

EMERGENCY BILL

R3

6lr1400

By: Chairman, Judiciary Committee (Departmental - Transportation)

Introduced and read first time: February 14, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Driving While Intoxicated Per Se - Clarifications and Cross-References**

3 FOR the purpose of clarifying and making conforming changes to certain provisions of
4 law relating to the offense of driving while intoxicated per se; defining "intoxicated
5 per se" for purposes of the Maryland Vehicle Law; clarifying the authority of the
6 Motor Vehicle Administration to suspend and revoke drivers' licenses and assess
7 points for driving while intoxicated per se; clarifying that certain penalties apply to
8 a person convicted of driving while intoxicated per se; making this Act an
9 emergency measure; and generally relating to the offense of driving while
10 intoxicated per se.

11 BY renumbering

12 Article - Transportation

13 Section 11-127.1

14 to be Section 11-127.2

15 Annotated Code of Maryland

16 (1992 Replacement Volume and 1995 Supplement)

17 BY adding to

18 Article - Transportation

19 Section 11-127.1

20 Annotated Code of Maryland

21 (1992 Replacement Volume and 1995 Supplement)

22 BY repealing and reenacting, with amendments,

23 Article - Transportation

24 Section 16-205(a) and (c), 16-402(a)(30), 16-402.1(a), 21-902(a), and 27-101(k)

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 Section(s) 11-127.1 of Article - Transportation of the Annotated

29 Code of Maryland be renumbered to be Section(s) 11-127.2.

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1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article - Transportation**

4 11-127.1.

5 "INTOXICATED PER SE" MEANS HAVING AN ALCOHOL CONCENTRATION AT
6 THE TIME OF TESTING OF 0.10 OR MORE AS MEASURED BY GRAMS OF ALCOHOL PER
7 100 MILLILITERS OF BLOOD OR GRAMS OF ALCOHOL PER 210 LITERS OF BREATH.

8 16-205.

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

10 (1) Is convicted under § 21-902(a) or (d) of this article of driving or
11 attempting to drive a motor vehicle while intoxicated, WHILE INTOXICATED PER SE, or
12 while under the influence of a controlled dangerous substance; or

13 (2) Within a 3-year period, is convicted under § 21-902(b) or (c) of this
14 article of driving or attempting to drive a motor vehicle while under the influence of
15 alcohol or while so far under the influence of any drug, any combination of drugs, or a
16 combination of one or more drugs and alcohol that the person cannot drive a vehicle
17 safely and who was previously convicted of any combination of two or more violations
18 under:

19 (i) § 21-902(a) of this article of driving or attempting to drive a motor
20 vehicle while intoxicated OR WHILE INTOXICATED PER SE;

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

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

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

29 (c) The Administration may suspend for not more than 120 days the license of any
30 person who, within a 3-year period, is convicted under § 21-902(b) or (c) of this article of
31 driving or attempting to drive a motor vehicle while under the influence of alcohol or
32 while so far under the influence of any drug, any combination of drugs, or a combination
33 of one or more drugs and alcohol that the person cannot drive a motor vehicle safely and
34 who was previously convicted of a violation under:

35 (1) § 21-902(a) of this article of driving or attempting to drive a motor
36 vehicle while intoxicated OR WHILE INTOXICATED PER SE;

37 (2) § 21-902(b) of this article of driving or attempting to drive a motor
38 vehicle while under the influence of alcohol;

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1 (3) § 21-902(c) of this article of driving or attempting to drive a motor
2 vehicle while so far under the influence of any drug, any combination of drugs, or a
3 combination of one or more drugs and alcohol that the person cannot drive a motor
4 vehicle safely; or

5 (4) § 21-902(d) of this article of driving or attempting to drive a motor
6 vehicle while under the influence of a controlled dangerous substance.

7 16-402.

8 (a) After the conviction of an individual for a violation of Article 27, § 388 or §
9 388A of the Code, or of the vehicle laws or regulations of this State or of any local
10 authority, points shall be assessed against the individual as of the date of violation and as
11 follows:

12 (30) Driving while intoxicated, WHILE INTOXICATED PER SE, or while under
13 the influence of illegally used controlled dangerous substance.... 12 p
oints

14 16-402.1.

15 (a) When the Administration receives a notice of conviction from a party state to
16 the Driver License Compact under Subtitle 7 of this title, the Administration may not
17 assess points against an individual, except upon receipt of reports of the following
18 convictions:

19 (1) Manslaughter or negligent homicide resulting from the operation of a
20 motor vehicle;

21 (2) Driving a motor vehicle while under the influence of intoxicating liquor
22 or a narcotic drug, WHILE INTOXICATED PER SE, or WHILE under the influence of any
23 other drug to a degree which renders the driver incapable of safely driving a motor
24 vehicle;

25 (3) Any felony in the commission of which a motor vehicle is used; or

26 (4) Failure to stop and render aid in the event of a motor vehicle accident
27 resulting in the death or personal injury of another.

28 21-902.

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

30 (2) A person may not drive or attempt to drive any vehicle while the person
31 [has an alcohol concentration of 0.10 or more as measured by grams of alcohol per 100
32 milliliters of blood or grams of alcohol per 210 liters of breath as determined at the time
33 of testing] IS INTOXICATED PER SE.

34 27-101.

35 (k) (1) Except as provided in subsection (q) of this section, any person who is
36 convicted of a violation of any of the provisions of § 21-902(a) of this article ("Driving
37 while intoxicated OR INTOXICATED PER SE "):

38 (i) For a first offense, shall be subject to a fine of not more than
39 \$1,000, or imprisonment for not more than 1 year, or both;

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

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

5 (2) For the purpose of second or subsequent offender penalties for violation
6 of § 21-902(a) of this article provided under this subsection, a prior conviction of §
7 21-902(b), (c), or (d) of this article, within 5 years of the conviction for a violation of §
8 21-902(a) of this article, shall be considered a conviction of § 21-902(a) of this article.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
10 measure, is necessary for the immediate preservation of the public health and safety, has
11 been passed by a ye and nay vote supported by three-fifths of all the members elected to
12 each of the two Houses of the General Assembly, and shall take effect from the date it is
13 enacted.