

HOUSE BILL 13

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R7

1999 Regular Session
9lr0235

(PRE-FILED)

By: **Delegate Benson**

Requested: July 28, 1998

Introduced and read first time: January 13, 1999

Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Multiple Warnings for Moving Violations - Point Assessment**

3 FOR the purpose of requiring the Motor Vehicle Administration (MVA) to assess a
4 point against an individual who receives a certain number of warnings for
5 moving violations under the Maryland Vehicle Law within a specified period;
6 requiring the Motor Vehicle Administrator to design a moving violation warning
7 form for use by law enforcement agencies and police officers; specifying the
8 content of a warning form; authorizing the issuance of warnings and requiring
9 that warnings be handled in a certain manner; requiring the MVA to adopt
10 certain regulations and maintain certain records in relation to warnings for
11 moving violations; prohibiting police officers and other employees of law
12 enforcement agencies from disposing of warning forms except in accordance
13 with a certain procedure; and generally relating to the assessment of points
14 based on warnings for moving violations and the issuance and handling of such
15 warnings.

16 BY repealing and reenacting, without amendments,
17 Article - Transportation
18 Section 11-136.1
19 Annotated Code of Maryland
20 (1998 Replacement Volume and 1998 Supplement)
21 (As enacted by Chapter 483 of the Acts of the General Assembly of 1998)

22 BY adding to
23 Article - Transportation
24 Section 16-402(c) and 26-201.1
25 Annotated Code of Maryland
26 (1998 Replacement Volume and 1998 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article - Transportation
29 Section 16-117; and 26-201(a) to be under the amended subtitle "Subtitle 2.
30 Citations, Arrests, and Warnings"

1 Annotated Code of Maryland
2 (1998 Replacement Volume and 1998 Supplement)

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

5 **Article - Transportation**

6 11-136.1.

7 "Moving violation" means:

8 (1) A moving violation as defined in regulations adopted by the
9 Administration for the purpose of assessing points under § 16-402 of this article; or

10 (2) A violation of a substantially similar nature reported from another
11 jurisdiction, other than a violation of the jurisdiction's size, weight, load, equipment,
12 or inspection provisions.

13 16-117.

14 (a) The Administration shall keep a record of:

15 (1) Each driver's license application that it receives;

16 (2) Each driver's license that it issues; and

17 (3) Each licensee whose license to drive the Administration has
18 suspended or revoked, and the reasons for the action.

19 (b) (1) The Administration shall file each accident report [and], abstract of
20 court disposition records, AND WARNING ISSUED UNDER § 26-201.1 OF THIS ARTICLE
21 that it receives under the laws of this State.

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

34 (3) These records or notations shall be made so that they are readily
35 available for consideration by the Administration of any license renewal application
36 and at any other suitable time.

1 (4) Accident reports and abstracts of court convictions pertaining to
2 driving an emergency vehicle, if received by a person who was driving an emergency
3 vehicle pursuant to the provisions of § 21-106 of this article, shall be segregated by
4 the Administration and shall be available only to the Administration.

5 (5) WARNINGS ISSUED UNDER § 26-201.1 OF THIS ARTICLE SHALL BE
6 SEGREGATED BY THE ADMINISTRATION AND SHALL BE AVAILABLE ONLY TO THE
7 ADMINISTRATION, THE INDIVIDUAL WHO RECEIVED THE WARNING, AND THE
8 INDIVIDUAL'S ATTORNEY.

9 (6) Except as provided in this section, an employee of the Administration
10 may not disclose any records or information regarding probation before judgment,
11 [or] a first offense of driving with an alcohol concentration of 0.10 or more under §
12 16-205.1 of this article, OR A WARNING ISSUED UNDER § 26-201.1 OF THIS ARTICLE.

13 (c) If a charge of a Maryland Vehicle Law violation against any individual is
14 dismissed by a court of competent jurisdiction, a record of the charge and dismissal
15 may not be included in the individual's driving record.

16 16-402.

17 (C) WHEN AN INDIVIDUAL RECEIVES A THIRD OR SUBSEQUENT WARNING FOR
18 A MOVING VIOLATION UNDER § 26-201.1 OF THIS ARTICLE WITHIN A 3-YEAR PERIOD,
19 THE ADMINISTRATION SHALL ASSESS 1 POINT AGAINST THE INDIVIDUAL AS OF THE
20 DATE OF THE WARNING.

21 Subtitle 2. [Citation and Arrest] CITATIONS, ARRESTS, AND WARNINGS.

22 26-201.

23 (a) (1) A police officer may charge a person with a violation of any of the
24 following, if the officer has probable cause to believe that the person has committed or
25 is committing the violation:

26 [(1)] (I) The Maryland Vehicle Law, including any rule or regulation
27 adopted under any of its provisions;

28 [(2)] (II) A traffic law or ordinance of any local authority;

29 [(3)] (III) Title 9, Subtitle 2 of the Tax - General Article;

30 [(4)] (IV) Title 9, Subtitle 3 of the Tax - General Article; or

31 [(5)] (V) Title 10, Subtitle 4 of the Business Regulation Article.

32 (2) A POLICE OFFICER MAY ISSUE A WARNING UNDER § 26-201.1 OF THIS
33 SUBTITLE IN LIEU OF CHARGING AN INDIVIDUAL UNDER PARAGRAPH (1) OF THIS
34 SUBSECTION FOR A MOVING VIOLATION.

1 26-201.1.

2 (A) AFTER CONSULTATION WITH THE DEPARTMENT OF STATE POLICE AND
3 THE MARYLAND CHIEFS OF POLICE ASSOCIATION, THE ADMINISTRATOR SHALL
4 DESIGN A MOVING VIOLATION WARNING FORM THAT SHALL BE USED BY ALL LAW
5 ENFORCEMENT AGENCIES WHEN A POLICE OFFICER ELECTS TO GIVE AN
6 INDIVIDUAL A WARNING IN LIEU OF A WRITTEN TRAFFIC CITATION FOR A MOVING
7 VIOLATION.

8 (B) THE MOVING VIOLATION WARNING FORM SHALL:

9 (1) CONTAIN SPACES IN WHICH THE POLICE OFFICER ISSUING THE
10 WARNING SHALL RECORD:

11 (I) THE NAME AND ADDRESS OF THE INDIVIDUAL RECEIVING THE
12 WARNING;

13 (II) THE INDIVIDUAL'S DRIVER'S LICENSE NUMBER;

14 (III) THE REGISTRATION NUMBER OF THE VEHICLE INVOLVED IN
15 THE MOVING VIOLATION; AND

16 (IV) THE VIOLATION FOR WHICH THE WARNING IS BEING ISSUED;

17 (2) INCLUDE A NOTICE THAT:

18 (I) RECEIPT OF A THIRD OR SUBSEQUENT WARNING FOR A
19 MOVING VIOLATION WITHIN A 3-YEAR PERIOD RESULTS IN THE ASSESSMENT OF 1
20 POINT AGAINST THE INDIVIDUAL BY THE ADMINISTRATION;

21 (II) SIGNING THE WARNING DOES NOT CONSTITUTE AN ADMISSION
22 OF GUILT; AND

23 (III) FAILURE TO SIGN THE WARNING WILL RESULT IN THE
24 ISSUANCE OF A CITATION FOR THE MOVING VIOLATION;

25 (3) INCLUDE A STATEMENT ACKNOWLEDGING RECEIPT OF THE
26 WARNING THAT IS TO BE SIGNED BY THE INDIVIDUAL;

27 (4) CONTAIN A UNIQUE IDENTIFICATION NUMBER TO BE USED FOR THE
28 TRACKING OF MOVING VIOLATION WARNINGS; AND

29 (5) INCLUDE ANY OTHER INFORMATION THAT THE ADMINISTRATOR
30 CONSIDERS NECESSARY.

31 (C) (1) ON ISSUING A WARNING FOR A MOVING VIOLATION, THE POLICE
32 OFFICER SHALL REQUEST THE INDIVIDUAL TO SIGN THE STATEMENT ON THE
33 WARNING ACKNOWLEDGING RECEIPT OF THE WARNING.

1 (2) IF THE INDIVIDUAL REFUSES TO SIGN THE WARNING, THE POLICE
2 OFFICER SHALL ADVISE THE INDIVIDUAL THAT FAILURE TO SIGN WILL RESULT IN
3 THE ISSUANCE OF A CITATION FOR THE MOVING VIOLATION.

4 (D) (1) THE ADMINISTRATION SHALL ADOPT REGULATIONS GOVERNING
5 THE DISTRIBUTION, ISSUANCE, AND DISPOSITION OF WARNINGS UNDER THIS
6 SECTION.

7 (2) REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS
8 SUBSECTION SHALL APPLY TO EACH LAW ENFORCEMENT AGENCY AND TO EACH
9 POLICE OFFICER AUTHORIZED TO ISSUE CITATIONS FOR MOVING VIOLATIONS
10 UNDER THE MARYLAND VEHICLE LAW.

11 (E) A POLICE OFFICER WHO ISSUES A WARNING UNDER THIS SECTION SHALL:

12 (1) FILE THE ORIGINAL WITH THE ADMINISTRATION; AND

13 (2) DISPOSE OF THE OTHER COPIES OF THE WARNING IN ACCORDANCE
14 WITH REGULATIONS ADOPTED BY THE ADMINISTRATION.

15 (F) A POLICE OFFICER OR OTHER EMPLOYEE OF A LAW ENFORCEMENT
16 AGENCY MAY NOT DISPOSE OF A WARNING FORM IN ANY MANNER OTHER THAN AS
17 REQUIRED BY REGULATIONS OF THE ADMINISTRATION.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 1999.