

CF SB 286

By: Chairman, Judiciary Committee (Maryland Judicial Conference)

Introduced and read first time: February 5, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Offenses - Incarcerable and Nonincarcerable Offenses**

3 FOR the purpose of decriminalizing certain motor vehicle offenses; prohibiting a court
4 from imposing a probation before judgment in a case involving a civil vehicle
5 offense; providing for the respective jurisdictions of a circuit court and the District
6 Court, including a court that is sitting as a juvenile court; establishing certain rules
7 governing venue in a civil vehicle case; expanding certain provisions relating to fees,
8 costs, fines, and appeals to make them applicable to civil vehicle cases; making a
9 provision relating to the admissibility of certain records applicable to a civil vehicle
10 case; expanding a provision that requires the Motor Vehicle Administration to keep
11 certain records of any probation before judgment that is imposed for a drunk or
12 drugged driving offense to make this provision applicable to any probation before
13 judgment that is imposed for any motor vehicle violation; repealing a provision that
14 allows a police officer to arrest a person without a warrant if the person is violating
15 certain provisions relating to hazardous materials and vehicle weights; authorizing a
16 State's Attorney to prosecute a civil vehicle offense and to enter a nolle prosequi or
17 place a case on stet as provided by law for criminal cases; establishing certain
18 procedures governing the trial of a civil vehicle case; providing that a motor vehicle
19 violation that is not punishable by imprisonment is considered a civil violation;
20 providing for the application of the Act; providing that implementation of a part of
21 the Act may be delayed under certain circumstances; and generally relating to
22 motor vehicle offenses.

23 BY renumbering

24 Article 27 - Crimes and Punishments

25 Section 641(a)(5)

26 to be Section 641(a)(6)

27 Annotated Code of Maryland

28 (1996 Replacement Volume)

29 BY adding to

30 Article 27 - Crimes and Punishments

31 Section 641(a)(5)

32 Annotated Code of Maryland

33 (1996 Replacement Volume)

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1 BY repealing and reenacting, without amendments,
2 Article - Courts and Judicial Proceedings
3 Section 3-804(f), 10-302, 12-101(a), and 12-302(a)
4 Annotated Code of Maryland
5 (1995 Replacement Volume and 1996 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Courts and Judicial Proceedings
8 Section 4-101, 4-303, 4-401, 5-106(a), 7-203, 7-204(a)(3), 7-206, 7-301, 7-405,
9 10-306(a)(1)(i), 12-101(e) and (f), 12-301, 12-302(c), 12-401(a), (b), (d), and
10 (f), 12-404, and 12-702(c)
11 Annotated Code of Maryland
12 (1995 Replacement Volume and 1996 Supplement)

13 BY adding to
14 Article - Courts and Judicial Proceedings
15 Section 6-203(f) and 12-101(f)
16 Annotated Code of Maryland
17 (1995 Replacement Volume and 1996 Supplement)

18 BY adding to
19 Article - Transportation
20 Section 11-107.1, 11-121.2, and 26-406
21 Annotated Code of Maryland
22 (1992 Replacement Volume and 1996 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article - Transportation
25 Section 11-110, 16-117(b)(2), 26-202(a)(1), and 27-101(a)
26 Annotated Code of Maryland
27 (1992 Replacement Volume and 1996 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
29 MARYLAND, That Section(s) 641(a)(5) of Article 27 - Crimes and Punishments of the
30 Annotated Code of Maryland be renumbered to be Section(s) 641(a)(6).

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

33 **Article 27 - Crimes and Punishments**

34 641.

35 (A) (5) (I) IN THIS PARAGRAPH, "CIVIL OFFENSE" HAS THE MEANING
36 STATED IN § 11-107.1 OF THE TRANSPORTATION ARTICLE.

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1 (II) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A
2 COURT MAY NOT STAY THE ENTERING OF JUDGMENT AND PLACE A PERSON ON
3 PROBATION FOR A CIVIL OFFENSE.

4 **Article - Courts and Judicial Proceedings**

5 3-804.

6 (f) If the child is charged with two or more violations of the Maryland Vehicle
7 Law, another traffic law or ordinance, or the State Boat Act, allegedly arising out of the
8 same incident and which would result in the child being brought before both the court
9 and a court exercising criminal jurisdiction, the court has exclusive jurisdiction over all of
10 the charges.

11 4-101.

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

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

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

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

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

20 (II) [a] A violation of [a] ANY OTHER law, rule, or regulation if a
21 fine or imprisonment may be imposed.

22 4-303.

23 (A) The District Court has jurisdiction over a person who is brought before a court
24 sitting as a juvenile court if:

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

27 (2) The offense charged is within the jurisdiction conferred by § 4-301.

28 (B) A COURT EXERCISING CRIMINAL JURISDICTION HAS EXCLUSIVE
29 JURISDICTION OVER ALL VIOLATIONS OF THE MARYLAND VEHICLE LAW
30 ALLEGEDLY ARISING OUT OF THE SAME INCIDENT, WHETHER CIVIL OR CRIMINAL
31 OFFENSES.

32 4-401.

33 Except as provided in [§ 4-402 of this subtitle] § 3-804(F), 4-303(B), AND 4-402 OF
34 THIS ARTICLE, and subject to the venue provisions of Title 6 of this article, the District
35 Court has exclusive original civil jurisdiction in:

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1 (1) An action in contract or tort, if the debt or damages claimed do not
2 exceed \$20,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's
3 fees if attorney's fees are recoverable by law or contract;

4 (2) An action of replevin, regardless of the value of the thing in controversy;

5 (3) A matter of attachment before judgment, if the sum claimed does not
6 exceed \$20,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's
7 fees if attorney's fees are recoverable by law or contract;

8 (4) An action involving landlord and tenant, distraint, or forcible entry and
9 detainer, regardless of the amount involved;

10 (5) A grantee suit brought under § 14-109 of the Real Property Article;

11 (6) A petition for injunction relating to the use, disposition, encumbrances,
12 or preservation of property that is:

13 (i) Claimed in a replevin action, until seizure under the writ; or

14 (ii) Sought to be levied upon in an action of distress, until levy and any
15 removal;

16 (7) A petition of injunction filed by:

17 (i) A tenant in an action under § 8-211 of the Real Property Article
18 or a local rent escrow law; or

19 (ii) A person who brings an action under § 14-120 of the Real
20 Property Article;

21 (8) A petition filed by a county or municipality, including Baltimore City, for
22 enforcement of local health, housing, fire, building, electric, licenses and permits,
23 plumbing, animal control, and zoning codes for which equitable relief is provided;

24 (9) Proceedings under Article 27, § 264 or § 297 of the Code for the
25 forfeiture or return of moneys involved in a gambling or controlled dangerous substances
26 seizure where the amount involved, excluding any interest and attorney's fees, if
27 attorney's fees are recoverable by law or contract, does not exceed \$20,000;

28 (10) A proceeding for adjudication of:

29 (i) A municipal infraction as defined in Article 23A, § 3(b)(1) of the
30 Code;

31 (ii) A Commission infraction as defined in Article 28, § 5-113 of the
32 Code;

33 (iii) A WSSC infraction as defined in Article 29, § 18-104.1 of the
34 Code, concerning rules and regulations governing publicly owned watershed property;

35 (iv) A WSSC infraction as defined in Article 29, § 18-104.2 of the
36 Code, concerning WSSC regulations governing:

37 1. Erosion and sediment control for utility construction; and

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1 2. Plumbing, gasfitting, and sewer cleaning;

2 (v) A zoning violation for which a civil penalty has been provided
3 pursuant to Article 66B, § 7.01 or Article 28, § 8-120(c) of the Code;

4 (vi) A violation of an ordinance enacted:

5 1. By a charter county for which a civil penalty is provided
6 under Article 25A, § 5(A) of the Code; or

7 2. By the Mayor and City Council of Baltimore for which a civil
8 penalty is provided by ordinance;

9 (vii) A citation for a Code violation issued under Article 27, § 403 of the
10 Code;

11 (viii) A violation of an ordinance or regulation enacted by a county
12 without home rule, under authority granted under Article 25 of the Code, or any
13 provision of the Code of Public Local Laws for that county, for which a civil penalty is
14 provided; [or]

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

17 (X) A CIVIL OFFENSE;

18 (11) A proceeding for adjudication of a civil penalty for any violation under §
19 5-1001 of the Environment Article of the Code or under § 2-101(c-1) of Article 41 of the
20 Code or any rule or regulation issued pursuant to those sections; and

21 (12) A proceeding to enforce a civil penalty assessed by the Maryland
22 Division of Labor and Industry under Title 5 of the Labor and Employment Article where
23 the amount involved does not exceed \$20,000.

24 5-106.

25 (a) (1) IN THIS SUBSECTION, "CIVIL OFFENSE" HAS THE MEANING STATED
26 IN § 11-107.1 OF THE TRANSPORTATION ARTICLE.

27 (2) Except as provided by this section, a prosecution for a misdemeanor OR
28 CIVIL OFFENSE shall be instituted within one year after the offense was committed.

29 6-203.

30 (F) (1) IN THIS SUBSECTION, "CIVIL OFFENSE" HAS THE MEANING STATED
31 IN § 11-107.1 OF THE TRANSPORTATION ARTICLE.

32 (2) VENUE FOR PROSECUTION OF A CIVIL OFFENSE SHALL BE
33 GOVERNED BY § 26-401 OF THE TRANSPORTATION ARTICLE.

34 7-203.

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

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

3 (3) "NOT GUILTY" does not include a finding of probation before judgment
4 under Article 27, § 641 of the Code.

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

9 (2) The clerk of a circuit court may not charge a defendant WHO IS FOUND
10 NOT GUILTY with the costs of [a]:

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

12 (II) THE criminal proceeding [in which the defendant is found not
13 guilty].

14 7-204.

15 (a) (3) (I) IN THIS PARAGRAPH, "CIVIL OFFENSE" HAS THE MEANING
16 STATED IN § 11-107.1 OF THE TRANSPORTATION ARTICLE.

17 (II) The Clerk of the Circuit Court for St. Mary's County shall collect,
18 in advance, a \$10 fee for docketing the appearance of counsel when bringing or defending
19 a civil action in the court, OTHER THAN A PROSECUTION OF A CIVIL OFFENSE.

20 7-206.

21 (a) IN THIS SECTION, "CIVIL OFFENSE" HAS THE MEANING STATED IN §
22 11-107.1 OF THE TRANSPORTATION ARTICLE.

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

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

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

36 7-301.

37 (a) The court costs in a CIVIL OR CRIMINAL traffic case, including parking and
38 impounding cases in which costs are imposed, are \$20. Such costs shall also be applicable
39 to those cases in which the defendant elects to waive his right to trial and pay the fine or

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

9 (b) [(1)] The court costs in a criminal case in which costs are imposed are \$20.

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

12 (c) (1) The filing fees and costs in a civil case are those prescribed by law
13 subject to modification by law, rule, or administrative regulation.

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

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

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

26 [(f)] (G) The Comptroller shall annually pay from the court costs collected by the
27 District Court under [subsection] SUBSECTIONS (a) and [(b)(1)] (B) of this section:

28 (1) \$500,000 into the Criminal Injuries Compensation Fund established
29 under Article 27, § 831 of the Code; and

30 (2) \$125,000 into the Victim and Witness Protection and Relocation
31 Program established under Article 27, § 836 of the Code.

32 7-405.

33 The District Court or a circuit court [in a criminal case] may not waive any court
34 costs imposed under Article 27, § 830 of the Code unless the defendant establishes
35 indigency as provided in the Maryland Rules.

36 10-302.

37 In a prosecution for a violation of a law concerning a person who is driving or
38 attempting to drive a vehicle in violation of § 16-113, § 16-813, or § 21-902 of the
39 Transportation Article, or in violation of Article 27, § 388, § 388A, or § 388B of the Code,
40 a test of the person's breath or blood may be administered for the purpose of determining

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1 alcohol concentration and a test or tests of 1 specimen of the person's blood may be
2 administered for the purpose of determining the drug or controlled dangerous substance
3 content of the person's blood.

4 10-306.

5 (a) (1) (i) Subject to the provisions of paragraph (2) of this subsection, in
6 [any criminal trial in which] A CIVIL PROSECUTION FOR a violation of §
7 16-113(a)(2)[,] OR § 16-813[,] OF THE TRANSPORTATION ARTICLE or A CRIMINAL
8 TRIAL IN WHICH A VIOLATION OF § 21-902 of the Transportation Article[, or a
9 violation] OR of Article 27, § 388, § 388A, or § 388B of the Code is charged or is an issue,
10 a copy of a report of the results of a test of breath or blood to determine alcohol
11 concentration signed by the technician or analyst who performed the test, is admissible as
12 substantive evidence without the presence or testimony of the technician or analyst who
13 performed the test.

14 12-101.

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

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

18 (F) "CIVIL VEHICLE CASE" MEANS PROSECUTION OF A CIVIL OFFENSE IN A
19 COURT EXERCISING CIVIL JURISDICTION.

20 (G) "Criminal action", "criminal case", "criminal cause", or "criminal proceeding"
21 includes a case BEFORE A COURT EXERCISING CRIMINAL JURISDICTION charging
22 violation of:

23 (1) [motor] MOTOR vehicle or traffic laws [and a case charging violation
24 of]; OR

25 (2) [a] A rule or regulation if a criminal penalty may be incurred.

26 [(f)] (H) "Final judgment" means a judgment, decree, sentence, order,
27 determination, decision, or other action by a court, including an orphans' court, from
28 which an appeal, application for leave to appeal, or petition for certiorari may be taken.

29 12-301.

30 Except as provided in § 12-302 of this subtitle, a party may appeal from a final
31 judgment entered in a civil or criminal case by a circuit court. The right of appeal exists
32 from a final judgment entered by a court in the exercise of original, special, limited,
33 statutory jurisdiction, unless in a particular case the right of appeal is expressly denied by
34 law. In a criminal case OR CIVIL VEHICLE CASE, the defendant may appeal even though
35 imposition or execution of sentence has been suspended. In a civil case, a plaintiff who
36 has accepted a remittitur may cross-appeal from the final judgment.

37 12-302.

38 (a) Unless a right to appeal is expressly granted by law, § 12-301 does not permit
39 an appeal from a final judgment of a court entered or made in the exercise of appellate

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1 jurisdiction in reviewing the decision of the District Court, an administrative agency, or a
2 local legislative body.

3 (c) (1) In a criminal case OR CIVIL VEHICLE CASE, the State may appeal as
4 provided in this subsection.

5 [(1)] (2) The State may appeal from a final judgment granting a motion to
6 dismiss or quashing or dismissing any indictment, information, presentment, or
7 inquisition.

8 [(2)] (3) The State may appeal from a final judgment if the State alleges
9 that the trial judge failed to impose the sentence specifically mandated by the Code.

10 [(3)] (4) (i) In a case involving a crime of violence as defined in § 643B of
11 Article 27, and in cases under §§ 286 and 286A of Article 27, the State may appeal from
12 a decision of a trial court that excludes evidence offered by the State or requires the
13 return of property alleged to have been seized in violation of the Constitution of the
14 United States, the Constitution of Maryland, or the Maryland Declaration of Rights.

15 (ii) The appeal shall be made before jeopardy attaches to the
16 defendant. However, in all cases the appeal shall be taken no more than 15 days after the
17 decision has been rendered and shall be diligently prosecuted.

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

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

29 (v) Pending the prosecution and determination of an appeal taken
30 under paragraph [(1)] (2) or [(3)] (4) of this subsection, the defendant shall be released
31 on personal recognizance bail. If the defendant fails to appear as required by the terms of
32 the recognizance bail, the trial court shall subject the defendant to the penalties provided
33 in Article 27, § 12B OF THE CODE.

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

37 12-401.

38 (a) (1) THIS SUBSECTION DOES NOT APPLY TO A CIVIL VEHICLE CASE.

39 (2) A party in a civil case may appeal from a final judgment entered in the
40 District Court.

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1 (b) In a CIVIL VEHICLE CASE OR A criminal case:

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

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

6 (ii) Granting a motion to dismiss, or quashing or dismissing a charging
7 document.

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

10 (d) (1) IN THIS SUBSECTION, "CIVIL OFFENSE" HAS THE MEANING STATED
11 IN § 11-107.1 OF THE TRANSPORTATION ARTICLE.

12 (2) A defendant who has been found guilty of a municipal infraction, as
13 defined in Article 23A, § 3(b)(1) of the Code [or], a Code violation under Article 27, §
14 403 of the Code, OR A CIVIL OFFENSE may appeal from the final judgment entered in the
15 District Court. The costs and procedures for taking the appeal shall be as provided for
16 appeals from criminal cases in the District Court. Except, however, as provided in
17 subsection (f) of this section, the appellate court shall docket and hear the appeal as a
18 civil appeal from the District Court.

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

26 12-404.

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

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

31 (3) "FINE" INCLUDES A PENALTY IMPOSED BY A COURT FOR A CIVIL
32 OFFENSE.

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

36 12-702.

37 (c) If a defendant who appeals from a CIVIL VEHICLE CASE OR A conviction in
38 the District Court is convicted after a trial de novo on appeal, the appellate court may
39 impose a more severe sentence than that imposed in the District Court, but if the case is
40 one in which the defendant was denied a jury trial under § 4-302(e)(2) of this article, the

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1 sentence may not be for more than 90 days except under the conditions prescribed in
2 subsection (b) of this section. Except as provided above, the appellate court may impose
3 any sentence authorized by law to be imposed as punishment for the offense.

4 **Article - Transportation**

5 11-107.1.

6 "CIVIL OFFENSE" MEANS A VIOLATION OF A PROVISION OF THE MARYLAND
7 VEHICLE LAW THAT IS NOT PUNISHABLE BY A TERM OF IMPRISONMENT.

8 11-110.

9 (a) "Conviction" means:

10 (1) A final conviction, even if the penalty is refunded, suspended, or
11 probated;

12 (2) An unvacated forfeiture of collateral deposited to secure a defendant's
13 appearance in court;

14 (3) A plea of nolo contendere accepted by the court; or

15 (4) The payment of a fine.

16 (b) "CONVICTION" INCLUDES A PLEA OR FINDING OF GUILT OR PLEA OF
17 NOLO CONTENDERE AS TO A CIVIL OFFENSE ONLY FOR PURPOSES OF MAINTAINING
18 RECORDS, REPORTING VIOLATIONS TO OTHER STATES, ASSESSING POINTS, AND
19 IMPOSING ADMINISTRATIVE SANCTIONS FOR POINTS.

20 (C) "Conviction" does not include a finding of probation on a stay of entering
21 judgment.

22 11-121.2.

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

24 16-117.

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

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1 26-202.

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

5 (1) The person has committed or is committing [the] A violation OF §
6 21-1411 OF THIS ARTICLE within the view or presence of the officer[, and the violation is
7 any of the following:

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

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

12 26-406.

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

16 (B) IN A PROSECUTION OF A CIVIL OFFENSE IN A CIRCUIT COURT OR THE
17 DISTRICT COURT:

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

21 (2) THE DISTRICT COURT SHALL ENSURE THAT THE DEFENDANT HAS
22 RECEIVED A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE
23 DEFENDANT UNDERSTANDS THE CHARGES;

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

26 (4) THE DEFENDANT MAY ENTER A PLEA OF GUILTY, NOLO
27 CONTENDERE, OR NOT GUILTY; AND

28 (5) THE DEFENDANT IS ENTITLED TO:

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

31 (II) OFFER EVIDENCE;

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

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

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1 27-101.

2 (a) (1) IF A VIOLATION OF A PROVISION OF THE MARYLAND VEHICLE LAW
3 IS NOT PUNISHABLE BY A TERM OF IMPRISONMENT, THE VIOLATION IS A CIVIL
4 OFFENSE AND ANY FINE IMPOSED SHALL BE CONSIDERED A CIVIL PENALTY.

5 (2) [It is a misdemeanor for any person to violate any of the provisions of
6 the Maryland Vehicle Law] A VIOLATION OF THE MARYLAND VEHICLE LAW THAT IS
7 PUNISHABLE BY IMPRISONMENT IS A MISDEMEANOR unless the violation is declared to
8 be a felony by the Maryland Vehicle Law or by any other law of this State.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed
10 only prospectively and may not be applied or interpreted to have any effect on or
11 application to any offenses that were committed before the effective date of this Act.

12 SECTION 4. AND BE IT FURTHER ENACTED, That the implementation of the
13 part of this Act that amends § 16-117 of the Transportation Article may, with the joint
14 permission of the Senate Judicial Proceedings Committee and the House Commerce and
15 Government Matters Committee, be delayed until July 1, 1998, on a showing by the
16 Department of Transportation that it does not have money available to alter its
17 automated systems as required to implement the amendment. The Secretary of
18 Transportation shall certify in writing to the Director of Legislative Reference a
19 determination of delayed implementation under this section.

20 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of
21 this Act, this Act shall take effect October 1, 1997.