgment was entered in a case filed under § 8-332, § 8-401,
37 § 8-402, § 14-109, or § 14-120 of the Real Property Article, the order for appeal shall be
38 filed within the time prescribed by the particular section.

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1 (f) In a civil case in which the amount in controversy exceeds \$2,500 exclusive of
2 interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract, in
3 any matter arising under § 4-401(7)(ii) of this article, and in any case in which the parties
4 so agree, an appeal shall be heard on the record made in the District Court. In every
5 other case, including a criminal case in which sentence has been imposed or suspended
6 following a plea of nolo contendere or guilty, and an appeal in a municipal infraction
7 [or], Code violation [case], OR CIVIL VEHICLE CASE, an appeal shall be tried de novo.

8 (g) In a criminal appeal OR CIVIL VEHICLE CASE that is tried de novo, there is
9 no right to a jury trial unless the offense charged is subject to a penalty of imprisonment
10 or unless there is a constitutional right to a jury trial for that offense.

11 12-404.

12 (A) IN THIS SECTION, "FINE" HAS THE MEANING STATED IN § 11-121.2 OF THE
13 TRANSPORTATION ARTICLE.

14 (B) If a judgment of the District Court imposing a fine or penalty for violation of
15 a law or ordinance is affirmed on appeal, the appellate court may commit the defendant
16 or appellant in case of nonpayment of the fine or penalty, in accordance with law.

17 12-702.

18 (b) If an appellate court remands a criminal case to a lower court in order that the
19 lower court may pronounce the proper judgment or sentence, or conduct anew trial, and
20 if there is a conviction following this new trial, the lower court may impose any sentence
21 authorized by law to be imposed as punishment for the offense. However, it may not
22 impose a sentence more severe than the sentence previously imposed for the offense
23 unless:

24 (1) The reasons for the increased sentence affirmatively appear;

25 (2) The reasons are based upon additional objective information concerning
26 identifiable conduct on the part of the defendant; and

27 (3) The factual data upon which the increased sentence is based appears as
28 a part of the record.

29 (c) If a defendant who appeals FROM A CIVIL VEHICLE CASE OR from a
30 conviction in the District Court is convicted after a trial de novo on appeal, the appellate
31 court may impose a more severe sentence than that imposed in the District Court, but if
32 the case is one in which the defendant was denied a jury trial under § 4-302(e)(2) of this
33 article, the sentence may not be for more than 90 days except under the conditions
34 prescribed in subsection (b) of this section. Except as provided above, the appellate court
35 may impose any sentence authorized by law to be imposed as punishment for the offense.

36 **Article - Transportation**

37 11-107.1.

38 "CIVIL OFFENSE" MEANS A VIOLATION OF A PROVISION OF THE MARYLAND
39 VEHICLE LAW FOR WHICH A PERIOD OF INCARCERATION IS NOT PROVIDED.

12

1 11-110.

2 (b) "Conviction" does not include:

3 (1) [a] A finding of probation on a stay of entering judgment; OR

4 (2) A PLEA OF GUILTY OR NOLO CONTENDERE OR A FINDING OF GUILT
5 AS TO A CIVIL OFFENSE.

6 11-121.2.

7 "FINE" INCLUDES A PENALTY IMPOSED BY A COURT FOR A CIVIL OFFENSE.

8 16-117.

9 (b) (2) The Administration shall keep convenient records or make suitable
10 notations showing the convictions or traffic accidents in which each licensee has been
11 involved and every probation before judgment disposition of any violation of [§ 21-902
12 of] this article. A record or notation of a probation before judgment disposition, or a first
13 offense of driving with an alcohol concentration of 0.10 or more under § 16-205.1 of this
14 [article] TITLE, shall be segregated by the Administration and shall be available only to
15 the Administration, the courts, criminal justice agencies, and the defendant or his
16 attorney. However, a record or notation of a probation before judgment, or a first offense
17 of driving with an alcohol concentration of 0.10 or more under § 16-205.1 of this [article]
18 TITLE, may not be received or considered by the courts until a plea of guilty or nolo
19 contendere is made by the defendant or a finding of guilty is made by the court.

20 16-408.

21 (A) WHENEVER, DURING TWO CONSECUTIVE CALENDAR YEARS, AN
22 INDIVIDUAL LICENSED UNDER THIS TITLE HAS NOT HAD A SUSPENSION OR
23 REVOCATION OR A CONVICTION OF A TRAFFIC VIOLATION ON THE INDIVIDUAL'S
24 DRIVING RECORD, THE ADMINISTRATION SHALL AWARD THE INDIVIDUAL 1 SAFE
25 DRIVING POINT. HOWEVER, AN INDIVIDUAL MAY NOT ACCUMULATE MORE THAN 5
26 SAFE DRIVING POINTS.

27 (B) IF THE ADMINISTRATION RECEIVES A CONVICTION FOR AN OFFENSE
28 THAT OCCURRED DURING A PERIOD FOR WHICH A SAFE DRIVING POINT HAS BEEN
29 AWARDED, THE SAFE DRIVING POINT IS INVALIDATED.

30 (C) THE ADMINISTRATION SHALL APPLY SAFE DRIVING POINTS TO OFFSET
31 AN EQUAL NUMBER OF DEMERIT POINTS, IF ANY, BEGINNING WITH THE
32 CHRONOLOGICALLY EARLIER CONVICTION FOR WHICH DEMERIT POINTS HAVE
33 BEEN ASSESSED AND ARE STILL IN EFFECT.

34 26-201.

35 (c) A traffic citation issued to a person under this section shall contain:

36 (1) A notice to appear in court, including a notice that, if the offense is not
37 punishable by incarceration, the person may request a hearing regarding sentencing and
38 disposition in lieu of a trial as provided in § 26-204(b)(2) of this subtitle;

13

1 (e) A place specified in the notice to appear shall be before a judge of the District
2 Court, as specified in § 26-401 of this title, OR THE JUVENILE COURT, AS THE CASE
3 MAY BE.

4 26-202.

5 (a) A police officer may arrest without a warrant a person for a violation of the
6 Maryland Vehicle Law, including any rule or regulation adopted under it, or for a
7 violation of any traffic law or ordinance of any local authority of this State, if:

8 (1) The person has committed or is committing [the] A violation OF §
9 21-1411 OF THIS ARTICLE within the view or presence of the officer[, and the violation is
10 any of the following:

11 (i) A violation of § 21-1411 or § 22-409 of this article, relating to
12 vehicles transporting hazardous materials; or

13 (ii) A violation of § 24-111 or § 24-111.1 of this article, relating to the
14 failure or refusal to submit a vehicle to a weighing or to remove excess weight from it];

15 26-405.2.

16 (A) A STATE'S ATTORNEY MAY PROSECUTE A CIVIL OFFENSE AND MAY
17 ENTER A NOLLE PROSEQUI OR PLACE A CASE ON STET AS PROVIDED BY LAW FOR
18 CRIMINAL CASES.

19 (B) IN PROSECUTION OF A CIVIL OFFENSE IN A CIRCUIT COURT OR THE
20 DISTRICT COURT:

21 (1) THE STATE HAS THE BURDEN TO PROVE THE GUILT OF A
22 DEFENDANT TO THE SAME EXTENT AS IS REQUIRED BY LAW IN THE TRIAL OF A
23 CRIMINAL CHARGE;

24 (2) THE DISTRICT COURT SHALL ENSURE THAT THE DEFENDANT HAS
25 RECEIVED A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE
26 DEFENDANT UNDERSTANDS THE CHARGES;

27 (3) THE TRIAL COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS
28 PRESCRIBED BY RULE OR OTHER LAW FOR THE TRIAL OF CRIMINAL CASES;

29 (4) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY;

30 (5) THE DEFENDANT IS ENTITLED TO:

31 (I) BE REPRESENTED BY COUNSEL OF THE DEFENDANT'S CHOICE,
32 AT THE DEFENDANT'S EXPENSE;

33 (II) OFFER EVIDENCE;

34 (III) EXAMINE AND CROSS-EXAMINE WITNESSES; AND

35 (IV) TESTIFY IN THE DEFENDANT'S OWN BEHALF ONLY IF THE
36 DEFENDANT ELECTS TO DO SO.

14

1 27-101.

2 (a) (1) UNLESS THE PENALTY AUTHORIZED FOR A VIOLATION OF A
3 PROVISION OF THE MARYLAND VEHICLE LAW INCLUDES INCARCERATION, THE
4 VIOLATION IS A CIVIL OFFENSE, AND ANY FINE IMPOSED SHALL BE CONSIDERED A
5 CIVIL PENALTY.

6 (2) [It is a misdemeanor for any person to violate any of the provisions of
7 the Maryland Vehicle Law unless the] UNLESS A violation is declared to be a felony by
8 the Maryland Vehicle Law or [by any] other law of this State OR A PENALTY OF
9 INCARCERATION IS NOT AUTHORIZED, THE VIOLATION IS A MISDEMEANOR.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
11 construed only prospectively and may not be applied or interpreted to have any effect on
12 or application to any offenses that were committed before the effective date of this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 1996.