

SENATE BILL 283

Unofficial Copy
R5

1998 Regular Session
8lr0535
CF 8lr0541

By: **Senators Teitelbaum, Currie, Dorman, Sfikas, and Pinsky**
Introduced and read first time: February 4, 1998
Assigned to: Judicial Proceedings

Committee Report: Favorable
Senate action: Adopted
Read second time: March 25, 1998

CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws - Driving While License Suspended or Revoked - Vehicle**
3 **Impoundment**

4 FOR the purpose of allowing a court, as a sentence, a part of a sentence, or a condition
5 of probation, to order the impoundment or immobilization of a vehicle driven by
6 the vehicle's owner while the owner's license was suspended or revoked for
7 certain convictions relating to moving violations that indicate a certain intent to
8 disregard certain laws and the safety of other persons under certain
9 circumstances; providing for the length of the impoundment or immobilization
10 period; and generally relating to the court-ordered impoundment or
11 immobilization of vehicles under certain circumstances.

12 BY repealing and reenacting, without amendments,
13 Article - Transportation
14 Section 16-206(a)
15 Annotated Code of Maryland
16 (1992 Replacement Volume and 1997 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Transportation
19 Section 27-111
20 Annotated Code of Maryland
21 (1992 Replacement Volume and 1997 Supplement)

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

1 **Article - Transportation**

2 16-206.

3 (a) (1) The Administration may suspend, revoke, or refuse to issue or renew
4 the license of any resident or the privilege to drive of any nonresident on a showing by
5 its records or other sufficient evidence that the applicant or licensee:

6 (i) Has been convicted of moving violations so often as to indicate
7 an intent to disregard the traffic laws and the safety of other persons on the
8 highways;

9 (ii) Is an unfit, unsafe, or habitually reckless or negligent driver of
10 a motor vehicle;

11 (iii) Has permitted an unlawful or fraudulent use of a license,
12 identification card, or a facsimile of a license or identification card;

13 (iv) Has used a license, identification card, or a facsimile of a license
14 or identification card in an unlawful or fraudulent manner, unless the applicant or
15 licensee is subject to the provisions of subsection (c) of this section;

16 (v) Has committed an offense in another state that, if committed in
17 this State, would be grounds for suspension or revocation; or

18 (vi) Has knowingly made a false certification of required security in
19 any application for a certificate of title or for the registration of a vehicle.

20 (2) The Administration may suspend a license to drive of an individual
21 who fails to attend:

22 (i) A driver improvement program or an alcohol education program
23 required under § 16-212 of this subtitle; or

24 (ii) A private alternative program or an alternative program that is
25 provided by a political subdivision of this State under § 16-212 of this subtitle.

26 27-111.

27 (a) In this section, "police department" has the same meaning indicated in §
28 25-201 of this article.

29 (b) (1) For the purpose of impounding or immobilizing a vehicle under this
30 section, the police department may use its own personnel, equipment, and facilities
31 or, subject to the provisions of paragraph (2) of this subsection, use other persons,
32 equipment, and facilities for immobilizing vehicles or removing, preserving, and
33 storing impounded vehicles.

34 (2) A police department may not authorize the use of a tow truck under
35 paragraph (1) of this subsection unless the tow truck is registered under § 13-920 of
36 this article.

1 (c) (1) As a sentence, a part of a sentence, or a condition of probation, a court
2 may order, for not more than 180 days, the impoundment or immobilization of a solely
3 owned vehicle used in the commission of a violation of § 16-303 (c) or (d) of this article
4 if, at the time of the violation:

5 (i) The owner of the vehicle was driving the vehicle; and

6 (ii) The owner's license was suspended or revoked under § 16-205
7 of this article.

8 (2) AS A SENTENCE, A PART OF A SENTENCE, OR A CONDITION OF
9 PROBATION, A COURT MAY ORDER, FOR NOT MORE THAN 30 DAYS, THE
10 IMPOUNDMENT OR IMMOBILIZATION OF A SOLELY OWNED VEHICLE USED IN THE
11 COMMISSION OF A VIOLATION OF § 16-303(C) OR (D) OF THIS ARTICLE IF, AT THE TIME
12 OF THE VIOLATION:

13 (I) THE OWNER OF THE VEHICLE WAS DRIVING THE VEHICLE; AND

14 (II) THE OWNER'S LICENSE WAS SUSPENDED OR REVOKED UNDER
15 § 16-206(A)(1)(I) OF THIS ARTICLE.

16 (3) Among the factors that a court may consider in determining whether
17 to order an impoundment or immobilization of a vehicle is whether the vehicle is the
18 primary means of transportation available for the use of the individual's immediate
19 family.

20 [(3)] (4) (i) Subject to the provisions of subparagraph (ii) of this
21 paragraph, impoundment or immobilization of a vehicle may not be ordered under
22 this section, if the registered owner of the vehicle made a bona fide sale, gift, or other
23 transfer of the vehicle to another person before the date of the finding of a violation of
24 § 16-303 (c) or (d) of this article.

25 (ii) The registered owner of the vehicle has the burden of proving
26 that a bona fide sale, gift, or other transfer of the vehicle has occurred.

27 (d) (1) The registered owner of a vehicle impounded or immobilized under
28 this section is responsible for all actual costs incurred as a result of the immobilizing
29 of the vehicle, or the towing, preserving, and storing of the impounded vehicle.

30 (2) The court may require the registered owner of a vehicle impounded or
31 immobilized under this section to post a bond or other adequate security to equal the
32 actual costs of immobilizing the vehicle, or towing, preserving, and storing the
33 vehicle, and providing the notices required under subsection (f) of this section.

34 (3) Subject to the provisions of this section, a police department that
35 impounds a vehicle by taking the vehicle into custody or immobilizes a vehicle under
36 this section promptly shall return possession or use of the vehicle to the registered
37 owner of the vehicle on payment of all actual costs of immobilizing the vehicle, or
38 towing, preserving, and storing the impounded vehicle, and providing the notices
39 required under subsection (f) of this section.

1 (e) If a court orders the impoundment or immobilization of a vehicle under
2 this section, the court shall provide for the execution of the impoundment or
3 immobilization by a police department.

4 (f) (1) If a court orders the impoundment or immobilization of a vehicle
5 under this section, the police department that executes the immobilization, or the
6 impoundment by taking the vehicle into custody, shall, as soon as reasonably possible
7 and within 7 days after the police department executes the court order, send a notice
8 by certified mail, return receipt requested, bearing a postmark from the United
9 States Postal Service, to:

10 (i) Each registered owner of the vehicle as shown in the records of
11 the Administration; and

12 (ii) Each secured party, as shown in the records of the
13 Administration.

14 (2) The notice shall:

15 (i) State that the vehicle has been immobilized, or impounded by
16 being taken into custody;

17 (ii) Describe the year, make, model, and vehicle identification
18 number of the vehicle;

19 (iii) Provide the location of where the vehicle is immobilized or the
20 location of the facility where the vehicle is impounded;

21 (iv) Include the amount of the actual costs of immobilization, or
22 towing, preservation, and storage of an impounded vehicle;

23 (v) Include the amount of the actual costs of the notices required
24 under this paragraph; and

25 (vi) Provide that, if an impounded vehicle is not reclaimed as
26 required under this subsection, within 10 days after the date specified in the court
27 order, the impounded vehicle will be considered an abandoned vehicle and subject to
28 the provisions of Title 25, Subtitle 2 of this article.

29 (3) If an impounded vehicle is not reclaimed within 10 days after the
30 date specified in a court order under this section, the vehicle shall be considered an
31 abandoned vehicle subject to the provisions of Title 25, Subtitle 2 of this article.

32 (g) (1) This section may not be construed to prohibit a lienholder from
33 exercising its rights under applicable law, including the right to sell a vehicle that has
34 been impounded or immobilized under this section, in the event of a default in the
35 obligation giving rise to the lien.

1 (2) (i) A lienholder exercising the right to sell a vehicle that has been
2 impounded or immobilized under this section shall notify, in writing, the police
3 department with custody of the vehicle of the lienholder's intention to sell the vehicle.

4 (ii) The notice shall be accompanied by copies of documents giving
5 rise to the lien and shall include an affidavit under oath by the lienholder that the
6 underlying obligation is in default and the reasons for the default.

7 (iii) On request of the lienholder and on payment of all costs
8 required under this section, the vehicle shall be released to the lienholder.

9 (3) Except as provided in paragraph (4) of this subsection, the rights and
10 duties provided by law to the lienholder for the sale of collateral securing an
11 obligation in default shall govern the repossession and sale of the vehicle.

12 (4) (i) The lienholder may not be required to take possession of the
13 vehicle before a sale of the vehicle.

14 (ii) The proceeds of any sale shall be applied first to the actual costs
15 of immobilization, or towing, preservation, and storage of an impounded vehicle, and
16 the actual costs of the notices required under subsection (f) of this section, then as
17 provided by law for distribution of proceeds of a sale by the lienholder.

18 (5) (i) If the interest of the owner in the vehicle is redeemed, the
19 lienholder shall, within 10 days after the redemption, mail a notice of the redemption
20 to the person who impounded or immobilized the vehicle.

21 (ii) If the vehicle has been repossessed or otherwise lawfully taken
22 by the lienholder and the time specified by a court order under this section has not
23 expired, the lienholder shall return the vehicle within 21 days after the redemption to
24 the police department who impounded or immobilized the vehicle.

25 (h) This section does not affect the requirements of Title 25, Subtitle 2 of this
26 article regarding abandoned vehicles.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 1998.