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Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

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CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws - Driving While License Suspended or Revoked for Alcohol and Drug**

3 **Related Driving Offenses - Vehicle Impoundment or Immobilization**

4 FOR the purpose of ~~requiring a court~~ allowing a court, as a sentence, a part of a sentence,
5 or a condition of probation, to order the impoundment or immobilization of a
6 vehicle driven by the vehicle's owner while the owner's license was suspended or
7 revoked for certain alcohol or drug related driving offenses under certain
8 circumstances; providing for the length of the impoundment or immobilization
9 period; providing for the consideration of factors by the court in making a
10 determination whether to order an impoundment or immobilization of a vehicle
11 under this Act; allowing a court to require a bond or other security equal to certain
12 costs; requiring the vehicle's registered owner who drove the vehicle while the
13 owner's license was suspended or revoked for certain offenses to pay ~~at~~
14 ~~impoundment and storage or immobilization~~ certain costs; requiring the ~~person in~~
15 ~~possession~~ police department with custody of a vehicle impounded or immobilized
16 under this Act to return the vehicle or restore use of the vehicle to the registered
17 owner under certain circumstances; ~~authorizing a court to decline to order an~~
18 ~~impoundment or immobilization under certain circumstances;~~ requiring certain
19 notice to certain persons if a police department takes a vehicle into custody under
20 this Act; providing for the contents of a certain notice; providing for the rights and
21 duties of a lienholder of a vehicle impounded or immobilized under this Act;
22 providing that, if a vehicle taken into custody is not reclaimed, the vehicle shall be
23 considered an abandoned vehicle under certain circumstances; altering a certain
24 definition of the term "abandoned vehicle" to include an unclaimed vehicle taken
25 into custody under this Act under certain circumstances; defining a certain term;
26 providing for the construction of this Act; making provisions of this Act severable;

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1 and generally relating to the court-ordered impoundment or immobilization of
2 vehicles ~~used in the commission of certain alcohol and drug related driving offenses~~
3 under certain circumstances.

4 BY repealing and reenacting, without amendments,
5 Article - Transportation
6 Section 16-205 and 16-303(c) and (d)
7 Annotated Code of Maryland
8 (1992 Replacement Volume and 1996 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article - Transportation
11 Section 25-201(b)(8) and (9)
12 Annotated Code of Maryland
13 (1992 Replacement Volume and 1996 Supplement)

14 BY adding to
15 Article - Transportation
16 Section 25-201(b)(10) and 27-111
17 Annotated Code of Maryland
18 (1992 Replacement Volume and 1996 Supplement)

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

21 **Article - Transportation**

22 16-205.

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

24 (1) Is convicted under § 21-902(a) or (d) of this article of driving or
25 attempting to drive a motor vehicle while intoxicated, while intoxicated per se, or while
26 under the influence of a controlled dangerous substance; or

27 (2) Within a 3-year period, is convicted under § 21-902(b) or (c) of this
28 article of driving or attempting to drive a motor vehicle while under the influence of
29 alcohol or 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 and who was previously convicted of any combination of two or more violations
32 under:

33 (i) § 21-902(a) of this article of driving or attempting to drive a motor
34 vehicle while intoxicated or while intoxicated per se;

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

37 (iii) § 21-902(c) of this article of driving or attempting to drive a motor
38 vehicle while so far under the influence of any drug, any combination of drugs, or a

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1 combination of one or more drugs and alcohol that the person cannot drive a vehicle
2 safely; or

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

5 (b) The Administration may suspend for not more than 60 days the license of any
6 person who is convicted under § 21-902(b) or (c) of this article of driving or attempting to
7 drive a motor vehicle while under the influence of alcohol or while so far under the
8 influence of any drug, any combination of drugs, or a combination of one or more drugs
9 and alcohol that the person cannot drive a vehicle safely.

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

16 (1) § 21-902(a) of this article of driving or attempting to drive a motor
17 vehicle while intoxicated or while intoxicated per se;

18 (2) § 21-902(b) of this article of driving or attempting to drive a motor
19 vehicle while under the influence of alcohol;

20 (3) § 21-902(c) of this article of driving or attempting to drive a motor
21 vehicle while so far under the influence of any drug, any combination of drugs, or a
22 combination of one or more drugs and alcohol that the person cannot drive a motor
23 vehicle safely; or

24 (4) § 21-902(d) of this article of driving or attempting to drive a motor
25 vehicle while under the influence of a controlled dangerous substance.

26 (d) When a suspension imposed under subsections (b) and (c) of this section
27 expires, the Administration immediately shall return the license or reinstate the privilege
28 of the driver, unless the license or privilege has been refused, revoked, suspended, or
29 canceled under any other provisions of the Maryland Vehicle Law.

30 16-303.

31 (c) A person may not drive a motor vehicle on any highway or on any property
32 specified in § 21-101.1 of this article while the person's license or privilege to drive is
33 suspended in this State.

34 (d) A person may not drive a motor vehicle on any highway or on any property
35 specified in § 21-101.1 of this article while the person's license or privilege to drive is
36 revoked in this State.

37 25-201.

38 (b) "Abandoned vehicle" means any motor vehicle, trailer, or semitrailer:

39 (8) That has been left unattended on any portion of a "controlled access
40 highway" as defined in § 8-101(f) of this article for more than 24 hours; [or]

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1 (9) That has been left unattended on any portion of a primary or secondary
2 highway or controlled access highway, as defined in § 8-101 of this article, and is in
3 violation of any of the provisions of § 22-408 of this article; OR

4 (10) THAT IS NOT RECLAIMED AS PROVIDED UNDER § 27-111 OF THIS
5 ARTICLE.

6 27-111.

7 (A) IN THIS SECTION, "POLICE DEPARTMENT" HAS THE SAME MEANING
8 INDICATED IN § 25-201 OF THIS ARTICLE.

9 (B) (1) FOR THE PURPOSE OF IMPOUNDING OR IMMOBILIZING A VEHICLE
10 UNDER THIS SECTION, THE POLICE DEPARTMENT MAY USE ITS OWN PERSONNEL,
11 EQUIPMENT, AND FACILITIES OR, SUBJECT TO THE PROVISIONS OF PARAGRAPH (2)
12 OF THIS SUBSECTION, USE OTHER PERSONS, EQUIPMENT, AND FACILITIES FOR
13 IMMOBILIZING VEHICLES OR REMOVING, PRESERVING, AND STORING IMPOUNDED
14 VEHICLES.

15 (2) A POLICE DEPARTMENT MAY NOT AUTHORIZE THE USE OF A TOW
16 TRUCK UNDER PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE TOW TRUCK IS
17 REGISTERED UNDER § 13-920 OF THIS ARTICLE.

18 ~~(A) (C) (1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, AS~~
19 ~~A SENTENCE, A PART OF A SENTENCE, OR A CONDITION OF PROBATION, A COURT~~
20 ~~SHALL ORDER MAY ORDER, FOR NOT MORE THAN 180 DAYS, THE IMPOUNDMENT OR~~
21 ~~IMMOBILIZATION OF A SOLELY OWNED VEHICLE USED IN THE COMMISSION OF A~~
22 ~~VIOLATION OF § 16-303 (C) OR (D) OF THIS ARTICLE IF, AT THE TIME OF THE~~
23 ~~VIOLATION:~~

24 ~~(1) THE OWNER OF THE VEHICLE WAS DRIVING THE VEHICLE;~~
25 ~~AND~~

26 ~~(2) THE OWNER'S LICENSE WAS UNDER SUSPENSION OR~~
27 ~~REVOCATION SUSPENDED OR REVOKED UNDER § 16-205 OF THIS ARTICLE.~~

28 (2) AMONG THE FACTORS THAT A COURT MAY CONSIDER IN
29 DETERMINING WHETHER TO ORDER AN IMPOUNDMENT OR IMMOBILIZATION OF A
30 VEHICLE IS WHETHER THE VEHICLE IS THE PRIMARY MEANS OF TRANSPORTATION
31 AVAILABLE FOR THE USE OF THE INDIVIDUAL'S IMMEDIATE FAMILY.

32 (3) (I) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (II) OF THIS
33 PARAGRAPH, IMPOUNDMENT OR IMMOBILIZATION OF A VEHICLE MAY NOT BE
34 ORDERED UNDER THIS SECTION, IF THE REGISTERED OWNER OF THE VEHICLE
35 MADE A BONA FIDE SALE, GIFT, OR OTHER TRANSFER OF THE VEHICLE TO
36 ANOTHER PERSON BEFORE THE DATE OF THE FINDING OF A VIOLATION OF §
37 16-303(C) OR (D) OF THIS ARTICLE.

38 (II) THE REGISTERED OWNER OF THE VEHICLE HAS THE BURDEN
39 OF PROVING THAT A BONA FIDE SALE, GIFT, OR OTHER TRANSFER OF THE VEHICLE
40 HAS OCCURRED.

~~(B) (1) A VEHICLE IMPOUNDED OR IMMOBILIZED UNDER THIS SECTION SHALL REMAIN IMPOUNDED OR IMMOBILIZED AS LONG AS THE DRIVER'S LICENSE OF THE OWNER IS SUSPENDED OR REVOKED.~~

~~(2) (D) (1) THE REGISTERED OWNER OF A VEHICLE IMPOUNDED OR IMMOBILIZED UNDER THIS SECTION IS RESPONSIBLE FOR ALL ACTUAL COSTS INCURRED AS A RESULT OF THE IMPOUNDMENT AND STORAGE OR IMMOBILIZATION OF THE VEHICLE, OR THE TOWING, PRESERVING, AND STORING OF THE IMPOUNDED VEHICLE.~~

~~(2) THE COURT MAY REQUIRE THE REGISTERED OWNER OF A VEHICLE IMPOUNDED OR IMMOBILIZED UNDER THIS SECTION TO POST A BOND OR OTHER ADEQUATE SECURITY TO EQUAL THE ACTUAL COSTS OF IMMOBILIZING THE VEHICLE, OR TOWING, PRESERVING, AND STORING THE VEHICLE, AND PROVIDING THE NOTICES REQUIRED UNDER SUBSECTION (F) OF THIS SECTION.~~

~~(3) A PERSON IN POSSESSION OF A VEHICLE IMPOUNDED OR IMMOBILIZED SUBJECT TO THE PROVISIONS OF THIS SECTION, A POLICE DEPARTMENT THAT IMPOUNDS A VEHICLE BY TAKING THE VEHICLE INTO CUSTODY OR IMMOBILIZES A VEHICLE UNDER THIS SECTION PROMPTLY SHALL RETURN POSSESSION OR USE OF THE VEHICLE TO THE REGISTERED OWNER OF THE VEHICLE ON:~~

~~(i) PRESENTATION BY THE REGISTERED OWNER OF A VALID DRIVER'S LICENSE ISSUED TO THE REGISTERED OWNER BY THE ADMINISTRATION; AND~~

~~(ii) PAYMENT OF ALL IMPOUNDMENT AND STORAGE OR IMMOBILIZATION CHARGES PAYMENT OF ALL ACTUAL COSTS OF IMMOBILIZING THE VEHICLE, OR TOWING, PRESERVING, AND STORING THE IMPOUNDED VEHICLE, AND PROVIDING THE NOTICES REQUIRED UNDER SUBSECTION (F) OF THIS SECTION.~~

~~(E) IF A COURT ORDERS THE IMPOUNDMENT OR IMMOBILIZATION OF A VEHICLE UNDER THIS SECTION, THE COURT SHALL PROVIDE FOR THE EXECUTION OF THE IMPOUNDMENT OR IMMOBILIZATION BY A POLICE DEPARTMENT:~~

~~(1) A LOCAL POLICE DEPARTMENT;~~

~~(2) A TOWING OR STORAGE COMPANY; OR,~~

~~(3) ANOTHER PERSON CONSIDERED QUALIFIED BY THE COURT.~~

~~(F) (1) IF A COURT ORDERS THE IMPOUNDMENT OR IMMOBILIZATION OF A VEHICLE UNDER THIS SECTION, THE POLICE DEPARTMENT THAT EXECUTES THE IMMOBILIZATION, OR THE IMPOUNDMENT BY TAKING THE VEHICLE INTO CUSTODY, SHALL, AS SOON AS REASONABLY POSSIBLE AND WITHIN 7 DAYS AFTER THE POLICE DEPARTMENT EXECUTES THE COURT ORDER, SEND A NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES POSTAL SERVICE, TO:~~

~~(i) EACH REGISTERED OWNER OF THE VEHICLE AS SHOWN IN THE RECORDS OF THE ADMINISTRATION; AND~~

1 (II) EACH SECURED PARTY, AS SHOWN IN THE RECORDS OF THE
2 ADMINISTRATION.

3 (2) THE NOTICE SHALL:

4 (I) STATE THAT THE VEHICLE HAS BEEN IMMOBILIZED, OR
5 IMPOUNDED BY BEING TAKEN INTO CUSTODY;

6 (II) DESCRIBE THE YEAR, MAKE, MODEL, AND VEHICLE
7 IDENTIFICATION NUMBER OF THE VEHICLE;

8 (III) PROVIDE THE LOCATION OF WHERE THE VEHICLE IS
9 IMMOBILIZED OR THE LOCATION OF THE FACILITY WHERE THE VEHICLE IS
10 IMPOUNDED;

11 (IV) INCLUDE THE AMOUNT OF THE ACTUAL COSTS OF
12 IMMOBILIZATION, OR TOWING, PRESERVATION, AND STORAGE OF AN IMPOUNDED
13 VEHICLE;

14 (V) INCLUDE THE AMOUNT OF THE ACTUAL COSTS OF THE
15 NOTICES REQUIRED UNDER THIS PARAGRAPH; AND

16 (VI) PROVIDE THAT, IF AN IMPOUNDED VEHICLE IS NOT
17 RECLAIMED AS REQUIRED UNDER THIS SUBSECTION, WITHIN 10 DAYS AFTER THE
18 DATE SPECIFIED IN THE COURT ORDER, THE IMPOUNDED VEHICLE WILL BE
19 CONSIDERED AN ABANDONED VEHICLE AND SUBJECT TO THE PROVISIONS OF TITLE
20 25, SUBTITLE 2 OF THIS ARTICLE.

21 (3) IF AN IMPOUNDED VEHICLE IS NOT RECLAIMED WITHIN 10 DAYS
22 AFTER THE DATE SPECIFIED IN A COURT ORDER UNDER THIS SECTION, THE
23 VEHICLE SHALL BE CONSIDERED AN ABANDONED VEHICLE SUBJECT TO THE
24 PROVISIONS OF TITLE 25, SUBTITLE 2 OF THIS ARTICLE.

25 (G) (1) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT A
26 LIENHOLDER FROM EXERCISING ITS RIGHTS UNDER APPLICABLE LAW, INCLUDING
27 THE RIGHT TO SELL A VEHICLE THAT HAS BEEN IMPOUNDED OR IMMOBILIZED
28 UNDER THIS SECTION, IN THE EVENT OF A DEFAULT IN THE OBLIGATION GIVING
29 RISE TO THE LIEN.

30 (2) (I) A LIENHOLDER EXERCISING THE RIGHT TO SELL A VEHICLE
31 THAT HAS BEEN IMPOUNDED OR IMMOBILIZED UNDER THIS SECTION SHALL
32 NOTIFY, IN WRITING, THE POLICE DEPARTMENT WITH CUSTODY OF THE VEHICLE
33 OF THE LIENHOLDER'S INTENTION TO SELL THE VEHICLE.

34 (II) THE NOTICE SHALL BE ACCOMPANIED BY COPIES OF
35 DOCUMENTS GIVING RISE TO THE LIEN AND SHALL INCLUDE AN AFFIDAVIT UNDER
36 OATH BY THE LIENHOLDER THAT THE UNDERLYING OBLIGATION IS IN DEFAULT
37 AND THE REASONS FOR THE DEFAULT.

38 (III) ON REQUEST OF THE LIENHOLDER AND ON PAYMENT OF ALL
39 COSTS REQUIRED UNDER THIS SECTION, THE VEHICLE SHALL BE RELEASED TO THE
40 LIENHOLDER.

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1 (3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THE
2 RIGHTS AND DUTIES PROVIDED BY LAW TO THE LIENHOLDER FOR THE SALE OF
3 COLLATERAL SECURING AN OBLIGATION IN DEFAULT SHALL GOVERN THE
4 REPOSSESSION AND SALE OF THE VEHICLE.

5 (4) (I) THE LIENHOLDER MAY NOT BE REQUIRED TO TAKE
6 POSSESSION OF THE VEHICLE BEFORE A SALE OF THE VEHICLE.

7 (II) THE PROCEEDS OF ANY SALE SHALL BE APPLIED FIRST TO THE
8 ACTUAL COSTS OF IMMOBILIZATION, OR TOWING, PRESERVATION, AND STORAGE
9 OF AN IMPOUNDED VEHICLE, AND THE ACTUAL COSTS OF THE NOTICES REQUIRED
10 UNDER SUBSECTION (F) OF THIS SECTION, THEN AS PROVIDED BY LAW FOR
11 DISTRIBUTION OF PROCEEDS OF A SALE BY THE LIENHOLDER.

12 (5) (I) IF THE INTEREST OF THE OWNER IN THE VEHICLE IS
13 REDEEMED, THE LIENHOLDER SHALL, WITHIN 10 DAYS AFTER THE REDEMPTION,
14 MAIL A NOTICE OF THE REDEMPTION TO THE PERSON WHO IMPOUNDED OR
15 IMMOBILIZED THE VEHICLE.

16 (II) IF THE VEHICLE HAS BEEN REPOSSESSED OR OTHERWISE
17 LAWFULLY TAKEN BY THE LIENHOLDER AND THE TIME SPECIFIED BY A COURT
18 ORDER UNDER THIS SECTION HAS NOT EXPIRED, THE LIENHOLDER SHALL RETURN
19 THE VEHICLE WITHIN 21 DAYS AFTER THE REDEMPTION TO THE POLICE
20 DEPARTMENT WHO IMPOUNDED OR IMMOBILIZED THE VEHICLE.

21 ~~(D) A COURT MAY DECLINE TO ORDER THE IMPOUNDMENT OR~~
22 ~~IMMOBILIZATION UNDER THIS SECTION OF A VEHICLE OWNED BY AN INDIVIDUAL~~
23 ~~WHOSE DRIVER'S LICENSE WAS REVOKED OR SUSPENDED UNDER § 16-205 OF THIS~~
24 ~~ARTICLE IF:~~

25 ~~(1) THE VEHICLE IS JOINTLY OWNED BY THE INDIVIDUAL AND THE~~
26 ~~INDIVIDUAL'S SPOUSE; AND~~

27 ~~(2) THE COURT DETERMINES THAT THE VEHICLE IS THE PRIMARY~~
28 ~~MEANS OF TRANSPORTATION AVAILABLE FOR THE USE OF THE INDIVIDUAL'S~~
29 ~~IMMEDIATE FAMILY.~~

30 (H) THIS SECTION DOES NOT AFFECT THE REQUIREMENTS OF TITLE 25,
31 SUBTITLE 2 OF THIS ARTICLE REGARDING ABANDONED VEHICLES.

32 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this Act
33 or the application thereof to any person or circumstance is held invalid for any reason in
34 a court of competent jurisdiction, the invalidity does not affect other provisions or any
35 other application of this Act which can be given effect without the invalid provision or
36 application, and for this purpose the provisions of this Act are declared severable.

37 SECTION 2- 3, AND BE IT FURTHER ENACTED, That this Act shall take effect
38 October 1, 1997.

