

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL NO. 108

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Van Hollen” and substitute “Van Hollen, and Green”; in line 2, strike “Drunk Driving - Intoxicated Per Se - Driving While Under the Influence” and substitute “Alcohol Concentration - “0.08””; in line 4, strike “driving while intoxicated per se” and substitute “being in violation of certain alcohol-related offenses”; in lines 5 and 6, strike “that constitutes driving while under the influence of alcohol” and substitute “concerning a certain presumption of being in violation of a certain alcohol-related driving offense; expanding the applicability of certain evidentiary provisions concerning alcohol concentration levels to juvenile and civil proceedings”; in line 6, strike “that will result” and substitute “for a certain administrative offense that results”; strike beginning with “reducing” in line 7 down through the second semicolon in line 14 and substitute “altering certain terminology concerning certain alcohol-related and drug-related offenses; making stylistic changes; providing for the application of this Act; providing for the construction of this Act; providing for the effective date of this Act;”; in line 15, strike “alcohol-related driving offenses,” and substitute “certain”; and in lines 15 and 16, strike “, and qualification for federal transportation funding” and substitute “and certain proceedings”; after line 16, insert:

“BY repealing and reenacting, without amendments,

Article 1 - Rules of Interpretation

Section 3

Annotated Code of Maryland

(1998 Replacement Volume and 2000 Supplement)”;

in line 17, strike “without” and substitute “with”; strike line 19 in its entirety and substitute “Section 388A and 388B”; strike in their entirety lines 22 through 26, inclusive; and strike line 29 in its entirety and substitute “Section 3-806(c), 10-307, and 10-308(a) and (b)(1)”.

On page 2, strike in their entirety lines 3 through 7, inclusive; and after line 7, insert:

(Over)

“BY repealing and reenacting, with amendments,

Article - Health - General

Section 8-401(a)(3)(i)1.

Annotated Code of Maryland

(2000 Replacement Volume)

BY repealing and reenacting, with amendments,

Article - Natural Resources

Section 8-738(a) and (b) and 8-740(b)(3)

Annotated Code of Maryland

(2000 Replacement Volume)

BY repealing and reenacting, with amendments,

Article - Transportation

Section 11-127.1, 16-117(b)(2) and (5), 16-205(a), (b), (c), and (d), 16-205.1(a), (b), (c)(1), (d)(1), (f)(1), (4)(i), (7), and (8)(i), (ii), (iii), and (v), and (h), 16-205.2(a), 16-402(a)(23) and (32), 18-105, 21-902, 26-202(a)(3)(i) and (ii), 26-404(f)(2), 26-405, 27-101(c)(23), (24), and (25), (f)(1)(ii)2., and (k), and 27-107(b)

Annotated Code of Maryland

(1999 Replacement Volume and 2000 Supplement)”.

AMENDMENT NO. 2

On page 2, after line 9, insert:

“Article 1 - Rules of Interpretation

3.

The repeal, or the repeal and reenactment, or the revision, amendment or consolidation of any statute, or of any section or part of a section of any statute, civil or criminal, shall not have the effect to release, extinguish, alter, modify or change, in whole or in part, any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such statute, section or part thereof, unless the repealing, repealing and reenacting, revising, amending or consolidating act shall expressly so provide; and such statute, section or part thereof, so repealed, repealed and reenacted, revised, amended or consolidated, shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings or prosecutions, civil or criminal, for the

enforcement of such penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions imposing, inflicting or declaring such penalty, forfeiture or liability.”.

AMENDMENT NO. 3

On page 2, in lines 13 and 22, strike “Intoxicated” and substitute “UNDER THE INFLUENCE”; after line 19, insert:

“(3) “[Under the influence of] IMPAIRED BY alcohol” has the meaning indicated in and is subject to the same presumptions and evidentiary rules of § 10-307 of the Courts Article regarding driving while [under the influence of] IMPAIRED BY alcohol under § 21-902(b) of the Transportation Article.

(4) “[Under the influence of] IMPAIRED BY drugs” means so far [under the influence of] IMPAIRED BY a drug, a combination of drugs, or a combination of one or more drugs and alcohol that a person cannot drive, operate, or control a motor vehicle or vessel safely.

(5) “[Under the influence of] IMPAIRED BY a controlled dangerous substance” means [under the influence of] IMPAIRED BY a controlled dangerous substance, as that term is defined in § 279 of this article, if the person is not entitled to use the controlled dangerous substance under the laws of this State.

(b) Any person causing the death of another as the result of the person's negligent driving, operation, or control of a motor vehicle or vessel while [intoxicated or intoxicated] UNDER THE INFLUENCE OF ALCOHOL OR UNDER THE INFLUENCE OF ALCOHOL per se is guilty of a felony to be known as "homicide by motor vehicle or vessel while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL OR UNDER THE INFLUENCE OF ALCOHOL PER SE", and the person so convicted shall be punished by imprisonment for not more than 5 years, or by fine of not more than \$5,000 or both fine and imprisonment.

(c) A person who causes the death of another as the result of the person's negligent driving, operation, or control of a motor vehicle or vessel while [under the influence of alcohol] IMPAIRED BY ALCOHOL is guilty of a felony to be known as "homicide by motor vehicle or

(Over)

vessel while [under the influence] IMPAIRED BY ALCOHOL", and on conviction shall be punished by imprisonment for not more than 3 years or a fine of not more than \$5,000 or both.

(d) (1) A person who causes the death of another as the result of the person's negligent driving, operation, or control of a motor vehicle or vessel while [under the influence of] IMPAIRED BY drugs is guilty of a felony to be known as "homicide by motor vehicle or vessel while [under the influence of] IMPAIRED BY drugs", and on conviction shall be punished by imprisonment for not more than 3 years or a fine of not more than \$5,000 or both.

(2) It is not a defense to any charge of violating this subsection that the person charged is or was entitled under the laws of this State to use the drug, combination of drugs, or combination of one or more drugs and alcohol, unless the person was unaware that the drug or combination would make the person incapable of safely driving, operating, or controlling a motor vehicle or vessel.

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

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

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

(i) "That A-B on the day of, [nineteen hundred] TWO THOUSAND and at the County (City) aforesaid, unlawfully, while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL, did kill C-D, against the peace, government, and dignity of the State.";

(ii) "That A-B on the day of, [nineteen hundred] TWO THOUSAND and at the County (City) aforesaid, unlawfully, while [under the influence of

alcohol] IMPAIRED BY ALCOHOL, did kill C-D, against the peace, government, and dignity of the State.";

(iii) "That A-B on the day of, [nineteen hundred] TWO THOUSAND and at the County (City) aforesaid, unlawfully, while [under the influence of] IMPAIRED BY drugs, did kill C-D, against the peace, government, and dignity of the State."; or

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

(g) The clerk of the court shall notify the Motor Vehicle Administration of each person convicted under this section of an offense involving a motor vehicle.";

and after line 28, insert:

“(3) "[Under the influence of] IMPAIRED BY alcohol" has the meaning indicated in and is subject to the same presumptions and evidentiary rules of § 10-307 of the Courts Article regarding driving while [under the influence of] IMPAIRED BY alcohol under § 21-902(b) of the Transportation Article.

(4) "[Under the influence of] IMPAIRED BY drugs" means so far [under the influence of] IMPAIRED BY a drug, a combination of drugs, or a combination of one or more drugs and alcohol that a person cannot drive, operate, or control a motor vehicle or vessel safely.

(5) "[Under the influence of] IMPAIRED BY a controlled dangerous substance" means [under the influence of] IMPAIRED BY a controlled dangerous substance, as that term is defined in § 279 of this article, if the person is not entitled to use the controlled dangerous substance under the laws of this State.

(b) A person who causes a life threatening injury to another as a result of the person's negligent driving, operation, or control of a motor vehicle or vessel while [intoxicated or intoxicated]

(Over)

UNDER THE INFLUENCE OF ALCOHOL OR UNDER THE INFLUENCE OF ALCOHOL per se is guilty of a misdemeanor to be known as "life threatening injury by motor vehicle or vessel while [intoxicated or intoxicated] UNDER THE INFLUENCE OF ALCOHOL OR UNDER THE INFLUENCE OF ALCOHOL per se", and on conviction the person shall be punished by imprisonment for not more than 3 years or a fine of not more than \$5,000 or both.

(c) A person who causes a life threatening injury to another as a result of the person's negligent driving, operation, or control of a motor vehicle or vessel while [under the influence of] IMPAIRED BY alcohol is guilty of a misdemeanor to be known as "life threatening injury by motor vehicle or vessel while [under the influence of] IMPAIRED BY alcohol", and on conviction the person shall be punished by imprisonment for not more than 2 years or a fine of not more than \$3,000 or both.

(d) A person who causes a life threatening injury to another as a result of the person's negligent driving, operation, or control of a motor vehicle or vessel while [under the influence of] IMPAIRED BY drugs is guilty of a misdemeanor to be known as "life threatening injury by motor vehicle or vessel while [under the influence of] IMPAIRED BY drugs", and on conviction the person shall be punished by imprisonment for not more than 2 years or a fine of not more than \$3,000 or both.

(e) A person who causes a life threatening injury to another as a result of the person's negligent driving, operation, or control of a motor vehicle or vessel while [under the influence of] IMPAIRED BY a controlled dangerous substance is guilty of a misdemeanor to be known as "life threatening injury by motor vehicle or vessel while [under the influence of] IMPAIRED BY a controlled dangerous substance", and on conviction the person shall be punished by imprisonment for not more than 2 years or a fine of not more than \$3,000 or both.

(f) (1) In any indictment, information, or other charging document under this section, it is not necessary to set forth the manner and means of the life threatening injury.

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

(i) "That A-B on the day of, [nineteen hundred] TWO THOUSAND and at the County (City) aforesaid, unlawfully, while [intoxicated] UNDER

THE INFLUENCE OF ALCOHOL, did cause a life threatening injury to C-D, against the peace, government, and dignity of the State.";

(ii) "That A-B on the day of, [nineteen hundred] TWO THOUSAND and at the County (City) aforesaid, unlawfully, while [under the influence of alcohol] IMPAIRED BY ALCOHOL, did cause a life threatening injury to C-D, against the peace, government, and dignity of the State.";

(iii) "That A-B on the day of, [nineteen hundred] TWO THOUSAND and at the County (City) aforesaid, unlawfully, while [under the influence of] IMPAIRED BY drugs, did cause a life threatening injury to C-D, against the peace, government, and dignity of the State."; or

(iv) "That A-B on the day of, [nineteen hundred] TWO THOUSAND and at the County (City) aforesaid, unlawfully, while [under the influence of] IMPAIRED BY a controlled dangerous substance, did cause a life threatening injury to C-D, against the peace, government, and dignity of the State."."

AMENDMENT NO. 4

On page 2, after line 29, insert:

"3-806.

(c) Unless otherwise ordered by the court, the court's jurisdiction is terminated over a person who has reached 18 years of age when he is convicted of a crime, including manslaughter by automobile, unauthorized use or occupancy of a motor vehicle, [or operating a vehicle while under the influence of intoxicating liquors or drugs] ANY VIOLATION OF ARTICLE 27, § 388A OR § 388B OF THE CODE, OR § 21-902 OF THE TRANSPORTATION ARTICLE, but excluding a conviction for a violation of any other traffic law or ordinance or any provision of the State Boat Act, or the fish and wildlife laws of the State.";

and in line 31, strike "In a" and substitute "IN ANY CRIMINAL, JUVENILE, OR CIVIL".

(Over)

On page 3, in lines 13 and 18, strike “intoxicated OR INTOXICATED PER SE” and substitute “UNDER THE INFLUENCE OF ALCOHOL”; in lines 14, 19, and 25, strike “under the influence of” and substitute “IMPAIRED BY”; strike beginning with the first “the” in line 20 down through “DRIVING” in line 21 and substitute “WHETHER THE PERSON WAS OR WAS NOT DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRIVING WHILE IMPAIRED BY ALCOHOL”; in line 32, strike “a” and substitute “THE”; and in line 36, strike “INTOXICATED” and substitute “UNDER THE INFLUENCE OF ALCOHOL”.

AMENDMENT NO. 5

On page 3, after line 37, insert:

“10-308.

(a) The evidence of the analysis does not limit the introduction of other evidence bearing upon whether the defendant was [intoxicated] UNDER THE INFLUENCE OF ALCOHOL or whether the defendant was driving while [under the influence of] IMPAIRED BY alcohol, while so far [under the influence of] IMPAIRED BY 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 while [under the influence of] IMPAIRED BY a controlled dangerous substance.

(b) The results of a test or tests to determine the drug or controlled dangerous substance content of a person's blood:

(1) Are admissible as evidence in a criminal trial only in a prosecution for a violation of § 21-902 of the Transportation Article, § 8-738 of the Natural Resources Article, or Article 27, § 388, § 388A, or § 388B of the Code and only if other admissible evidence is introduced that creates an inference that the person was:

(i) Driving or attempting to drive while so far [under the influence of] IMPAIRED BY any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, or while [under the influence of] IMPAIRED BY a controlled dangerous substance; or

(ii) Operating or attempting to operate a vessel while the person was so far

[under the influence of] IMPAIRED BY any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not operate a vessel safely, or while [under the influence of] IMPAIRED BY a controlled dangerous substance; and

Article - Health - General

8-401.

(a) The Administration shall:

(3) (i) 1. In cooperation with the Motor Vehicle Administration, courts, police, and other agencies, the Administration shall approve appropriate programs of alcohol and drug abuse education or treatment for individuals who[,] ARE CONVICTED under § 21-902 of the Transportation Article[, are convicted of driving while intoxicated or while under the influence of alcohol and/or drugs].

Article - Natural Resources

8-738.

(a) A person may not operate or attempt to operate a vessel while the person:

(1) Is [intoxicated] UNDER THE INFLUENCE OF ALCOHOL;

(2) Is [under the influence of] IMPAIRED BY alcohol;

(3) Is so far [under the influence of] IMPAIRED BY any drug, combination of drugs, or combination of one or more drugs and alcohol that the person cannot operate a vessel safely; or

(4) Is [under the influence of] IMPAIRED BY any controlled dangerous substance, as defined in Article 27, § 277 of the Code, unless the person is entitled to use the controlled dangerous substance under the laws of the State.

(Over)

(b) (1) Except as provided under paragraph (2) of this subsection, the evidentiary presumptions and procedures established under §§ 10-302 through 10-308 of the Courts Article are applicable to any violation of this section.

(2) If at the time of testing an individual has an alcohol concentration that meets the [intoxicated] UNDER THE INFLUENCE OF ALCOHOL per se definition in § 11-127.1 of the Transportation Article, as determined by an analysis of the individual's blood or breath, it shall be prima facie evidence that the individual was operating a vessel while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL.

8-740.

(b) Notwithstanding the provisions of subsection (a) of this section, if a person is convicted of any of the following boating safety violations in the operation of a vessel, the person is required, as a condition of probation or sentencing, to successfully complete a boating safety education course that is offered or approved by the Department:

(3) Operating [under the influence of alcohol, any drug, combination of drugs, or combination of drugs and alcohol,] in violation of § 8-738 of this subtitle.”.

AMENDMENT NO. 6

On page 4, in line 3, strike “Intoxicated” and substitute “UNDER THE INFLUENCE OF ALCOHOL”; and after line 9, insert:

“16-117.

(b) (2) The Administration shall keep convenient records or make suitable notations showing the convictions or traffic accidents in which each licensee has been involved and every probation before judgment disposition of any violation of the Maryland Vehicle Law. A record or notation of a probation before judgment disposition, or a first offense of driving with an alcohol concentration of [0.10] 0.08 or more under § 16-205.1 of this title, shall be segregated by the Administration and shall be available only to the Administration, the courts, criminal justice agencies, and the defendant or the defendant's attorney. However, a record or notation of a probation

before judgment, or a first offense of driving with an alcohol concentration of [0.10] 0.08 or more under § 16-205.1 of this title, may not be received or considered by the courts until a plea of guilty or nolo contendere is made by the defendant or a finding of guilty is made by the court.

(5) Except as provided in this section, an employee of the Administration may not disclose any records or information regarding probation before judgment, or a first offense of driving with an alcohol concentration of [0.10] 0.08 or more under § 16-205.1 of this title.

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] UNDER THE INFLUENCE OF ALCOHOL, while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL per se, or while [under the influence of] IMPAIRED BY 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] IMPAIRED BY alcohol or while so far [under the influence of] IMPAIRED BY 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] UNDER THE INFLUENCE OF ALCOHOL or while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL per se;

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

(iii) § 21-902(c) of this article of driving or attempting to drive a motor vehicle while so far [under the influence of] IMPAIRED BY 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

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

(b) The Administration:

(1) Shall revoke the license of any person who has been convicted, under Article 27, § 388A of the Code, of homicide by a motor vehicle while [intoxicated or] under the influence of alcohol, IMPAIRED BY ALCOHOL, OR IMPAIRED BY ANY DRUG, ANY COMBINATION OF drugs, A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, or a controlled dangerous substance; and

(2) May not issue a temporary license to drive for any person whose license has been revoked under item (1) of this subsection during an administrative appeal of the revocation.

(c) 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] IMPAIRED BY alcohol or while so far [under the influence of] IMPAIRED BY any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a vehicle safely.

(d) 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] IMPAIRED BY alcohol or while so far [under the influence of] IMPAIRED BY 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] UNDER THE INFLUENCE OF ALCOHOL or while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL per se;

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

(3) § 21-902(c) of this article of driving or attempting to drive a motor vehicle while so far [under the influence of] IMPAIRED BY 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; or

(4) § 21-902(d) of this article of driving or attempting to drive a motor vehicle while [under the influence of] IMPAIRED BY a controlled dangerous substance.”.

On page 4, in line 13, in each instance, strike “INTOXICATED” and substitute “UNDER THE INFLUENCE OF ALCOHOL”.

On page 4 in line 32 , on page 6 in line 12, on page 7 in lines 19 and 35, on page 8 in line 16, and on page 9 in line 9, in each instance, strike “intoxicated” and substitute “UNDER THE INFLUENCE OF ALCOHOL”.

On page 4 in lines 33 and 35, on page 6 in lines 13 and 15, on page 7 in lines 19, 21, 35, 36, 37, and 38, on page 8 in lines 16 and 18, and on page 9 in lines 9 and 11, in each instance, strike “under the influence of” and substitute “IMPAIRED BY”.

On page 7, after line 30, insert:

“(c) (1) If a person is involved in a motor vehicle accident that results in the death of, or a life threatening injury to, another person and the person is detained by a police officer who has reasonable grounds to believe that the person has been driving or attempting to drive while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL, while [under the influence of] IMPAIRED BY alcohol, while so far [under the influence of] IMPAIRED BY any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, while [under the influence of] IMPAIRED BY a controlled dangerous substance, or in violation of § 16-813 of this title, the person shall be required to submit to a test, as directed by the officer.

(d) (1) If a police officer has reasonable grounds to believe that a person has been driving or attempting to drive a motor vehicle while [intoxicated] UNDER THE INFLUENCE OF

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ALCOHOL, while [under the influence of] IMPAIRED BY alcohol, while so far [under the influence of] IMPAIRED BY any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, while [under the influence of] IMPAIRED BY a controlled dangerous substance, or in violation of § 16-813 of this title, and if the police officer determines that the person is unconscious or otherwise incapable of refusing to take a test, the police officer shall:

- (i) Obtain prompt medical attention for the person;
- (ii) If necessary, arrange for removal of the person to a nearby medical facility; and
- (iii) If a test would not jeopardize the health or well-being of the person, direct a qualified medical person to withdraw blood for a test.”.

On page 9, after line 24, insert:

“(ii) After a hearing, the Administration shall disqualify the person from driving a commercial motor vehicle if:

1. The person was detained while operating a commercial motor vehicle;
2. The police officer who stopped or detained the person had reasonable grounds to believe that the person was driving or attempting to drive while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL, while [under the influence of] IMPAIRED BY alcohol, while so far [under the influence of] IMPAIRED BY any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, while [under the influence of] IMPAIRED BY a controlled dangerous substance, in violation of an alcohol restriction, or in violation of § 16-813 of this title;
3. There was evidence of the use by the person of alcohol, any drug, any combination of drugs, a combination of one or more drugs and alcohol, or a controlled dangerous substance;

4. The police officer requested a test after the person was fully advised of the administrative sanctions that shall be imposed; and

5. The person refused to take the test.

(iii) If the person is licensed to drive a commercial motor vehicle, the Administration shall disqualify the person in accordance with subparagraph (ii) of this paragraph, but may not impose a suspension under subparagraph (i) of this paragraph, if:

1. The person was detained while operating a commercial motor vehicle;

2. The police officer had reasonable grounds to believe the person was in violation of an alcohol restriction or in violation of § 16-813 of this title;

3. The police officer did not have reasonable grounds to believe the driver was driving while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL, driving while [under the influence of] IMPAIRED BY alcohol, while so far [under the influence of] IMPAIRED BY any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not drive a vehicle safely, or while [under the influence of] IMPAIRED BY a controlled dangerous substance; and

4. The driver refused to take a test.”.

AMENDMENT NO. 7

On page 10, strike in their entirety lines 9 through 23, inclusive; and after line 23, insert:

“16-205.2.

(a) A police officer who has reasonable grounds to believe that an individual is or has been driving or attempting to drive a motor vehicle while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL or while [under the influence of] IMPAIRED BY alcohol may, without making an arrest and prior to the issuance of a citation, request the individual to submit to a preliminary breath

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test to be administered by the officer using a device approved by the State Toxicologist.

16-402.

(a) After the conviction of an individual for a violation of Article 27, § 388, § 388A, or § 388B of the Code, or of the vehicle laws or regulations of this State or of any local authority, points shall be assessed against the individual as of the date of violation and as follows:

(23) Driving while [under the influence of] IMPAIRED BY alcohol or while [under influence of] IMPAIRED BY a drug, combination of drugs, or combination of ONE OR MORE drugs and alcohol..... 8 points

(32) Driving while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL, while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL per se, or while [under the influence of] IMPAIRED BY AN illegally used controlled dangerous substance..... 12 points

18-105.

(a) A person may not rent a motor vehicle to any other person if he knows that the other person is under the influence of alcohol, IMPAIRED BY ALCOHOL, IMPAIRED BY A DRUG, A COMBINATION OF DRUGS, A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, or [drugs] IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE.

(b) A person may not rent a motor vehicle to any other person if the person knows that an individual who will drive the rented vehicle is under the influence of alcohol, IMPAIRED BY ALCOHOL, IMPAIRED BY A DRUG, A COMBINATION OF DRUGS, A COMBINATION OF ONE OR MORE DRUGS AND ALCOHOL, or [drugs] IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE.

21-902.

(a) (1) A person may not drive or attempt to drive any vehicle while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL.

(2) A person may not drive or attempt to drive any vehicle while the person is

[intoxicated] UNDER THE INFLUENCE OF ALCOHOL per se.

(b) A person may not drive or attempt to drive any vehicle while [under the influence of] IMPAIRED BY alcohol.

(c) (1) A person may not drive or attempt to drive any vehicle while he is so far [under the influence of] IMPAIRED BY any drug, any combination of drugs, or a combination of one or more drugs and alcohol that he cannot drive a vehicle safely.

(2) It is not a defense to any charge of violating this subsection that the person charged is or was entitled under the laws of this State to use the drug, combination of drugs, or combination of one or more drugs and alcohol, unless the person was unaware that the drug or combination would make [him] THE PERSON incapable of safely driving a vehicle.

(d) A person may not drive or attempt to drive any vehicle while [he] THE PERSON is [under the influence of] IMPAIRED BY any controlled dangerous substance, as that term is defined in Article 27, § 279 of the Code, if the person is not entitled to use the controlled dangerous substance under the laws of this State.

26-202.

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

(3) The officer has probable cause to believe that the person has committed the violation, and the violation is any of the following offenses:

(i) Driving or attempting to drive while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL, while [under the influence of] IMPAIRED BY alcohol, or in violation of an alcohol restriction;

(ii) Driving or attempting to drive while [under the influence of] IMPAIRED BY any drug, any combination of drugs, or any combination of ONE OR MORE drugs

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and alcohol or while [under the influence of] IMPAIRED BY any controlled dangerous substance;

26-404.

(f) A guaranteed arrest bond certificate may not be accepted:

(2) To guarantee the appearance of any person in a court of this State, if the offense charged is:

(i) Driving or attempting to drive while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL or while driving under the influence of alcohol;

(ii) Driving or attempting to drive while [under the influence of] IMPAIRED BY any drug, any combination of drugs, or any combination of ONE OR MORE drugs and alcohol or while [under the influence of] IMPAIRED BY any controlled dangerous substance; or

(iii) Any felony.

26-405.

If a person is charged with a violation of § 21-901.1 of this article ("Reckless and negligent driving") or § 21-902 of this article ("Driving while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL, while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL per se, [under the influence of] WHILE IMPAIRED BY alcohol, or [under the influence of] WHILE IMPAIRED BY a drug, A COMBINATION OF DRUGS, a combination of [alcohol and a drug] ONE OR MORE DRUGS AND ALCOHOL, or WHILE IMPAIRED BY a controlled dangerous substance"), the court may find [him] THE PERSON guilty of any lesser included offense under any subsection of the respective section.

27-101.

(c) Any person who is convicted of a violation of any of the provisions of the following sections of this article is subject to a fine of not more than \$500 or imprisonment for not more than 2 months or both:

(23) Except as provided in subsections (f) and (q) of this section, § 21-902(b) ("Driving while [under the influence of] IMPAIRED BY alcohol");

(24) Except as provided in subsections (f) and (q) of this section, § 21-902(c) ("Driving while [under influence of] IMPAIRED BY drugs or drugs and alcohol");

(25) Except as provided in subsections (f) and (q) of this section, § 21-902(d) ("Driving while [under influence of] IMPAIRED BY controlled dangerous substance"); or

(f) (1) A person is subject to a fine not exceeding \$500 or imprisonment not exceeding 1 year or both, if the person is convicted of:

(ii) A second or subsequent violation of:

2. Except as provided in subsection (q) of this section:

A. § 21-902(b) of this article ("Driving while [under the influence of] IMPAIRED BY alcohol");

B. § 21-902(c) of this article ("Driving while [under the influence of] IMPAIRED BY drugs or drugs and alcohol"); or

C. § 21-902(d) of this article ("Driving while [under the influence of] IMPAIRED BY a controlled dangerous substance").

(k) (1) Except as provided in subsection (q) of this section, any person who is convicted of a violation of any of the provisions of § 21-902(a) of this article ("Driving while [intoxicated or intoxicated] UNDER THE INFLUENCE OF ALCOHOL OR UNDER THE INFLUENCE OF ALCOHOL per se");

(i) For a first offense, shall be subject to a fine of not more than \$1,000, or imprisonment for not more than 1 year, or both;

(Over)

(ii) For a second offense, shall be subject to a fine of not more than \$2,000, or imprisonment for not more than 2 years, or both; and

(iii) For a third or subsequent offense, shall be subject to a fine of not more than \$3,000, or imprisonment for not more than 3 years, or both.

(2) For the purpose of second or subsequent offender penalties for violation of § 21-902(a) of this article provided under this subsection, a prior conviction of § 21-902(b), (c), or (d) of this article, within 5 years of the conviction for a violation of § 21-902(a) of this article, shall be considered a conviction of § 21-902(a) of this article.

27-107.

(b) In addition to any other penalties provided in this title for a violation of any of the provisions of § 21-902(a) of this article ("Driving while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL OR UNDER THE INFLUENCE OF ALCOHOL PER SE"), or § 21-902(b) of this article ("Driving while [under the influence of] IMPAIRED BY alcohol"), or in addition to any other condition of probation, a court may prohibit a person who is convicted of, or granted probation under Article 27, § 641 of the Code for, a violation of § 21-902(a) or § 21-902(b) of this article from operating for not more than 3 years a motor vehicle that is not equipped with an ignition interlock system.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed only prospectively and may not be applied or interpreted to have any effect on or application to any test for alcohol concentration taken before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the provisions of Article 1, § 3 of the Annotated Code of Maryland apply to the provisions of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act does not limit the application of any provision of law, including any criminal or administrative penalty, that is applicable to a subsequent criminal conviction or a subsequent administrative offense, and a conviction or an administrative offense, respectively, under the prior law shall be considered a prior

conviction or prior administrative adjudication, respectively, for any purpose provided by law, including any criminal or administrative penalty for a subsequent conviction or a subsequent administrative offense.

SECTION 5. AND BE IT FURTHER ENACTED, That the term "under the influence of alcohol" as used in this Act shall include within its meaning the conduct prohibited by the former references to "intoxicated" and the term "impaired" shall include within its meaning the conduct prohibited by the former references to "under the influence".

SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect September 30, 2001."