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By: **Delegate Franchot**

Introduced and read first time: February 9, 2001

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Alcohol Related Driving Offenses - Criminal Penalties and Driving**  
3 **Restrictions**

4 FOR the purpose of establishing various penalties and driving restrictions for certain  
5 alcohol related offenses; authorizing a court to order a person who causes the  
6 death of, or life threatening injury to, another as a result of negligent driving  
7 while intoxicated, intoxicated per se, or while under the influence of alcohol not  
8 to drive or attempt to drive a motor vehicle with alcohol in the person's blood;  
9 requiring a court to order a person who causes the death of, or life threatening  
10 injury to, another as a result of negligent driving while intoxicated or  
11 intoxicated per se with a certain minimum alcohol concentration not to drive or  
12 attempt to drive a motor vehicle with alcohol in the person's blood; prohibiting a  
13 court from staying the entry of judgment and placing a certain defendant on  
14 probation for a certain violation of driving or attempting to drive a motor vehicle  
15 with a certain alcohol concentration under certain circumstances; requiring the  
16 Motor Vehicle Administration to impose a certain alcohol restriction on a  
17 person's driver's license under certain circumstances; authorizing the  
18 Administration to impose a certain alcohol restriction for good cause on certain  
19 driving privileges of certain unlicensed or nonresident individuals; requiring the  
20 Administration to impose a certain alcohol restriction on certain driving  
21 privileges of certain unlicensed or nonresident individuals under certain  
22 circumstances; authorizing a court to order an individual not to drive or attempt  
23 to drive a motor vehicle with alcohol in the individual's blood; requiring the  
24 Administration to suspend a person's driver's license or driving privilege for a  
25 certain period of time and impose a certain alcohol restriction for a certain  
26 period of time based on a certain amount of tested alcohol concentration under  
27 certain circumstances; increasing the period of suspension for a driver's license  
28 or driving privilege for a certain alcohol concentration test refusal under certain  
29 circumstances; making effective certain suspension orders and certain alcohol  
30 restrictions on certain driver's licenses under certain circumstances; requiring  
31 the suspension of, and alcohol restriction on, a driver's license or driving  
32 privilege based on certain alcohol concentrations and the number of offenses  
33 committed; prohibiting the Administration from modifying certain suspensions  
34 or issuing restrictive licenses for certain persons who are convicted of, enter a  
35 plea of nolo contendere for, or receive probation before judgment for certain

1 offenses; authorizing a court to order a person who drives a vehicle while  
2 intoxicated, intoxicated per se, or while under the influence of alcohol not to  
3 drive or attempt to drive a motor vehicle with alcohol in the person's blood;  
4 requiring a court to order a person who drives while intoxicated or intoxicated  
5 per se with a certain minimum alcohol concentration not to drive or attempt to  
6 drive a motor vehicle with alcohol in the person's blood; requiring the prior entry  
7 of a certain plea for certain offenses to be considered a conviction of certain  
8 offenses under certain circumstances; requiring that a person who enters a  
9 certain plea for a certain violation within a certain time period after a prior  
10 conviction of or plea for a certain prior offense is subject to certain mandatory  
11 minimum criminal penalties; requiring the prior entry of a certain plea for  
12 certain offenses within a certain time period after a conviction or entry of a  
13 certain plea to be considered a conviction of a certain offense under certain  
14 circumstances; establishing certain penalties for a conviction of or entry of a  
15 certain plea for driving while intoxicated or intoxicated per se based on a certain  
16 alcohol concentration; establishing certain penalties for certain persons who  
17 enter certain pleas for certain alcohol related offenses while transporting a  
18 minor; defining certain terms; establishing certain penalties; and generally  
19 relating to penalties and alcohol restrictions for various alcohol related offenses  
20 under certain circumstances.

21 BY repealing and reenacting, with amendments,  
22 Article 27 - Crimes and Punishments  
23 Section 388A and 388B  
24 Annotated Code of Maryland  
25 (1996 Replacement Volume and 2000 Supplement)

26 BY repealing and reenacting, with amendments,  
27 Article - Criminal Procedure  
28 Section 6-220  
29 Annotated Code of Maryland  
30 (As enacted by Chapter \_\_\_\_\_ (S.B. 1) of the Acts of the General Assembly of  
31 2001)

32 BY repealing and reenacting, with amendments,  
33 Article - Transportation  
34 Section 16-113, 16-205.1(b), (f), and (n), 21-902, and 27-101(f), (j), (k), and (q)  
35 Annotated Code of Maryland  
36 (1999 Replacement Volume and 2000 Supplement)

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

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

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

14 (i) "That A-B on the ..... day of ....., nineteen hundred and  
15 ..... at the County (City) aforesaid, unlawfully, while intoxicated did kill C-D,  
16 against the peace, government, and dignity of the State.";

17 (ii) "That A-B on the ..... day of ....., nineteen hundred and  
18 ..... at the County (City) aforesaid, unlawfully, while under the influence of  
19 alcohol, did kill C-D, against the peace, government, and dignity of the State.";

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

23 (iv) "That A-B on the ..... day of ....., nineteen hundred and  
24 ..... at the County (City) aforesaid, unlawfully, while under the influence of a  
25 controlled dangerous substance, did kill C-D, against the peace, government, and  
26 dignity of the State.".

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

29 (H) (1) IN THIS SUBSECTION, "PERSON" MEANS AN INDIVIDUAL WHO:

30 (I) IS CONVICTED OF A VIOLATION OF SUBSECTION (B) OR (C) OF  
31 THIS SECTION;

32 (II) ENTERS A PLEA OF NOLO CONTENDERE FOR A VIOLATION OF  
33 SUBSECTION (B) OR (C) OF THIS SECTION;

34 (III) RECEIVES PROBATION BEFORE JUDGMENT FOR A VIOLATION  
35 OF SUBSECTION (B) OR (C) OF THIS SECTION; OR

1 (IV) IS UNDER THE AGE OF 18 YEARS AND IS FOUND TO HAVE  
2 COMMITTED A DELINQUENT ACT IN VIOLATION OF SUBSECTION (B) OR (C) OF THIS  
3 SECTION.

4 (2) IN ADDITION TO ANY OTHER PENALTY OR SANCTION AUTHORIZED  
5 BY LAW FOR A VIOLATION OF SUBSECTION (B) OR (C) OF THIS SECTION, A COURT:

6 (I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS PARAGRAPH, MAY  
7 ORDER A PERSON WHO VIOLATES SUBSECTION (B) OR (C) OF THIS SECTION NOT TO  
8 DRIVE OR ATTEMPT TO DRIVE A MOTOR VEHICLE WITH ALCOHOL IN THE PERSON'S  
9 BLOOD; OR

10 (II) IF A PERSON VIOLATES SUBSECTION (B) OF THIS SECTION BY  
11 DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WITH AN ALCOHOL  
12 CONCENTRATION OF MORE THAN 0.15 AS DETERMINED BY AN ANALYSIS OF THE  
13 PERSON'S BLOOD OR BREATH AT THE TIME OF TESTING UNDER §§ 10-302 THROUGH  
14 10-309, INCLUSIVE, OF THE COURTS ARTICLE, SHALL ORDER THE PERSON NOT TO  
15 DRIVE OR ATTEMPT TO DRIVE A MOTOR VEHICLE WITH ALCOHOL IN THE PERSON'S  
16 BLOOD.

17 388B.

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

19 (2) (i) "Intoxicated per se" means an alcohol concentration at the time  
20 of testing of 0.10 or more as measured by grams of alcohol per 100 milliliters of blood  
21 or grams of alcohol per 210 liters of breath.

22 (ii) If the alcohol concentration is measured by milligrams of  
23 alcohol per deciliter of blood or milligrams of alcohol per 100 milliliters of blood, a  
24 court shall convert the measurement into grams of alcohol per 100 milliliters of blood  
25 by dividing the measurement by 1000.

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

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

33 (5) "Under the influence of a controlled dangerous substance" means  
34 under the influence of a controlled dangerous substance, as that term is defined in §  
35 279 of this article, if the person is not entitled to use the controlled dangerous  
36 substance under the laws of this State.

37 (b) A person who causes a life threatening injury to another as a result of the  
38 person's negligent driving, operation, or control of a motor vehicle or vessel while  
39 intoxicated or intoxicated per se is guilty of a misdemeanor to be known as "life

1 threatening injury by motor vehicle or vessel while intoxicated or intoxicated per se",  
2 and on conviction the person shall be punished by imprisonment for not more than 3  
3 years or a fine of not more than \$5,000 or both.

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

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

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

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

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

28 (i) "That A-B on the ..... day of ....., nineteen hundred and  
29 ..... at the County (City) aforesaid, unlawfully, while intoxicated, did cause a life  
30 threatening injury to C-D, against the peace, government, and dignity of the State.";

31 (ii) "That A-B on the ..... day of ....., nineteen hundred and  
32 ..... at the County (City) aforesaid, unlawfully, while under the influence of  
33 alcohol, did cause a life threatening injury to C-D, against the peace, government,  
34 and dignity of the State.";

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

39 (iv) "That A-B on the ..... day of ....., nineteen hundred and  
40 ..... at the County (City) aforesaid, unlawfully, while under the influence of a

1 controlled dangerous substance, did cause a life threatening injury to C-D, against  
2 the peace, government, and dignity of the State."

3 (G) (1) IN THIS SUBSECTION, "PERSON" MEANS AN INDIVIDUAL WHO:

4 (I) IS CONVICTED OF A VIOLATION OF SUBSECTION (B) OR (C) OF  
5 THIS SECTION;

6 (II) ENTERS A PLEA OF NOLO CONTENDERE FOR A VIOLATION OF  
7 SUBSECTION (B) OR (C) OF THIS SECTION;

8 (III) RECEIVES PROBATION BEFORE JUDGMENT FOR A VIOLATION  
9 OF SUBSECTION (B) OR (C) OF THIS SECTION; OR

10 (IV) IS UNDER THE AGE OF 18 YEARS AND IS FOUND TO HAVE  
11 COMMITTED A DELINQUENT ACT IN VIOLATION OF SUBSECTION (B) OR (C) OF THIS  
12 SECTION.

13 (2) IN ADDITION TO ANY OTHER PENALTY OR SANCTION AUTHORIZED  
14 BY LAW FOR A VIOLATION OF SUBSECTION (B) OR (C) OF THIS SECTION, A COURT:

15 (I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS PARAGRAPH, MAY  
16 ORDER A PERSON WHO VIOLATES SUBSECTION (B) OR (C) OF THIS SECTION NOT TO  
17 DRIVE OR ATTEMPT TO DRIVE A MOTOR VEHICLE WITH ALCOHOL IN THE PERSON'S  
18 BLOOD; OR

19 (II) IF A PERSON VIOLATES SUBSECTION (B) OF THIS SECTION BY  
20 DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WITH AN ALCOHOL  
21 CONCENTRATION OF MORE THAN 0.15 AS DETERMINED BY AN ANALYSIS OF THE  
22 PERSON'S BLOOD OR BREATH AT THE TIME OF TESTING UNDER §§ 10-302 THROUGH  
23 10-309, INCLUSIVE, OF THE COURTS ARTICLE, SHALL ORDER THE PERSON NOT TO  
24 DRIVE OR ATTEMPT TO DRIVE A MOTOR VEHICLE WITH ALCOHOL IN THE PERSON'S  
25 BLOOD.

## 26 **Article - Criminal Procedure**

27 6-220.

28 (a) (1) When a defendant pleads guilty or nolo contendere or is found guilty  
29 of a crime, a court may stay the entering of judgment, defer further proceedings, and  
30 place the defendant on probation subject to reasonable conditions if:

31 (i) the court is satisfied that the best interests of the defendant  
32 and the public welfare would be served; and

33 (ii) the defendant gives written consent after determination of guilt  
34 or acceptance of a nolo contendere plea.

35 (2) Subject to paragraphs (3) and (4) of this subsection, the conditions  
36 may include an order that the defendant:

1 (i) pay a fine or monetary penalty to the State or make restitution;  
2 or

3 (ii) participate in a rehabilitation program, the parks program, or a  
4 voluntary hospital program.

5 (3) Before the court orders a fine, monetary penalty, or restitution, the  
6 defendant is entitled to notice and a hearing to determine the amount of the fine,  
7 monetary penalty, or restitution, what payment will be required, and how payment  
8 will be made.

9 (4) Any fine or monetary penalty imposed as a condition of probation  
10 shall be within the amount set by law for a violation resulting in conviction.

11 (b) (1) When the crime for which the judgment is being stayed is for a  
12 violation of § 21-902 of the Transportation Article, the court shall impose a period of  
13 probation and, as a condition of the probation:

14 (i) shall require the defendant to participate in an alcohol  
15 treatment or education program approved by the Department of Health and Mental  
16 Hygiene, unless the court finds and states on the record that the interests of the  
17 defendant and the public do not require the imposition of this condition; and

18 (ii) may prohibit the defendant from operating a motor vehicle  
19 unless the motor vehicle is equipped with an ignition interlock system under § 27-107  
20 of the Transportation Article.

21 (2) When the crime for which the judgment is being stayed is for a  
22 violation of any provision of Article 27, §§ 276 through 303 of the Code, the court shall  
23 impose a period of probation and, as a condition of probation, require the defendant to  
24 participate in a drug treatment or education program approved by the Department of  
25 Health and Mental Hygiene, unless the court finds and states on the record that the  
26 interests of the defendant and the public do not require the imposition of this  
27 condition.

28 (c) Notwithstanding subsections (a) and (b) of this section, a court may not  
29 stay the entering of judgment and place a defendant on probation for:

30 (1) A VIOLATION OF § 21-902(A) OF THE TRANSPORTATION ARTICLE FOR  
31 DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WITH AN ALCOHOL  
32 CONCENTRATION OF MORE THAN 0.15 AS DETERMINED BY AN ANALYSIS OF THE  
33 PERSON'S BLOOD OR BREATH AT THE TIME OF TESTING UNDER §§ 10-302 THROUGH  
34 10-309, INCLUSIVE, OF THE COURTS ARTICLE.

35 [(1)] (2) EXCEPT AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION,  
36 a violation of § 21-902 of the Transportation Article, if within the preceding 5 years  
37 the defendant has been convicted under or has been placed on probation under that  
38 section after being charged with a violation of § 21-902 of the Transportation Article;



1           (2)     An alcohol restriction that prohibits the licensee from driving or  
2 attempting to drive a motor vehicle while having alcohol in the licensee's blood may,  
3 as described in subsections (b) and (g) of this section, include a restriction that  
4 prohibits the licensee from driving or attempting to drive a motor vehicle unless the  
5 licensee is a participant in the Ignition Interlock System Program established under  
6 § 16-404.1 of this title.

7           (3)     (I)     IF THE ADMINISTRATION IS REQUIRED TO IMPOSE AN ALCOHOL  
8 RESTRICTION UNDER § 16-205.1 OF THIS TITLE, THE ADMINISTRATION SHALL IMPOSE  
9 ON THE LICENSEE AN ALCOHOL RESTRICTION THAT PROHIBITS THE LICENSEE  
10 FROM DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WHILE HAVING  
11 ALCOHOL IN THE LICENSEE'S BLOOD FOR A PERIOD OF 3 YEARS.

12                   (II)     ON ANY DRIVING PRIVILEGE OTHER THAN A DRIVER'S LICENSE  
13 TO AN UNLICENSED OR NONRESIDENT INDIVIDUAL IN THE STATE, THE  
14 ADMINISTRATION:

15                           1.     MAY FOR GOOD CAUSE IMPOSE ON THE DRIVING  
16 PRIVILEGE AN ALCOHOL RESTRICTION THAT PROHIBITS THE INDIVIDUAL FROM  
17 DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WHILE HAVING ALCOHOL IN  
18 THE INDIVIDUAL'S BLOOD FOR A PERIOD OF 3 YEARS; OR

19                           2.     IF REQUIRED UNDER § 16-205.1 OF THIS TITLE, SHALL  
20 IMPOSE ON THE DRIVING PRIVILEGE AN ALCOHOL RESTRICTION THAT PROHIBITS  
21 THE INDIVIDUAL FROM DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE  
22 WHILE HAVING ALCOHOL IN THE INDIVIDUAL'S BLOOD FOR A PERIOD OF 3 YEARS.

23     (b)     (1)     Notwithstanding the licensee's driving record, the Administration  
24 shall impose on each licensee under the age of 21 years an alcohol restriction that  
25 prohibits the licensee from driving or attempting to drive a motor vehicle with an  
26 alcohol concentration of 0.02 or more as determined by an analysis of the licensee's  
27 blood or breath.

28           (2)     An alcohol restriction imposed under this subsection expires when  
29 the licensee reaches the age of 21 years.

30           (3)     This subsection may not be construed or applied to limit:

31                   (i)     The authority of the Administration to impose on a licensee an  
32 alcohol restriction described in subsection (a)(2) of this section; or

33                   (ii)    The application of any other provision of law that prohibits  
34 consumption of an alcoholic beverage by an individual under the age of 21 years.

35           (4)     An individual under the age of 21 years who is convicted of a violation  
36 of § 21-902(a), (b), or (c) of this article may be required, for a period of not more than  
37 3 years, to participate in the Ignition Interlock System Program in order to retain the  
38 individual's driver's license.

1 (c) (1) Subject to the provisions of paragraph (2) of this subsection, the  
2 Administration may:

3 (i) Issue a special restricted license; or

4 (ii) Set forth the restrictions on the usual license form.

5 (2) The Administration shall indicate on the license of a licensee under  
6 the age of 21 years that an alcohol restriction has been imposed on the licensee under  
7 subsection (b) of this section.

8 (d) (1) Notwithstanding the licensee's driving record, the Administration  
9 shall impose an hour restriction on a provisional driver's license issued to an  
10 applicant under the age of 18.

11 (2) The restriction under this subsection shall limit the holder of a  
12 provisional license to driving unsupervised only between the hours of 5 a.m. and 12  
13 midnight.

14 (3) This subsection does not preclude the holder of a provisional license  
15 from driving between the hours of 12 midnight and 5 a.m. the following day if the  
16 licensee is:

17 (i) Accompanied and supervised by a licensed driver who is at least  
18 21 years old;

19 (ii) Driving to or from or in the course of the licensee's employment;

20 (iii) Driving to or from a school class or official school activity;

21 (iv) Driving to or from an organized volunteer program; or

22 (v) Driving to or from an opportunity to participate in an athletic  
23 event or related training session.

24 (4) The hour restriction and the supervision requirement under this  
25 subsection expire on the date the holder of the provisional license turns 18 years of  
26 age.

27 (e) (1) In addition to the other restrictions provided under this subtitle, the  
28 Administration may issue:

29 (i) A driver's license that is valid only in the State of Maryland to  
30 an applicant who has been suspended in another jurisdiction as a result of failing to  
31 comply with the financial responsibility requirements of that jurisdiction; or

32 (ii) A temporary driver's license that is valid only in the State of  
33 Maryland to an applicant for reinstatement of a suspended or revoked driver's  
34 license, renewal of a driver's license, or a duplicate or corrected driver's license if, at  
35 the time of application:

1                                   1.       The applicant's privilege to drive in another jurisdiction is  
2 revoked or suspended as a result of failing to comply with the licensing requirements  
3 of that jurisdiction for which a comparable violation in this State would not have  
4 resulted in revocation or suspension;

5                                   2.       The initial violation that led to the revocation or  
6 suspension did not occur within the preceding 5 years;

7                                   3.       The applicant is otherwise qualified to be licensed in this  
8 State; and

9                                   4.       The Administration determines that the applicant will be  
10 able to take any actions required by the other jurisdiction for reinstatement of the  
11 privilege to drive in that jurisdiction.

12                   (2)       A temporary license issued under paragraph (1) of this subsection  
13 shall be valid for 90 days.

14                   (3)       The Administration shall adopt regulations for the issuance of  
15 temporary licenses under paragraph (1) of this subsection.

16       (f)       After receiving satisfactory evidence of any violation of a restricted or  
17 provisional driver's license, the Administration may suspend or revoke the license.  
18 However, the licensee may request a hearing as provided for a suspension or  
19 revocation under Subtitle 2 of this title.

20       (g)       [(1)]       The Administration shall impose an alcohol restriction under  
21 subsection (a)(1)(ii) of this section that prohibits an individual for a period of 3 years  
22 from driving or attempting to drive with alcohol in the individual's blood on any  
23 licensee OR OTHER INDIVIDUAL who is convicted within 5 years of any combination of  
24 two or more violations under § 21-902(a), (b), or (c) of this article AND ARTICLE 27, §  
25 388A OR § 388B OF THE CODE.

26       (H)       (1)       A COURT MAY ORDER AN INDIVIDUAL NOT TO DRIVE OR ATTEMPT TO  
27 DRIVE A MOTOR VEHICLE WITH ALCOHOL IN THE INDIVIDUAL'S BLOOD FOR A  
28 PERIOD OF 3 YEARS.

29                   (2)       If a circuit court or the District Court orders a licensee OR OTHER  
30 INDIVIDUAL not to drive or attempt to drive a motor vehicle with alcohol in the  
31 licensee's blood or orders, under § 27-107 of this article, the licensee to participate in  
32 the Ignition Interlock System Program established under § 16-404.1 of this title, the  
33 Administration shall have the licensee's driving record and driver's license OR THE  
34 INDIVIDUAL'S DRIVING PRIVILEGE reflect that the court ordered restriction was  
35 imposed, and shall keep records of the order.

36       [(h)]       (I)       An individual may not drive a vehicle in any manner that violates  
37 any restriction imposed by the Administration in a restricted license issued to the  
38 individual.

1        [(i)]        (J)        An individual may not drive a vehicle in any manner that violates  
2 any restriction imposed in a provisional license issued to the individual.

3        [(j)]        (K)        An individual may not drive or attempt to drive a motor vehicle with  
4 alcohol in the individual's blood in violation of a restriction imposed by a court.

5 16-205.1.

6        (b)        (1)        Except as provided in subsection (c) of this section, a person may not  
7 be compelled to take a test. However, the detaining officer shall advise the person  
8 that, on receipt of a sworn statement from the officer that the person was so charged  
9 and refused to take a test, or was tested and the result indicated an alcohol  
10 concentration of 0.10 or more, the Administration shall:

11                    (i)        In the case of a person licensed under this title:

12                                    1.        For a test result indicating an alcohol concentration of AT  
13 LEAST 0.10 [or more] BUT NOT MORE THAN 0.15 at the time of testing:

14                                    A.        For a first offense, suspend the driver's license for 45 days;  
15 or

16                                    B.        For a second or subsequent offense, suspend the driver's  
17 license for 90 days; [or]

18                                    2.        FOR A TEST RESULT INDICATING AN ALCOHOL  
19 CONCENTRATION OF MORE THAN 0.15 AT THE TIME OF TESTING:

20                                    A.        FOR A FIRST OFFENSE, SUSPEND THE DRIVER'S LICENSE  
21 FOR 60 DAYS AND IMPOSE AN ALCOHOL RESTRICTION ON THE DRIVER'S LICENSE AS  
22 PROVIDED IN § 16-113 OF THIS TITLE; OR

23                                    B.        FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND THE  
24 DRIVER'S LICENSE FOR 120 DAYS AND IMPOSE AN ALCOHOL RESTRICTION ON THE  
25 DRIVER'S LICENSE AS PROVIDED IN § 16-113 OF THIS TITLE; OR

26                                    3.        For a test refusal[:

27                                    A.        For a first offense, suspend the driver's license for 120  
28 days; or

29                                    B.        For a second or subsequent offense], suspend the driver's  
30 license for 1 year;

31                    (ii)        In the case of a nonresident or unlicensed person:

32                                    1.        For a test result indicating an alcohol concentration of AT  
33 LEAST 0.10 [or more] BUT NOT MORE THAN 0.15 at the time of testing:

34                                    A.        For a first offense, suspend the person's driving privilege  
35 for 45 days; or

1 B. For a second or subsequent offense, suspend the person's  
2 driving privilege for 90 days; [or]

3 2. FOR A TEST RESULT INDICATING AN ALCOHOL  
4 CONCENTRATION OF MORE THAN 0.15 AT THE TIME OF TESTING:

5 A. FOR A FIRST OFFENSE, SUSPEND THE PERSON'S DRIVING  
6 PRIVILEGE FOR 60 DAYS AND IMPOSE AN ALCOHOL RESTRICTION ON THE PERSON'S  
7 DRIVING PRIVILEGE AS PROVIDED IN § 16-113 OF THIS TITLE; OR

8 B. FOR A SECOND OR SUBSEQUENT OFFENSE, SUSPEND THE  
9 PERSON'S DRIVING PRIVILEGE FOR 120 DAYS AND IMPOSE AN ALCOHOL  
10 RESTRICTION ON THE PERSON'S DRIVING PRIVILEGE AS PROVIDED IN § 16-113 OF  
11 THIS TITLE; OR

12 3. For a test refusal[:

13 A. For a first offense, suspend the person's driving privilege  
14 for 120 days; or

15 B. For a second or subsequent offense], suspend the person's  
16 driving privilege for 1 year; and

17 (iii) In addition to any applicable driver's license suspensions  
18 authorized under this section, in the case of a person operating a commercial motor  
19 vehicle who refuses to take a test:

20 1. Disqualify the person's commercial driver's license for a  
21 period of 1 year for a first offense, 3 years for a first offense which occurs while  
22 transporting hazardous materials required to be placarded, and disqualify for life for  
23 a second or subsequent offense which occurs while operating any commercial motor  
24 vehicle; or

25 2. If the person is licensed as a commercial driver by another  
26 state, disqualify the person's privilege to operate a commercial motor vehicle and  
27 report the refusal and disqualification to the person's resident state which may result  
28 in further penalties imposed by the person's resident state.

29 (2) Except as provided in subsection (c) of this section, if a police officer  
30 stops or detains any person who the police officer has reasonable grounds to believe is  
31 or has been driving or attempting to drive a motor vehicle while intoxicated, while  
32 under the influence of alcohol, while so far under the influence of any drug, any  
33 combination of drugs, or a combination of one or more drugs and alcohol that the  
34 person could not drive a vehicle safely, while under the influence of a controlled  
35 dangerous substance, in violation of an alcohol restriction, or in violation of § 16-813  
36 of this title, and who is not unconscious or otherwise incapable of refusing to take a  
37 test, the police officer shall:

38 (i) Detain the person;

- 1 (ii) Request that the person permit a test to be taken; and
- 2 (iii) Advise the person of the administrative sanctions that shall be  
3 imposed for refusal to take the test, including ineligibility for modification of a  
4 suspension or issuance of a restrictive license under subsection (n)(1) or (2) of this  
5 section, and for test results indicating an alcohol concentration of 0.10 or more at the  
6 time of testing.
- 7 (3) If the person refuses to take the test or takes a test which results in  
8 an alcohol concentration of 0.10 or more at the time of testing, the police officer shall:
- 9 (i) Confiscate the person's driver's license issued by this State;
- 10 (ii) Acting on behalf of the Administration, personally serve an  
11 order of suspension on the person;
- 12 (iii) Issue a temporary license to drive;
- 13 (iv) Inform the person that the temporary license allows the person  
14 to continue driving for 45 days if the person is licensed under this title;
- 15 (v) Inform the person that:
- 16 1. The person has a right to request, at that time or within  
17 10 days, a hearing to show cause why the driver's license should not be suspended  
18 concerning the refusal to take the test or for test results indicating an alcohol  
19 concentration of 0.10 or more at the time of testing, and the hearing will be scheduled  
20 within 45 days; and
- 21 2. If a hearing request is not made at that time or within 10  
22 days, but within 30 days the person requests a hearing, a hearing to show cause why  
23 the driver's license should not be suspended concerning the refusal to take the test or  
24 for test results indicating an alcohol concentration of 0.10 or more at the time of  
25 testing will be scheduled, but a request made after 10 days does not extend a  
26 temporary license issued by the police officer that allows the person to continue  
27 driving for 45 days;
- 28 (vi) Advise the person of the administrative sanctions that shall be  
29 imposed in the event of failure to request a hearing, failure to attend a requested  
30 hearing, or upon an adverse finding by the hearing officer; and
- 31 (vii) Within 72 hours after the issuance of the order of suspension,  
32 send any confiscated driver's license, copy of the suspension order, and a sworn  
33 statement to the Administration, that states:
- 34 1. The officer had reasonable grounds to believe that the  
35 person had been driving or attempting to drive a motor vehicle on a highway or on  
36 any private property that is used by the public in general in this State while  
37 intoxicated, while under the influence of alcohol, while so far under the influence of  
38 any drug, any combination of drugs, or a combination of one or more drugs and



1                                   A.       FOR A FIRST OFFENSE, FOR 60 DAYS AND IMPOSE AN  
2 ALCOHOL RESTRICTION ON THE DRIVER'S LICENSE AS PROVIDED IN § 16-113 OF THIS  
3 TITLE; OR

4                                   B.       FOR A SECOND OR SUBSEQUENT OFFENSE, FOR 120 DAYS  
5 AND IMPOSE AN ALCOHOL RESTRICTION ON THE DRIVER'S LICENSE AS PROVIDED IN  
6 § 16-113 OF THIS TITLE; OR

7                                   3.       For a test refusal[:

8                                   A.       For a first offense, for 120 days; or

9                                   B.       For a second offense or subsequent offense], for 1 year;  
10 and

11                               (ii)     1.       In the case of a person operating a commercial motor  
12 vehicle who refuses to take a test, disqualify the person's commercial driver's license  
13 for a period of 1 year for a first offense, 3 years for a first offense which occurs while  
14 transporting hazardous materials required to be placarded, and for life for a second or  
15 subsequent offense which occurs while operating any commercial vehicle; or

16                               2.       In the case of a person operating a commercial motor  
17 vehicle who refuses to take a test, and who is licensed as a commercial driver by  
18 another state, disqualify the person's privilege to operate a commercial motor vehicle  
19 in this State and report the refusal and disqualification to the person's resident state  
20 which may result in further penalties imposed by the person's resident state.

21                               (5)     (i)       If the person requests a hearing at the time of or within 10 days  
22 after the issuance of the order of suspension and surrenders the driver's license or, if  
23 applicable, the person's commercial driver's license, the Administration shall set a  
24 hearing for a date within 30 days of the receipt of the request.

25                               (ii)     Subject to the provisions of this paragraph, a postponement of a  
26 hearing under this paragraph does not extend the period for which the person is  
27 authorized to drive and the suspension and, if applicable, the disqualification shall  
28 become effective on the expiration of the 45-day period after the issuance of the order  
29 of suspension.

30                               (iii)    A postponement of a hearing described under this paragraph  
31 shall extend the period for which the person is authorized to drive if:

32                                   1.       Both the person and the Administration agree to the  
33 postponement;

34                                   2.       The Administration cannot provide a hearing within the  
35 period required under this paragraph; or

36                                   3.       Under circumstances in which the person made a request,  
37 within 10 days of the date that the order of suspension was served under this section,

1 for the issuance of a subpoena under § 12-108 of this article except as time limits are  
2 changed by this paragraph:

3                           A.       The subpoena was not issued by the Administration;

4                           B.       An adverse witness for whom the subpoena was requested,  
5 and on whom the subpoena was served not less than 5 days before the hearing  
6 described under this paragraph, fails to comply with the subpoena at an initial or  
7 subsequent hearing described under this paragraph held within the 45-day period; or

8                           C.       A witness for whom the subpoena was requested fails to  
9 comply with the subpoena, for good cause shown, at an initial or subsequent hearing  
10 described under this paragraph held within the 45-day period after the issuance of  
11 the order of suspension.

12                       (iv)       If a witness is served with a subpoena for a hearing under this  
13 paragraph, the witness shall comply with the subpoena within 20 days from the date  
14 that the subpoena is served.

15                       (v)       If a hearing is postponed beyond the 45-day period after the  
16 issuance of the order of suspension under the circumstances described in  
17 subparagraph (iii) of this paragraph, the Administration shall stay the suspension  
18 and issue a temporary license that authorizes the person to drive only until the date  
19 of the rescheduled hearing described under this paragraph.

20                       (vi)       To the extent possible, the Administration shall expeditiously  
21 reschedule a hearing that is postponed under this paragraph.

22                       (6)       (i)       If a hearing request is not made at the time of, or within 10 days  
23 from the date of the issuance of an order of suspension, but within 30 days of the date  
24 of the issuance of an order of suspension, the person requests a hearing and  
25 surrenders the driver's license or, if applicable, the person's commercial driver's  
26 license, the Administration shall:

27                               1.       A.       Make a suspension order effective suspending the  
28 license for the applicable period of time described under paragraph (4)(i) of this  
29 subsection; and

30                               B.       In the case of a person operating a commercial motor  
31 vehicle who refuses to take a test, disqualify the person's commercial driver's license,  
32 or privilege to operate a commercial motor vehicle in this State, for the applicable  
33 period of time described under paragraph (4)(ii) of this subsection; and

34                               2.       Set a hearing for a date within 45 days of the receipt of a  
35 request for a hearing under this paragraph.

36                       (ii)       A request for hearing scheduled under this paragraph does not  
37 extend the period for which the person is authorized to drive, and the suspension and,  
38 if applicable, the disqualification shall become effective on the expiration of the  
39 45-day period that begins on the date of the issuance of the order of suspension.

1 (iii) A postponement of a hearing described under this paragraph  
2 shall stay the suspension only if:

3 1. Both the person and the Administration agree to the  
4 postponement;

5 2. The Administration cannot provide a hearing under this  
6 paragraph within the period required under this paragraph; or

7 3. Under circumstances in which the person made a request,  
8 within 10 days of the date that the person requested a hearing under this paragraph,  
9 for the issuance of a subpoena under § 12-108 of this article except as time limits are  
10 changed by this paragraph:

11 A. The subpoena was not issued by the Administration;

12 B. An adverse witness for whom the subpoena was requested,  
13 and on whom the subpoena was served not less than 5 days before the hearing, fails  
14 to comply with the subpoena at an initial or subsequent hearing under this paragraph  
15 held within the 45-day period that begins on the date of the request for a hearing  
16 under this paragraph; or

17 C. A witness for whom the subpoena was requested fails to  
18 comply with the subpoena, for good cause shown, at an initial or subsequent hearing  
19 under this paragraph held within the 45-day period that begins on the date of the  
20 request for a hearing under this paragraph.

21 (iv) If a witness is served with a subpoena for a hearing under this  
22 paragraph, the witness shall comply with the subpoena within 20 days from the date  
23 that the subpoena is served.

24 (v) If a hearing is postponed beyond the 45-day period that begins  
25 on the date of the request for a hearing under this paragraph under circumstances  
26 described in subparagraph (iii) of this paragraph, the Administration shall stay the  
27 suspension and issue a temporary license that authorizes the person to drive only  
28 until the date of the rescheduled hearing.

29 (vi) To the extent possible, the Administration shall expeditiously  
30 reschedule a hearing that is postponed under this paragraph.

31 (7) (i) At a hearing under this section, the person has the rights  
32 described in § 12-206 of this article, but at the hearing the only issues shall be:

33 1. Whether the police officer who stops or detains a person  
34 had reasonable grounds to believe the person was driving or attempting to drive while  
35 intoxicated, while under the influence of alcohol, while so far under the influence of  
36 any drug, any combination of drugs, or a combination of one or more drugs and  
37 alcohol that the person could not drive a vehicle safely, while under the influence of a  
38 controlled dangerous substance, in violation of an alcohol restriction, or in violation of  
39 § 16-813 of this title;



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

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

5 2. The police officer who stopped or detained the person had  
6 reasonable grounds to believe that the person was driving or attempting to drive  
7 while intoxicated, while under the influence of alcohol, while so far under the  
8 influence of any drug, any combination of drugs, or a combination of one or more  
9 drugs and alcohol that the person could not drive a vehicle safely, while under the  
10 influence of a controlled dangerous substance, in violation of an alcohol restriction, or  
11 in violation of § 16-813 of this title;

12 3. There was evidence of the use by the person of alcohol, any  
13 drug, any combination of drugs, a combination of one or more drugs and alcohol, or a  
14 controlled dangerous substance;

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

17 5. The person refused to take the test.

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

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

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

26 3. The police officer did not have reasonable grounds to  
27 believe the driver was driving while intoxicated, driving while under the influence of  
28 alcohol, while so far under the influence of any drug, any combination of drugs, or a  
29 combination of one or more drugs and alcohol that the person could not drive a vehicle  
30 safely, or while under the influence of a controlled dangerous substance; and

31 4. The driver refused to take a test.

32 (iv) In the absence of a compelling reason for failure to attend a  
33 hearing, failure of a person to attend a hearing is prima facie evidence of the person's  
34 inability to answer the sworn statement of the police officer or the test technician or  
35 analyst, and the Administration summarily shall:

36 1. Suspend the driver's license or privilege to drive; and



1 (ii) The licensee has not had a license suspended under this section  
2 during the past 5 years;

3 (iii) The licensee has not DURING THE PAST 5 YEARS:

4 1. been convicted under ARTICLE 27, § 388A OR § 388B OF THE  
5 CODE, § 21-902 of this article [during the past 5 years; and], OR AN OFFENSE UNDER  
6 FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS COMPARABLE TO AN  
7 OFFENSE DESCRIBED IN THIS SUBPARAGRAPH;

8 2. ENTERED A PLEA OF NOLO CONTENDERE FOR A  
9 VIOLATION OF ARTICLE 27, § 388A OR § 388B OF THE CODE, § 21-902 OF THIS ARTICLE,  
10 OR FOR AN OFFENSE UNDER FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS  
11 COMPARABLE TO AN OFFENSE DESCRIBED IN THIS SUBPARAGRAPH; OR

12 3. RECEIVED A PROBATION BEFORE JUDGMENT FOR A  
13 VIOLATION OF ARTICLE 27, § 388A OR § 388B OF THE CODE, § 21-902 OF THIS ARTICLE,  
14 OR FOR AN OFFENSE UNDER FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS  
15 COMPARABLE TO AN OFFENSE DESCRIBED IN THIS SUBPARAGRAPH; AND

16 (iv) 1. The licensee is required to drive a motor vehicle in the  
17 course of employment;

18 2. The license is required for the purpose of attending an  
19 alcoholic prevention or treatment program; or

20 3. It finds that the licensee has no alternative means of  
21 transportation available to or from the licensee's place of employment and, without  
22 the license, the licensee's ability to earn a living would be severely impaired.

23 (2) [In] EXCEPT AS OTHERWISE REQUIRED UNDER A COURT ORDER,  
24 AND IN addition to the authority to modify a suspension or issue a restrictive license  
25 under paragraph (1) or (4) of this subsection, the Administration may modify a  
26 suspension under this section or issue a restrictive license, including a restriction  
27 that prohibits the licensee from driving or attempting to drive a motor vehicle unless  
28 the licensee is a participant in the Ignition Interlock System Program established  
29 under § 16-404.1 of this title, if:

30 (i) The licensee did not refuse to take a test;

31 (ii) The licensee has not:

32 1. [been] BEEN PREVIOUSLY convicted under ARTICLE 27, §  
33 388A OR § 388B OF THE CODE, § 21-902 of this article[; and], OR AN OFFENSE UNDER  
34 FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS COMPARABLE TO AN  
35 OFFENSE DESCRIBED IN THIS SUBPARAGRAPH;

36 2. ENTERED A PLEA OF NOLO CONTENDERE FOR A PRIOR  
37 VIOLATION OF ARTICLE 27, § 388A OR § 388B OF THE CODE, § 21-902 OF THIS ARTICLE,

1 OR FOR AN OFFENSE UNDER FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS  
2 COMPARABLE TO AN OFFENSE DESCRIBED IN THIS SUBPARAGRAPH; OR

3 3. RECEIVED A PROBATION BEFORE JUDGMENT FOR A PRIOR  
4 VIOLATION OF ARTICLE 27, § 388A OR § 388B OF THE CODE, § 21-902 OF THIS ARTICLE,  
5 OR FOR AN OFFENSE UNDER FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS  
6 COMPARABLE TO AN OFFENSE DESCRIBED IN THIS SUBPARAGRAPH; AND

7 (iii) The license is required for the purpose of attending:

8 1. A noncollegiate educational institution as defined in §  
9 2-206(a) of the Education Article; or

10 2. A regular program at an institution of postsecondary  
11 education.

12 (3) If the licensee refused to take a test, the Administration may not  
13 modify a suspension under this section or issue a restrictive license except as  
14 provided under paragraph (4) of this subsection.

15 (4) In addition to the authority to modify a suspension or issue a  
16 restrictive license under paragraph (1) or (2) of this subsection, the Administration  
17 may modify a suspension under this section or issue a restrictive license to a licensee  
18 who participates in the Ignition Interlock System Program established under §  
19 16-404.1 of this title for at least 1 year.

20 21-902.

21 (a) (1) A person may not drive or attempt to drive any vehicle while  
22 intoxicated.

23 (2) A person may not drive or attempt to drive any vehicle while the  
24 person is intoxicated per se.

25 (b) A person may not drive or attempt to drive any vehicle while under the  
26 influence of alcohol.

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

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

35 (d) A person may not drive or attempt to drive any vehicle while he is under  
36 the influence of any controlled dangerous substance, as that term is defined in Article

1 27, § 279 of the Code, if the person is not entitled to use the controlled dangerous  
2 substance under the laws of this State.

3 (E) (1) IN THIS SUBSECTION, "PERSON" MEANS AN INDIVIDUAL WHO:

4 (I) IS CONVICTED OF A VIOLATION OF SUBSECTION (A) OR (B) OF  
5 THIS SECTION;

6 (II) ENTERS A PLEA OF NOLO CONTENDERE FOR A VIOLATION OF  
7 SUBSECTION (A) OR (B) OF THIS SECTION;

8 (III) RECEIVES PROBATION BEFORE JUDGMENT FOR A VIOLATION  
9 OF SUBSECTION (A) OR (B) OF THIS SECTION; OR

10 (IV) IS UNDER THE AGE OF 18 YEARS AND IS FOUND TO HAVE  
11 COMMITTED A DELINQUENT ACT IN VIOLATION OF SUBSECTION (A) OR (B) OF THIS  
12 SECTION.

13 (2) IN ADDITION TO ANY OTHER PENALTY OR SANCTION AUTHORIZED  
14 BY LAW FOR A VIOLATION OF SUBSECTION (A) OR (B) OF THIS SECTION, A COURT:

15 (I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS PARAGRAPH, MAY  
16 ORDER A PERSON WHO VIOLATES SUBSECTION (A) OR (B) OF THIS SECTION NOT TO  
17 DRIVE OR ATTEMPT TO DRIVE A MOTOR VEHICLE WITH ALCOHOL IN THE PERSON'S  
18 BLOOD; OR

19 (II) IF A PERSON VIOLATES SUBSECTION (A) OF THIS SECTION BY  
20 DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WITH AN ALCOHOL  
21 CONCENTRATION OF MORE THAN 0.15 AS DETERMINED BY AN ANALYSIS OF THE  
22 PERSON'S BLOOD OR BREATH AT THE TIME OF TESTING UNDER §§ 10-302 THROUGH  
23 10-309, INCLUSIVE, OF THE COURTS ARTICLE, SHALL ORDER THE PERSON NOT TO  
24 DRIVE OR ATTEMPT TO DRIVE A MOTOR VEHICLE WITH ALCOHOL IN THE PERSON'S  
25 BLOOD.

26 27-101.

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

29 (i) A violation of § 14-103 of this article ("Possession of motor  
30 vehicle master key"); or

31 (ii) A second or subsequent violation of:

32 1. § 16-101 of this article ("Drivers must be licensed"); or

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

34 A. § 21-902(b) of this article ("Driving while under the  
35 influence of alcohol");

1                                   B.       § 21-902(c) of this article ("Driving while under the  
2 influence of drugs or drugs and alcohol"); or

3                                   C.       § 21-902(d) of this article ("Driving while under the  
4 influence of controlled dangerous substance").

5                   (2)       Except as provided in subsection (q) of this section, for the purpose of  
6 second or subsequent offender penalties for a violation of § 21-902(b) of this article  
7 provided under paragraph (1) of this subsection, a prior conviction OR PRIOR ENTRY  
8 OF A PLEA OF NOLO CONTENDERE FOR A PRIOR VIOLATION of § 21-902(a), §  
9 21-902(c), or § 21-902(d) of this article, ARTICLE 27, § 388A OR § 388B OF THE CODE, OR  
10 AN OFFENSE UNDER FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS  
11 COMPARABLE TO AN OFFENSE DESCRIBED IN THIS PARAGRAPH, shall be considered a  
12 conviction of § 21-902(b) of this article.

13                   (3)       Except as provided in subsection (q) of this section, for the purpose of  
14 second or subsequent offender penalties for a violation of § 21-902(c) of this article  
15 provided under paragraph (1) of this subsection, a prior conviction OR PRIOR ENTRY  
16 OF A PLEA OF NOLO CONTENDERE FOR A PRIOR VIOLATION of § 21-902(a), §  
17 21-902(b), or § 21-902(d) of this article, ARTICLE 27, § 388A OR § 388B OF THE CODE, OR  
18 AN OFFENSE UNDER FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS  
19 COMPARABLE TO AN OFFENSE DESCRIBED IN THIS PARAGRAPH, shall be considered a  
20 conviction of § 21-902(c) of this article.

21                   (4)       Except as provided in subsection (q) of this section, for the purpose of  
22 second or subsequent offender penalties for a violation of § 21-902(d) of this article  
23 provided under paragraph (1) of this subsection, a prior conviction OR PRIOR ENTRY  
24 OF A PLEA OF NOLO CONTENDERE FOR A PRIOR VIOLATION of § 21-902(a), §  
25 21-902(b), or § 21-902(c) of this article, ARTICLE 27, § 388A OR § 388B OF THE CODE, OR  
26 AN OFFENSE UNDER FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS  
27 COMPARABLE TO AN OFFENSE DESCRIBED IN THIS PARAGRAPH, shall be considered a  
28 conviction of § 21-902(d) of this article.

29       (j)       (1)       In this subsection, "imprisonment" includes confinement in an  
30 inpatient rehabilitation or treatment center.

31                   (2)       A person who is convicted of OR WHO ENTERS A PLEA OF NOLO  
32 CONTENDERE FOR a violation of § 21-902(a) of this article within 3 years after a prior  
33 conviction [under that subsection] OR PRIOR ENTRY OF A PLEA OF NOLO  
34 CONTENDERE FOR A PRIOR VIOLATION OF § 21-902(A) OF THIS ARTICLE, ARTICLE 27, §  
35 388A OR § 388B OF THE CODE, OR AN OFFENSE UNDER FEDERAL LAW OR THE LAW OF  
36 ANOTHER STATE THAT IS COMPARABLE TO AN OFFENSE DESCRIBED IN THIS  
37 PARAGRAPH, is subject to a mandatory minimum penalty of:

38                                   (i)       Imprisonment for not less than 48 consecutive hours; or

39                                   (ii)      Community service for not less than 80 hours.

40                   (3)       The penalties provided by this subsection are mandatory and are not  
41 subject to suspension or probation.

1 (k) (1) (I) Except as provided in PARAGRAPH (2) OF THIS SUBSECTION  
2 AND EXCEPT AS PROVIDED IN subsection (q) of this section, any person who is  
3 convicted of OR WHO ENTERS A PLEA OF NOLO CONTENDERE FOR a violation of any of  
4 the provisions of § 21-902(a) of this article ("Driving while intoxicated or intoxicated  
5 per se"):

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

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

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

12 [(2)] (II) For the purpose of second or subsequent offender penalties for  
13 violation of § 21-902(a) of this article provided under PARAGRAPH (1) OF this  
14 subsection, a prior conviction OR PRIOR ENTRY OF A PLEA OF NOLO CONTENDERE  
15 FOR A PRIOR VIOLATION of § 21-902(b), (c), or (d) of this article, ARTICLE 27, § 388A OR  
16 § 388B OF THE CODE, OR AN OFFENSE UNDER FEDERAL LAW OR THE LAW OF  
17 ANOTHER STATE THAT IS COMPARABLE TO AN OFFENSE DESCRIBED IN THIS  
18 PARAGRAPH, within 5 years of the conviction OR ENTRY OF A PLEA OF NOLO  
19 CONTENDERE for a violation of § 21-902(a) of this article, shall be considered a  
20 conviction of § 21-902(a) of this article.

21 (2) (I) EXCEPT AS PROVIDED IN SUBSECTION (Q) OF THIS SECTION,  
22 ANY PERSON WHO IS CONVICTED OF OR ENTERS A PLEA OF NOLO CONTENDERE FOR  
23 A VIOLATION OF § 21-902(A) OF THIS SECTION UPON A DETERMINATION THAT THE  
24 PERSON WAS DRIVING OR ATTEMPTING TO DRIVE A MOTOR VEHICLE WITH AN  
25 ALCOHOL CONCENTRATION OF MORE THAN 0.15 AS DETERMINED BY AN ANALYSIS  
26 OF THE PERSON'S BLOOD OR BREATH AT THE TIME OF TESTING UNDER §§ 10-302  
27 THROUGH 10-309, INCLUSIVE, OF THE COURTS ARTICLE:

28 1. FOR A FIRST OFFENSE, SHALL BE SUBJECT TO A FINE OF  
29 NOT MORE THAN \$1,500 OR IMPRISONMENT FOR NOT MORE THAN 18 MONTHS OR  
30 BOTH;

31 2. FOR A SECOND OFFENSE, SHALL BE SUBJECT TO A FINE  
32 OF NOT MORE THAN \$3,000 OR IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR  
33 BOTH; AND

34 3. FOR A THIRD OR SUBSEQUENT OFFENSE, SHALL BE  
35 SUBJECT TO A FINE OF NOT MORE THAN \$4,000 OR IMPRISONMENT FOR NOT MORE  
36 THAN 4 YEARS OR BOTH.

37 (II) FOR THE PURPOSE OF SECOND OR SUBSEQUENT OFFENDER  
38 PENALTIES FOR A VIOLATION OF § 21-902(A) OF THIS ARTICLE PROVIDED UNDER THIS  
39 SUBSECTION, A PRIOR CONVICTION OR PRIOR ENTRY OF A PLEA OF NOLO  
40 CONTENDERE FOR A PRIOR VIOLATION OF § 21-902(B), (C), OR (D) OF THIS ARTICLE,  
41 ARTICLE 27, § 388A OR § 388B OF THE CODE, OR AN OFFENSE UNDER FEDERAL LAW OR

1 THE LAW OF ANOTHER STATE THAT IS COMPARABLE TO AN OFFENSE DESCRIBED IN  
2 THIS PARAGRAPH, WITHIN 5 YEARS OF THE CONVICTION OR ENTRY OF A PLEA OF  
3 NOLO CONTENDERE FOR A VIOLATION OF § 21-902(A) OF THIS ARTICLE, SHALL BE  
4 CONSIDERED A CONVICTION OF § 21-902(A) OF THIS ARTICLE.

5 (q) (1) Any person who is convicted of OR WHO ENTERS A PLEA OF NOLO  
6 CONTENDERE FOR a violation of § 21-902(a) of this article and who, at the time of the  
7 offense, was transporting a minor is subject to:

8 (i) For a first offense, a fine of not more than \$2,000 or  
9 imprisonment for not more than 2 years or both;

10 (ii) For a second offense, a fine of not more than \$3,000 or  
11 imprisonment for not more than 3 years or both; and

12 (iii) For a third or subsequent offense, a fine of not more than \$4,000  
13 or imprisonment for not more than 4 years or both.

14 (2) Any person who is convicted of OR WHO ENTERS A PLEA OF NOLO  
15 CONTENDERE FOR a violation of § 21-902(b), § 21-902(c), or § 21-902(d) of this article  
16 and who, at the time of the offense, was transporting a minor is subject to:

17 (i) For a first offense, a fine of not more than \$1,000 or  
18 imprisonment for not more than 6 months or both; and

19 (ii) For a second or subsequent offense, a fine of not more than  
20 \$2,000 or imprisonment for not more than 1 year or both.

21 (3) For the purpose of determining second or subsequent offender  
22 penalties provided under this subsection, a prior conviction OR PRIOR ENTRY OF A  
23 PLEA OF NOLO CONTENDERE FOR A PRIOR VIOLATION of any provision of § 21-902 of  
24 this article, ARTICLE 27, § 388A OR § 388B OF THE CODE, OR AN OFFENSE UNDER  
25 FEDERAL LAW OR THE LAW OF ANOTHER STATE THAT IS COMPARABLE TO AN  
26 OFFENSE DESCRIBED IN THIS PARAGRAPH, that subjected a person to the penalties  
27 under this subsection shall be considered a prior conviction.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 2001.