

HOUSE BILL 577

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HB 463/98 - JUD

1999 Regular Session  
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By: **Delegates Mandel, Benson, Bronrott, Clagett, Dobson, Franchot, Hecht, Heller, Kagan, Kopp, Petzold, Rawlings, Rosso, Shriver, and Stern**  
Introduced and read first time: February 11, 1999  
Assigned to: Judiciary

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A BILL ENTITLED

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 (1998 Replacement Volume and 1998 Supplement)  
17 (As enacted by Chapter 483 of the Acts of the General Assembly of 1998)

18 BY repealing and reenacting, with amendments,  
19 Article - Transportation  
20 Section 27-111  
21 Annotated Code of Maryland  
22 (1998 Replacement Volume and 1998 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
24 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 (3) The Administration may suspend or revoke a provisional license  
27 under § 16-213 of this subtitle.

28 27-111.

29 (a) In this section, "police department" has the same meaning indicated in §  
30 25-201 of this article.

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

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

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

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

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

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

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

17 (II) THE OWNER'S LICENSE WAS SUSPENDED OR REVOKED UNDER  
18 § 16-206(A)(1)(I) OF THIS ARTICLE.

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

23 [(3)] (4) (i) Subject to the provisions of subparagraph (ii) of this  
24 paragraph, impoundment or immobilization of a vehicle may not be ordered under  
25 this section, if the registered owner of the vehicle made a bona fide sale, gift, or other  
26 transfer of the vehicle to another person before the date of the finding of a violation of  
27 § 16-303 (c) or (d) of this article.

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

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

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

37 (3) Subject to the provisions of this section, a police department that  
38 impounds a vehicle by taking the vehicle into custody or immobilizes a vehicle under

1 this section promptly shall return possession or use of the vehicle to the registered  
2 owner of the vehicle on payment of all actual costs of immobilizing the vehicle, or  
3 towing, preserving, and storing the impounded vehicle, and providing the notices  
4 required under subsection (f) of this section.

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

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

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

16 (ii) Each secured party, as shown in the records of the  
17 Administration.

18 (2) The notice shall:

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

21 (ii) Describe the year, make, model, and vehicle identification  
22 number of the vehicle;

23 (iii) Provide the location of where the vehicle is immobilized or the  
24 location of the facility where the vehicle is impounded;

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

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

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

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

36 (g) (1) This section may not be construed to prohibit a lienholder from  
37 exercising its rights under applicable law, including the right to sell a vehicle that has

1 been impounded or immobilized under this section, in the event of a default in the  
2 obligation giving rise to the lien.

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

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

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

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

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

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

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

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

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

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