
By: **Delegates Rzepkowski, Sophocleus, and Love**
Introduced and read first time: February 11, 2000
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Drugged Driving Resulting in Death - Drug Treatment and Testing - Driver's**
3 **License Revocation**

4 FOR the purpose of requiring the court, except under certain circumstances, to
5 require a person convicted of homicide by motor vehicle or vessel while under
6 the influence of a drug or controlled dangerous substance to participate in a
7 certain drug treatment and education program and submit to certain drug
8 testing; requiring the Motor Vehicle Administration to revoke the license of a
9 person convicted of homicide by motor vehicle or vessel while under the
10 influence of a drug or controlled dangerous substance if the person subsequently
11 tests positive for use of a controlled dangerous substance; prohibiting the
12 Administration from reinstating the license of a certain person who fails to
13 comply with a court order to undergo certain drug treatment, education, and
14 testing; making stylistic changes; and generally relating to driver's license
15 revocations for certain drugged driving offenses.

16 BY repealing and reenacting, with amendments,
17 Article 27 - Crimes and Punishments
18 Section 388A
19 Annotated Code of Maryland
20 (1996 Replacement Volume and 1999 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - Transportation
23 Section 16-205 and 16-208
24 Annotated Code of Maryland
25 (1999 Replacement Volume and 1999 Supplement)

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

1

Article 27 - Crimes and Punishments

2 388A.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) (i) "Intoxicated per se" means an alcohol concentration at the time
5 of testing of 0.10 or more as measured by grams of alcohol per 100 milliliters of blood
6 or grams of alcohol per 210 liters of breath.7 (ii) If the alcohol concentration is measured by milligrams of
8 alcohol per deciliter of blood or milligrams of alcohol per 100 milliliters of blood, a
9 court shall convert the measurement into grams of alcohol per 100 milliliters of blood
10 by dividing the measurement by 1000.11 (3) "Under the influence of alcohol" has the meaning indicated in and is
12 subject to the same presumptions and evidentiary rules of § 10-307 of the Courts
13 Article regarding driving while under the influence of alcohol under § 21-902(b) of the
14 Transportation Article.15 (4) "Under the influence of drugs" means so far under the influence of a
16 drug, a combination of drugs, or a combination of one or more drugs and alcohol that
17 a person cannot drive, operate, or control a motor vehicle or vessel safely.18 (5) "Under the influence of a controlled dangerous substance" means
19 under the influence of a controlled dangerous substance, as that term is defined in §
20 279 of this article, if the person is not entitled to use the controlled dangerous
21 substance under the laws of this State.22 (b) Any person causing the death of another as the result of the person's
23 negligent driving, operation, or control of a motor vehicle or vessel while intoxicated
24 or intoxicated per se is guilty of a felony to be known as "homicide by motor vehicle or
25 vessel while intoxicated", and the person so convicted shall be punished by
26 imprisonment for not more than 5 years, or by fine of not more than \$5,000 or both
27 fine and imprisonment.28 (c) A person who causes the death of another as the result of the person's
29 negligent driving, operation, or control of a motor vehicle or vessel while under the
30 influence of alcohol is guilty of a felony to be known as "homicide by motor vehicle or
31 vessel while under the influence", and on conviction shall be punished by
32 imprisonment for not more than 3 years or a fine of not more than \$5,000 or both.33 (d) (1) A person who causes the death of another as the result of the person's
34 negligent driving, operation, or control of a motor vehicle or vessel while under the
35 influence of drugs is guilty of a felony to be known as "homicide by motor vehicle or
36 vessel while under the influence of drugs", and on conviction shall be punished by
37 imprisonment for not more than 3 years or a fine of not more than \$5,000 or both.38 (2) It is not a defense to any charge of violating this subsection that the
39 person charged is or was entitled under the laws of this State to use the drug,

1 combination of drugs, or combination of one or more drugs and alcohol, unless the
2 person was unaware that the drug or combination would make the person incapable
3 of safely driving, operating, or controlling a motor vehicle or vessel.

4 (e) A person who causes the death of another as the result of the person's
5 negligent driving, operation, or control of a motor vehicle or vessel while under the
6 influence of a controlled dangerous substance is guilty of a felony to be known as
7 "homicide by motor vehicle or vessel while under the influence of a controlled
8 dangerous substance", and on conviction shall be punished by imprisonment for not
9 more than 3 years or a fine of not more than \$5,000 or both.

10 (F) UNLESS THE COURT FINDS AND AFFIRMATIVELY STATES ON THE RECORD
11 THAT IT WOULD NOT SERVE THE INTERESTS OF THE PERSON OR THE STATE, THE
12 COURT SHALL REQUIRE A PERSON CONVICTED UNDER SUBSECTIONS (D) AND (E),
13 FOR THE PERIOD SPECIFIED BY THE COURT, TO:

14 (1) PARTICIPATE IN A DRUG TREATMENT OR EDUCATION PROGRAM
15 APPROVED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE; AND

16 (2) SUBMIT TO MONTHLY DRUG TESTING THROUGH A COURT APPROVED
17 CENTER.

18 [(f)] (G) (1) In any indictment, information, or other charging document
19 under this section, it is not necessary to set forth the manner and means of death.

20 (2) It shall be sufficient to use a formula substantially to the following
21 effect:

22 (i) "That A-B on the day of, (MONTH) [nineteen
23 hundred and] (YEAR) at the County (City) aforesaid, unlawfully, while
24 intoxicated did kill C-D, against the peace, government, and dignity of the State.";

25 (ii) "That A-B on the day of, (MONTH) [nineteen
26 hundred and] (YEAR) at the County (City) aforesaid, unlawfully, while under
27 the influence of alcohol, did kill C-D, against the peace, government, and dignity of
28 the State.";

29 (iii) "That A-B on the day of, (MONTH) [nineteen
30 hundred and] (YEAR) at the County (City) aforesaid, unlawfully, while under
31 the influence of drugs, did kill C-D, against the peace, government, and dignity of the
32 State."; or

33 (iv) "That A-B on the day of, (MONTH) [nineteen
34 hundred and] (YEAR) at the County (City) aforesaid, unlawfully, while under
35 the influence of a controlled dangerous substance, did kill C-D, against the peace,
36 government, and dignity of the State.".

Article - Transportation

16-205.

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

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

(2) Within a 3-year period, is convicted under § 21-902(b) or (c) of this article of driving or attempting to drive a motor vehicle while under the influence of alcohol or while so far under the influence of any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a vehicle safely and who was previously convicted of any combination of two or more violations under:

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

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

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

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

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

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

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

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

1 (3) § 21-902(c) of this article of driving or attempting to drive a motor
2 vehicle while so far under the influence of any drug, any combination of drugs, or a
3 combination of one or more drugs and alcohol that the person cannot drive a motor
4 vehicle safely; or

5 (4) § 21-902(d) of this article of driving or attempting to drive a motor
6 vehicle while under the influence of a controlled dangerous substance.

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

11 (E) THE ADMINISTRATION SHALL PERMANENTLY REVOKE THE LICENSE OF A
12 PERSON WHO:

13 (1) HAS BEEN PREVIOUSLY CONVICTED OF A VIOLATION OF ARTICLE 27,
14 § 388A(D)(1) OR § 388A(E) OF THE CODE; AND

15 (2) WHILE UNDERGOING DRUG TESTING ORDERED BY THE COURT
16 UNDER ARTICLE 27, § 388(F) OF THE CODE, TESTS POSITIVE FOR THE USE OF A
17 CONTROLLED DANGEROUS SUBSTANCE.

18 16-208.

19 (a) (1) Except as provided in paragraph (2) of this subsection, § 16-206(a)(4)
20 and (c) of this subtitle, and § 16-404(c)(2) and (3) of this title, the Administration may
21 not suspend a license or privilege to drive for a period of more than 1 year.

22 (2) Subject to the provisions of paragraph (3) of this subsection, after
23 notice and hearing, the Administration may suspend for an indefinite period the
24 license or privilege of any individual who cannot drive safely because of his physical
25 or mental condition.

26 (3) If the Administration suspends or revokes a license of an individual
27 based upon evaluation of competent medical evidence that the individual's driving
28 may be adversely affected by the individual's epilepsy, the period of suspension or
29 revocation may not exceed 90 days unless the individual experiences a seizure within
30 90 days after the period of suspension or revocation begins.

31 (4) If the Administration refuses to issue or renew the license of an
32 individual based upon evaluation of competent medical evidence that the individual's
33 driving may be adversely affected by the individual's epilepsy, the period of the
34 refusal to issue or renew the license may not exceed 90 days unless the individual
35 experiences a seizure within 90 days after the refusal to issue or renew the license.

36 (5) After the period of suspension, revocation, or refusal to issue or
37 renew a license under paragraph (3) or (4) of this subsection, and if an individual is
38 otherwise eligible, the Administration:

1 (i) Shall immediately issue to the individual a noncommercial
2 Class C or Class M license;

3 (ii) Subject to the provisions of paragraph (6) of this subsection,
4 may, upon request, immediately issue to the individual a license other than a
5 noncommercial Class C or Class M license; and

6 (iii) Subject to the provisions of paragraph (6) of this subsection,
7 shall, upon request, issue to the individual a license other than a noncommercial
8 Class C or Class M license after a period not to exceed nine months.

9 (6) Before the Administration issues a license to an individual under
10 paragraph (5)(ii) or (iii) of this subsection, the Administration may:

11 (i) Require the individual to be tested; and

12 (ii) Restrict the license issued to the individual after the individual
13 becomes eligible to drive following a period of suspension, revocation, or refusal to
14 issue or renew a license under paragraph (3) or (4) of this subsection by:

15 1. Designating the specific class of commercial or
16 noncommercial license to be issued to the individual;

17 2. Designating the endorsements permitted on the
18 individual's license; and

19 3. Imposing any other restriction authorized under § 16-113
20 of this title.

21 (7) The Administration shall adopt regulations to administer the
22 provisions of paragraphs (3) through (6) of this subsection.

23 (8) This subsection does not apply to or affect the suspension of any
24 license:

25 (i) For failure to comply with the required security provisions of
26 Title 17 of this article;

27 (ii) For failure to appear at a hearing as provided in Title 12,
28 Subtitle 2 of this article;

29 (iii) For failure to obey a citation, as provided in Title 26 of this
30 article;

31 (iv) For failure to pay a fine in accordance with the court's directive
32 as provided in Title 27 of this article; or

33 (v) For failure to pay child support, as provided in § 16-203 of this
34 title.

1 (b) (1) [Any] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
2 AN individual whose license or privilege to drive has been revoked may apply for
3 reinstatement of the individual's license or privilege as provided in this subsection.

4 (2) (i) If it is the individual's first revocation, the individual may file a
5 reinstatement application at any time after the day the revoked license is
6 surrendered to and received by the Administration or, in the case of an individual who
7 does not have a license issued under this title, after the effective date of the
8 revocation.

9 (ii) Except as provided in paragraph (6) of this subsection, on
10 receipt of the application, the Administration may reinstate the license or privilege 6
11 months after the revoked license is received by the Administration or, in the case of
12 an individual who does not have a license issued under this title, 6 months after the
13 effective date of revocation.

14 (3) (i) If it is the individual's second revocation, the individual may file
15 a reinstatement application at any time after 1 year from the day the revoked license
16 is surrendered to and received by the Administration or, in the case of an individual
17 who does not have a license issued under this title, after 1 year from the effective date
18 of revocation.

19 (ii) Except as provided in paragraph (6) of this subsection, on
20 receipt of the application, the Administration may reinstate the license or privilege.

21 (4) (i) If it is the individual's third revocation, the individual may file
22 a reinstatement application at any time after 18 months from the day the revoked
23 license is surrendered to and received by the Administration or, in the case of an
24 individual who does not have a license issued under this title, after 18 months from
25 the effective date of revocation.

26 (ii) Except as provided in paragraph (6) of this subsection, on
27 receipt of the application, the Administration may reinstate the license or privilege.

28 (5) (i) If it is the individual's fourth or subsequent revocation, the
29 individual may file a reinstatement application at any time after 2 years from the day
30 the revoked license is surrendered to and received by the Administration or, in the
31 case of an individual who does not have a license issued under this title, after 2 years
32 from the effective date of revocation.

33 (ii) Except as provided in paragraph (6) of this subsection, on
34 receipt of the application, the Administration may reinstate the license or privilege.

35 (6) (i) The Administration may not reinstate a license or privilege to
36 drive under this subsection if the license or privilege has been refused, revoked,
37 suspended, or canceled under any other provision of the Maryland Vehicle Law.

38 (ii) 1. In this subparagraph, "alcohol-related or drug-related
39 driving incident" means a:

1 A. Conviction or probation before judgment for a violation of
2 § 21-902(a), (b), (c), or (d) of this article or a substantially similar law of another
3 jurisdiction;

4 B. Refusal to submit to a test under § 16-205.1 of this title or
5 a substantially similar law of another jurisdiction; or

6 C. Test result that indicates an alcohol concentration of 0.10
7 or more at the time of testing under § 16-205.1 of this title or a substantially similar
8 law of another jurisdiction.

9 2. Alcohol-related or drug-related driving incidents
10 committed at the same time or arising out of the same circumstances may not be
11 considered separate alcohol-related or drug-related driving incidents for the purpose
12 of this subparagraph.

13 3. Notwithstanding paragraphs (1) through (5) of this
14 subsection, the Administration may reinstate a license or privilege to drive only if,
15 after an investigation of an individual's habits and driving ability, the Administration
16 is satisfied it will be safe to reinstate the license or privilege of an individual who has
17 been:

18 A. Involved in any combination of three or more separate
19 alcohol-related or drug-related driving incidents;

20 B. Involved in a vehicular accident resulting in the death of
21 another person; or

22 C. Convicted of a violation for failing to stop after a vehicular
23 accident resulting in bodily injury or death.

24 (7) Except as otherwise provided in this title, before issuing a new
25 license, the Administration shall require the applicant to submit to the examinations
26 that it considers appropriate.

27 (C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, THE
28 ADMINISTRATION MAY NOT:

29 (1) REINSTATE THE LICENSE OF AN INDIVIDUAL WHOSE LICENSE HAS
30 BEEN REVOKED UNDER § 16-205(E) OF THIS SUBTITLE; OR

31 (2) IN THE CASE OF AN INDIVIDUAL WHO IS SUBJECT TO A COURT
32 ORDER UNDER ARTICLE 27, § 388A(F) OF THE CODE, REINSTATE THE LICENSE OF THE
33 INDIVIDUAL UNTIL THE INDIVIDUAL COMPLIES WITH THE COURT ORDER.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2000.