

(PRE-FILED)

By: **Delegate Owings**
Requested: August 21, 2000
Introduced and read first time: January 10, 2001
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Drunk and Drugged Driving - Mandatory Arrest and Detention**

3 FOR the purpose of requiring a police officer to arrest a person for certain alcohol- or
4 drug-related driving violations under certain circumstances; prohibiting for at
5 least a certain period the release of a person who is arrested for certain alcohol-
6 or drug-related driving violations; providing for the application of this Act; and
7 generally relating to requiring an arrest and detention for at least a certain
8 period of a person for certain alcohol- and drug-related driving violations.

9 BY repealing and reenacting, with amendments,
10 Article - Transportation
11 Section 26-202 and 26-402
12 Annotated Code of Maryland
13 (1999 Replacement Volume and 2000 Supplement)

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

16 **Article - Transportation**

17 26-202.

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

21 (1) The person has committed or is committing the violation within the
22 view or presence of the officer, and the violation is any of the following:

23 (i) A violation of § 21-1411 or § 22-409 of this article, relating to
24 vehicles transporting hazardous materials; or

25 (ii) A violation of § 24-111 or § 24-111.1 of this article, relating to
26 the failure or refusal to submit a vehicle to a weighing or to remove excess weight
27 from it;

1 (2) The person has committed or is committing the violation within the
2 view or presence of the officer, and either:

3 (i) The person does not furnish satisfactory evidence of identity; or

4 (ii) The officer has reasonable grounds to believe that the person
5 will disregard a traffic citation;

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

8 (i) [Driving or attempting to drive while intoxicated, while under
9 the influence of alcohol, or] DRIVING in violation of an alcohol restriction;

10 [(ii) Driving or attempting to drive while under the influence of any
11 drug, any combination of drugs, or any combination of drugs and alcohol or while
12 under the influence of any controlled dangerous substance;]

13 [(iii) (II) Failure to stop, give information, or render reasonable
14 assistance, as required by §§ 20-102 and 20-104 of this article, in the event of an
15 accident resulting in bodily injury to or death of any person;

16 [(iv) (III) Driving or attempting to drive a motor vehicle while the
17 driver's license or privilege to drive is suspended or revoked;

18 [(v) (IV) Failure to stop or give information, as required by §§
19 20-103 through 20-105 of this article, in the event of an accident resulting in damage
20 to a vehicle or other property;

21 [(vi) (V) Any offense that caused or contributed to an accident
22 resulting in bodily injury to or death of any person; or

23 [(vii) (VI) Fleeing or attempting to elude a police officer;

24 (4) The person is a nonresident and the officer has probable cause to
25 believe that:

26 (i) The person has committed the violation; and

27 (ii) The violation contributed to an accident; or

28 (5) The officer has probable cause to believe that the person has
29 committed the violation, and, subject to the procedures set forth in § 26-203 of this
30 subtitle, the person is issued a traffic citation and refuses to acknowledge its receipt
31 by signature.

32 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR AN OFFENSE
33 UNDER § 21-902(A), (B), (C), OR (D) OF THIS ARTICLE OR ARTICLE 27, § 388A OR § 388B OF
34 THE CODE, A POLICE OFFICER SHALL ARREST A PERSON IF THE OFFICER HAS A
35 WARRANT OR WITHOUT A WARRANT, IF THE OFFICER HAS PROBABLE CAUSE TO
36 BELIEVE THAT THE PERSON HAS COMMITTED THE OFFENSE.

1 [(b)] (C) (1) An arrest under this section shall be made in the same manner
2 as, and without more force than, in misdemeanor cases.

3 (2) THIS SUBSECTION DOES NOT APPLY TO AN ARREST FOR A VIOLATION
4 THAT IS A FELONY.

5 [(c)] (D) (1) A person arrested under this section shall be taken without
6 unnecessary delay before a District Court commissioner, as specified in § 26-401 of
7 this title, unless the arresting officer in his discretion releases the [individual upon]
8 PERSON ON the [individual's] PERSON'S written promise to appear for trial.

9 (2) A PERSON ARRESTED FOR A VIOLATION DESCRIBED IN SUBSECTION
10 (B) OF THIS SECTION MAY NOT BE RELEASED BY THE ARRESTING OFFICER OR A
11 DISTRICT COURT COMMISSIONER UNTIL AT LEAST 12 HOURS AFTER THE PERSON
12 WAS ARRESTED.

13 26-402.

14 (a) This section does not apply if the alleged offense is any of the offenses
15 enumerated in § 26-202(a)(3)(i), (ii), (iii), and (iv) of this title.

16 (b) If a police officer arrests a person and takes him before a District Court
17 commissioner as provided in this title, the person shall be released on issuance of a
18 written citation if:

19 (1) A commissioner is not available;

20 (2) A judge, clerk, or other public officer, authorized to accept bail for the
21 court is not available; and

22 (3) The person charged gives his written promise to appear in court.

23 (C) A PERSON ARRESTED FOR A VIOLATION DESCRIBED IN § 26-202(B) OF THIS
24 TITLE MAY NOT BE RELEASED UNTIL AT LEAST 12 HOURS AFTER THE PERSON WAS
25 ARRESTED.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
27 construed only prospectively and may not be applied or interpreted to have any effect
28 on or application to any arrest before the effective date of this Act.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2001.