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**By: Chairman, Judiciary Committee (Departmental - Transportation)**

Introduced and read first time: February 14, 1996

Assigned to: Judiciary

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Committee Report: Favorable

House action: Adopted

Read second time: March 18, 1996

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CHAPTER \_\_\_\_

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)

2

1 Annotated Code of Maryland  
2 (1992 Replacement Volume and 1995 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
4 MARYLAND, That Section(s) 11-127.1 of Article - Transportation of the Annotated  
5 Code of Maryland be renumbered to be Section(s) 11-127.2.

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

8 **Article - Transportation**

9 11-127.1.

10 "INTOXICATED PER SE" MEANS HAVING AN ALCOHOL CONCENTRATION AT  
11 THE TIME OF TESTING OF 0.10 OR MORE AS MEASURED BY GRAMS OF ALCOHOL PER  
12 100 MILLILITERS OF BLOOD OR GRAMS OF ALCOHOL PER 210 LITERS OF BREATH.

13 16-205.

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

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

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

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

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

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

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

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

3

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

3 (2) § 21-902(b) of this article of driving or attempting to drive a motor  
4 vehicle while under the influence of alcohol;

5 (3) § 21-902(c) of this article of driving or attempting to drive a motor  
6 vehicle while so far under the influence of any drug, any combination of drugs, or a  
7 combination of one or more drugs and alcohol that the person cannot drive a motor  
8 vehicle safely; or

9 (4) § 21-902(d) of this article of driving or attempting to drive a motor  
10 vehicle while under the influence of a controlled dangerous substance.

11 16-402.

12 (a) After the conviction of an individual for a violation of Article 27, § 388 or §  
13 388A of the Code, or of the vehicle laws or regulations of this State or of any local  
14 authority, points shall be assessed against the individual as of the date of violation and as  
15 follows:

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

18 16-402.1.

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

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

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

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

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

32 21-902.

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

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

4

1 27-101.

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

5 (i) For a first offense, shall be subject to a fine of not more than  
6 \$1,000, or imprisonment for not more than 1 year, or both;

7 (ii) For a second offense, shall be subject to a fine of not more than  
8 \$2,000, or imprisonment for not more than 2 years, or both; and

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

11 (2) For the purpose of second or subsequent offender penalties for violation  
12 of § 21-902(a) of this article provided under this subsection, a prior conviction of §  
13 21-902(b), (c), or (d) of this article, within 5 years of the conviction for a violation of §  
14 21-902(a) of this article, shall be considered a conviction of § 21-902(a) of this article.

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