

SENATE BILL 108

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R3  
SB 568/00 - JPR

2001 Regular Session  
11r0243

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By: **Senators Ruben, Hollinger, Conway, Currie, Dorman, Dyson, Forehand, Frosh, Haines, Hoffman, Hooper, Hughes, Jacobs, Kasemeyer, Lawlah, McCabe, McFadden, Roesser, Stoltzfus, Teitelbaum, and Van Hollen Van Hollen, and Green**

Introduced and read first time: January 15, 2001  
Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 20, 2001

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **~~Drunk Driving - Intoxicated Per Se - Driving While Under the Influence~~**  
3 **Alcohol Concentration - "0.08"**

4 FOR the purpose of reducing the level of alcohol concentration required for a  
5 determination of ~~driving while intoxicated per se~~ being in violation of certain  
6 alcohol-related offenses; making conforming changes to the level of alcohol  
7 concentration ~~that constitutes driving while under the influence of alcohol~~  
8 concerning a certain presumption of being in violation of a certain  
9 alcohol-related driving offense; expanding the applicability of certain  
10 evidentiary provisions concerning alcohol concentration levels to juvenile and  
11 civil proceedings; reducing the level of alcohol concentration ~~that will result for~~  
12 a certain administrative offense that results in the suspension of a driver's  
13 license under certain circumstances; ~~reducing the level of alcohol concentration~~  
14 ~~that will result in the crime of homicide by motor vehicle or vessel while~~  
15 ~~intoxicated per se and the crime of life threatening injury by motor vehicle or~~  
16 ~~vessel while intoxicated per se~~; providing for the construction of this Act to  
17 qualify for certain federal transportation funds; providing that this Act shall be  
18 interpreted to apply prospectively for certain offenses occurring after a certain  
19 date; ~~authorizing the adoption of certain regulations and forms~~; defining a  
20 certain term; altering certain terminology concerning certain alcohol-related  
21 and drug-related offenses; making stylistic changes; providing for the  
22 application of this Act; providing for the construction of this Act; providing for  
23 the effective date of this Act; and generally relating to ~~alcohol-related driving~~  
24 ~~offenses~~, certain alcohol concentration levels, and ~~qualification for federal~~  
25 transportation funding and certain proceedings.

1 BY repealing and reenacting, without amendments,  
 2 Article 1 - Rules of Interpretation  
 3 Section 3  
 4 Annotated Code of Maryland  
 5 (1998 Replacement Volume and 2000 Supplement)

6 ~~BY repealing and reenacting, without with~~ amendments,  
 7 Article 27 - Crimes and Punishments  
 8 ~~Section 388A(a)(1) and 388B(a)(1)~~  
 9 Section 388A and 388B  
 10 Annotated Code of Maryland  
 11 (1996 Replacement Volume and 2000 Supplement)

12 ~~BY repealing and reenacting, with amendments,~~  
 13 ~~Article 27 - Crimes and Punishments~~  
 14 ~~Section 388A(a)(2) and 388B(a)(2)~~  
 15 ~~Annotated Code of Maryland~~  
 16 ~~(1996 Replacement Volume and 2000 Supplement)~~

17 BY repealing and reenacting, with amendments,  
 18 Article - Courts and Judicial Proceedings  
 19 ~~Section 10-307~~  
 20 Section 3-806(c), 10-307, and 10-308(a) and (b)(1)  
 21 Annotated Code of Maryland  
 22 (1998 Replacement Volume and 2000 Supplement)

23 ~~BY repealing and reenacting, with amendments,~~  
 24 ~~Article - Transportation~~  
 25 ~~Section 11-127.1 and 16-205.1(a), (b), (f)(1), (4)(i), (7), and (8)(i) and (v), and (h)~~  
 26 ~~Annotated Code of Maryland~~  
 27 ~~(1999 Replacement Volume and 2000 Supplement)~~

28 BY repealing and reenacting, with amendments,  
 29 Article - Health - General  
 30 Section 8-401(a)(3)(i)1.  
 31 Annotated Code of Maryland  
 32 (2000 Replacement Volume)

33 BY repealing and reenacting, with amendments,  
 34 Article - Natural Resources  
 35 Section 8-738(a) and (b) and 8-740(b)(3)  
 36 Annotated Code of Maryland  
 37 (2000 Replacement Volume)

1 BY repealing and reenacting, with amendments,  
 2 Article - Transportation  
 3 Section 11-127.1, 16-117(b)(2) and (5), 16-205(a), (b), (c), and (d), 16-205.1(a),  
 4 (b), (c)(1), (d)(1), (f)(1), (4)(i), (7), and (8)(i), (ii), (iii), and (v), and (h),  
 5 16-205.2(a), 16-402(a)(23) and (32), 18-105, 21-902, 26-202(a)(3)(i) and  
 6 (ii), 26-404(f)(2), 26-405, 27-101(c)(23), (24), and (25), (f)(1)(ii)2., and (k),  
 7 and 27-107(b)  
 8 Annotated Code of Maryland  
 9 (1999 Replacement Volume and 2000 Supplement)

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

12 **Article 1 - Rules of Interpretation**

13 3.

14 The repeal, or the repeal and reenactment, or the revision, amendment or  
 15 consolidation of any statute, or of any section or part of a section of any statute, civil  
 16 or criminal, shall not have the effect to release, extinguish, alter, modify or change, in  
 17 whole or in part, any penalty, forfeiture or liability, either civil or criminal, which  
 18 shall have been incurred under such statute, section or part thereof, unless the  
 19 repealing, repealing and reenacting, revising, amending or consolidating act shall  
 20 expressly so provide; and such statute, section or part thereof, so repealed, repealed  
 21 and reenacted, revised, amended or consolidated, shall be treated and held as still  
 22 remaining in force for the purpose of sustaining any and all proper actions, suits,  
 23 proceedings or prosecutions, civil or criminal, for the enforcement of such penalty,  
 24 forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or  
 25 order which can or may be rendered, entered or made in such actions, suits,  
 26 proceedings or prosecutions imposing, inflicting or declaring such penalty, forfeiture  
 27 or liability.

28 **Article 27 - Crimes and Punishments**

29 388A.

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

31 (2) (i) "~~Intoxicated~~ UNDER THE INFLUENCE per se" means an alcohol  
 32 concentration at the time of testing of [0.10] 0.08 or more as measured by grams of  
 33 alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

34 (ii) If the alcohol concentration is measured by milligrams of  
 35 alcohol per deciliter of blood or milligrams of alcohol per 100 milliliters of blood, a  
 36 court shall convert the measurement into grams of alcohol per 100 milliliters of blood  
 37 by dividing the measurement by 1000.

38 (3) "[Under the influence of] IMPAIRED BY alcohol" has the meaning  
 39 indicated in and is subject to the same presumptions and evidentiary rules of §

1 10-307 of the Courts Article regarding driving while [under the influence of]  
2 IMPAIRED BY alcohol under § 21-902(b) of the Transportation Article.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 388B.

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

25 (2) (i) ~~"Intoxicated~~ UNDER THE INFLUENCE per se" means an alcohol  
26 concentration at the time of testing of [0.10] 0.08 or more as measured by grams of  
27 alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

28 (ii) If the alcohol concentration is measured by milligrams of  
29 alcohol per deciliter of blood or milligrams of alcohol per 100 milliliters of blood, a  
30 court shall convert the measurement into grams of alcohol per 100 milliliters of blood  
31 by dividing the measurement by 1000.

32 (3) "[Under the influence of] IMPAIRED BY alcohol" has the meaning  
33 indicated in and is subject to the same presumptions and evidentiary rules of §  
34 10-307 of the Courts Article regarding driving while [under the influence of]  
35 IMPAIRED BY alcohol under § 21-902(b) of the Transportation Article.

36 (4) "[Under the influence of] IMPAIRED BY drugs" means so far [under  
37 the influence of] IMPAIRED BY a drug, a combination of drugs, or a combination of one

1 or more drugs and alcohol that a person cannot drive, operate, or control a motor  
2 vehicle or vessel safely.

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

7 (b) A person who causes a life threatening injury to another as a result of the  
8 person's negligent driving, operation, or control of a motor vehicle or vessel while  
9 [intoxicated or intoxicated] UNDER THE INFLUENCE OF ALCOHOL OR UNDER THE  
10 INFLUENCE OF ALCOHOL per se is guilty of a misdemeanor to be known as "life  
11 threatening injury by motor vehicle or vessel while [intoxicated or intoxicated]  
12 UNDER THE INFLUENCE OF ALCOHOL OR UNDER THE INFLUENCE OF ALCOHOL per  
13 se", and on conviction the person shall be punished by imprisonment for not more  
14 than 3 years or a fine of not more than \$5,000 or both.

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

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

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

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

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

39 (i) "That A-B on the ..... day of ....., [nineteen hundred]  
40 TWO THOUSAND and ..... at the County (City) aforesaid, unlawfully, while  
41 [intoxicated] UNDER THE INFLUENCE OF ALCOHOL, did cause a life threatening  
42 injury to C-D, against the peace, government, and dignity of the State.";

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

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

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

14 **Article - Courts and Judicial Proceedings**

15 3-806.

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

24 10-307.

25 (a) (1) ~~In a~~ IN ANY CRIMINAL, JUVENILE, OR CIVIL proceeding in which a  
 26 person is [charged with] ALLEGED TO HAVE COMMITTED AN ACT THAT WOULD  
 27 CONSTITUTE a violation of Article 27, § 388, § 388A, or § 388B of the Code, or with  
 28 driving or attempting to drive a vehicle in violation of § 16-113, § 16-813, or § 21-902  
 29 of the Transportation Article, the amount of alcohol in the person's breath or blood  
 30 shown by analysis as provided in this subtitle is admissible in evidence and has the  
 31 effect set forth in subsections (b) through [(e)] (G) of this section.

32 (2) Alcohol concentration as used in this section shall be measured by:

33 (i) Grams of alcohol per 100 milliliters of blood; or

34 (ii) Grams of alcohol per 210 liters of breath.

35 (3) If the amount of alcohol in the person's blood shown by analysis as  
 36 provided in this subtitle is measured by milligrams of alcohol per deciliters of blood or  
 37 milligrams of alcohol per 100 milliliters of blood, a court or an administrative law  
 38 judge, as the case may be, shall convert the measurement into grams of alcohol per  
 39 100 milliliters of blood by dividing the measurement by 1000.

1 (b) If at the time of testing a person has an alcohol concentration of 0.05 or  
2 less, as determined by an analysis of the person's blood or breath, it shall be presumed  
3 that the [defendant] PERSON was not ~~intoxicated OR INTOXICATED PER SE UNDER~~  
4 THE INFLUENCE OF ALCOHOL and that the [defendant] PERSON was not driving  
5 while ~~under the influence of~~ IMPAIRED BY alcohol.

6 (c) If at the time of testing a person has an alcohol concentration of more than  
7 0.05 but less than 0.07, as determined by an analysis of the person's blood or breath,  
8 this fact may not give rise to any presumption that the [defendant] PERSON was or  
9 was not ~~intoxicated OR INTOXICATED PER SE UNDER THE INFLUENCE OF ALCOHOL~~  
10 or that the [defendant] PERSON was or was not driving while ~~under the influence of~~  
11 IMPAIRED BY alcohol, but this fact may be considered with other competent evidence  
12 in determining ~~the guilt or innocence of the [defendant] PERSON DRIVING WHETHER~~  
13 THE PERSON WAS OR WAS NOT DRIVING WHILE UNDER THE INFLUENCE OF  
14 ALCOHOL OR DRIVING WHILE IMPAIRED BY ALCOHOL.

15 (d) If at the time of testing a person has an alcohol concentration of at least  
16 0.07 but less than [0.10] 0.08, as determined by an analysis of the person's blood or  
17 breath, it shall be prima facie evidence that the [defendant] PERSON was driving  
18 while ~~under the influence of~~ IMPAIRED BY alcohol.

19 (e) If at the time of testing a person has an alcohol concentration of 0.02 or  
20 more, as determined by an analysis of the person's blood or breath, it shall be prima  
21 facie evidence that the [defendant] PERSON was driving with alcohol in the  
22 [defendant's] PERSON'S blood.

23 (f) If at the time of testing a person has an alcohol concentration of 0.02 or  
24 more, as determined by an analysis of the person's blood or breath, it shall be prima  
25 facie evidence that a THE [defendant] PERSON was driving in violation of an alcohol  
26 restriction under § 16-113 of the Transportation Article.

27 (G) IF AT THE TIME OF TESTING A PERSON HAS AN ALCOHOL  
28 CONCENTRATION OF 0.08 OR MORE, AS DETERMINED BY AN ANALYSIS OF THE  
29 PERSON'S BLOOD OR BREATH, THE PERSON SHALL BE CONSIDERED ~~INTOXICATED~~  
30 UNDER THE INFLUENCE OF ALCOHOL PER SE AS DEFINED IN § 11-127.1 OF THE  
31 TRANSPORTATION ARTICLE.

32 10-308.

33 (a) The evidence of the analysis does not limit the introduction of other  
34 evidence bearing upon whether the defendant was [intoxicated] UNDER THE  
35 INFLUENCE OF ALCOHOL or whether the defendant was driving while [under the  
36 influence of] IMPAIRED BY alcohol, while so far [under the influence of] IMPAIRED BY  
37 any drug, any combination of drugs, or a combination of one or more drugs and  
38 alcohol that the person cannot drive a vehicle safely, or while [under the influence of]  
39 IMPAIRED BY a controlled dangerous substance.

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







1 16-205.

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

3 (1) Is convicted under § 21-902(a) or (d) of this article of driving or  
4 attempting to drive a motor vehicle while [intoxicated] UNDER THE INFLUENCE OF  
5 ALCOHOL, while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL per se, or while  
6 [under the influence of] IMPAIRED BY a controlled dangerous substance; or

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

13 (i) § 21-902(a) of this article of driving or attempting to drive a  
14 motor vehicle while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL or while  
15 [intoxicated] UNDER THE INFLUENCE OF ALCOHOL per se;

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

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

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

25 (b) The Administration:

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

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

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

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

8 (1) § 21-902(a) of this article of driving or attempting to drive a motor  
 9 vehicle while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL or while  
 10 [intoxicated] UNDER THE INFLUENCE OF ALCOHOL per se;

11 (2) § 21-902(b) of this article of driving or attempting to drive a motor  
 12 vehicle while [under the influence of] IMPAIRED BY alcohol;

13 (3) § 21-902(c) of this article of driving or attempting to drive a motor  
 14 vehicle while so far [under the influence of] IMPAIRED BY any drug, any combination  
 15 of drugs, or a combination of one or more drugs and alcohol that the person cannot  
 16 drive a motor vehicle safely; or

17 (4) § 21-902(d) of this article of driving or attempting to drive a motor  
 18 vehicle while [under the influence of] IMPAIRED BY a controlled dangerous  
 19 substance.

20 16-205.1.

21 (a) (1) (i) In this section, the following words have the meanings  
 22 indicated.

23 (II) ~~"INTOXICATED UNDER THE INFLUENCE OF ALCOHOL"~~  
 24 INCLUDES INTOXICATED UNDER THE INFLUENCE OF ALCOHOL PER SE AS DEFINED  
 25 BY § 11-127.1 OF THIS ARTICLE.

26 [(ii)] (III) "Specimen of blood" and "1 specimen of blood" means 1  
 27 sample of blood that is taken, in a single procedure, in 2 or more portions in 2 or more  
 28 separate vials.

29 [(iii)] (IV) "Test" means:

30 1. A test of a person's breath or of 1 specimen of a person's  
 31 blood to determine alcohol concentration;

32 2. A test or tests of 1 specimen of a person's blood to  
 33 determine the drug or controlled dangerous substance content of the person's blood; or

34 3. Both:

35 A. A test of a person's breath or a test of 1 specimen of a  
 36 person's blood, to determine alcohol concentration; and

1 B. A test or tests of 1 specimen of a person's blood to  
2 determine the drug or controlled dangerous substance content of the person's blood.

3 (2) Any person who drives or attempts to drive a motor vehicle on a  
4 highway or on any private property that is used by the public in general in this State  
5 is deemed to have consented, subject to the provisions of §§ 10-302 through 10-309,  
6 inclusive, of the Courts and Judicial Proceedings Article, to take a test if the person  
7 should be detained on suspicion of driving or attempting to drive while ~~intoxicated~~  
8 UNDER THE INFLUENCE OF ALCOHOL, while ~~under the influence of~~ IMPAIRED BY  
9 alcohol, while so far ~~under the influence of~~ IMPAIRED BY any drug, any combination of  
10 drugs, or a combination of one or more drugs and alcohol that the person could not  
11 drive a vehicle safely, while ~~under the influence of~~ IMPAIRED BY a controlled  
12 dangerous substance, in violation of an alcohol restriction, or in violation of § 16-813  
13 of this title.

14 (b) (1) Except as provided in subsection (c) of this section, a person may not  
15 be compelled to take a test. However, the detaining officer shall advise the person  
16 that, on receipt of a sworn statement from the officer that the person was so charged  
17 and refused to take a test, or was tested and the result indicated an alcohol  
18 concentration of [0.10] 0.08 or more, the Administration shall:

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

20 1. For a test result indicating an alcohol concentration of  
21 [0.10] 0.08 or more at the time of testing:

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

24 B. For a second or subsequent offense, suspend the driver's  
25 license for 90 days; or

26 2. 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  
33 [0.10] 0.08 or more at the time of testing:

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

36 B. For a second or subsequent offense, suspend the person's  
37 driving privilege for 90 days; or



- 1 (ii) Acting on behalf of the Administration, personally serve an  
2 order of suspension on the person;
- 3 (iii) Issue a temporary license to drive;
- 4 (iv) Inform the person that the temporary license allows the person  
5 to continue driving for 45 days if the person is licensed under this title;
- 6 (v) Inform the person that:
- 7 1. The person has a right to request, at that time or within  
8 10 days, a hearing to show cause why the driver's license should not be suspended  
9 concerning the refusal to take the test or for test results indicating an alcohol  
10 concentration of [0.10] 0.08 or more at the time of testing, and the hearing will be  
11 scheduled within 45 days; and
- 12 2. If a hearing request is not made at that time or within 10  
13 days, but within 30 days the person requests a hearing, a hearing to show cause why  
14 the driver's license should not be suspended concerning the refusal to take the test or  
15 for test results indicating an alcohol concentration of [0.10] 0.08 or more at the time  
16 of testing will be scheduled, but a request made after 10 days does not extend a  
17 temporary license issued by the police officer that allows the person to continue  
18 driving for 45 days;
- 19 (vi) Advise the person of the administrative sanctions that shall be  
20 imposed in the event of failure to request a hearing, failure to attend a requested  
21 hearing, or upon an adverse finding by the hearing officer; and
- 22 (vii) Within 72 hours after the issuance of the order of suspension,  
23 send any confiscated driver's license, copy of the suspension order, and a sworn  
24 statement to the Administration, that states:
- 25 1. The officer had reasonable grounds to believe that the  
26 person had been driving or attempting to drive a motor vehicle on a highway or on  
27 any private property that is used by the public in general in this State while  
28 ~~intoxicated~~ UNDER THE INFLUENCE OF ALCOHOL, while ~~under the influence of~~  
29 IMPAIRED BY alcohol, while so far ~~under the influence of~~ IMPAIRED BY any drug, any  
30 combination of drugs, or a combination of one or more drugs and alcohol that the  
31 person could not drive a vehicle safely, while ~~under the influence of~~ IMPAIRED BY a  
32 controlled dangerous substance, in violation of an alcohol restriction, or in violation of  
33 § 16-813 of this title;
- 34 2. The person refused to take a test when requested by the  
35 police officer or the person submitted to the test which indicated an alcohol  
36 concentration of [0.10] 0.08 or more at the time of testing; and
- 37 3. The person was fully advised of the administrative  
38 sanctions that shall be imposed, including the fact that a person who refuses to take  
39 the test is ineligible for modification of a suspension or issuance of a restrictive  
40 license under subsection (n)(1) or (2) of this section.

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

11 (d) (1) If a police officer has reasonable grounds to believe that a person has  
 12 been driving or attempting to drive a motor vehicle while [intoxicated] UNDER THE  
 13 INFLUENCE OF ALCOHOL, while [under the influence of] IMPAIRED BY alcohol, while  
 14 so far [under the influence of] IMPAIRED BY any drug, any combination of drugs, or a  
 15 combination of one or more drugs and alcohol that the person could not drive a vehicle  
 16 safely, while [under the influence of] IMPAIRED BY a controlled dangerous substance,  
 17 or in violation of § 16-813 of this title, and if the police officer determines that the  
 18 person is unconscious or otherwise incapable of refusing to take a test, the police  
 19 officer shall:

20 (i) Obtain prompt medical attention for the person;

21 (ii) If necessary, arrange for removal of the person to a nearby  
 22 medical facility; and

23 (iii) If a test would not jeopardize the health or well-being of the  
 24 person, direct a qualified medical person to withdraw blood for a test.

25 (f) (1) Subject to the provisions of this subsection, at the time of, or within  
 26 30 days from the date of, the issuance of an order of suspension, a person may submit  
 27 a written request for a hearing before an officer of the Administration if:

28 (i) The person is arrested for driving or attempting to drive a motor  
 29 vehicle while ~~intoxicated~~ UNDER THE INFLUENCE OF ALCOHOL, while ~~under the~~  
 30 ~~influence of~~ IMPAIRED BY alcohol, while so far ~~under the influence of~~ IMPAIRED BY  
 31 any drug, any combination of drugs, or a combination of one or more drugs and  
 32 alcohol that the person could not drive a vehicle safely, while ~~under the influence of~~  
 33 IMPAIRED BY a controlled dangerous substance, in violation of an alcohol restriction,  
 34 or in violation of § 16-813 of this title; and

35 (ii) 1. There is an alcohol concentration of [0.10] 0.08 or more at  
 36 the time of testing; or

37 2. The person refused to take a test.

38 (4) If a hearing request is not made at the time of or within 10 days after  
 39 the issuance of the order of suspension, the Administration shall:

40 (i) Make the suspension order effective suspending the license:





1 (8) (i) After a hearing, the Administration shall suspend the driver's  
 2 license or privilege to drive of the person charged under subsection (b) or (c) of this  
 3 section if:

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

12 2. 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 3. The police officer requested a test after the person was  
 16 fully advised of the administrative sanctions that shall be imposed, including the fact  
 17 that a person who refuses to take the test is ineligible for modification of a suspension  
 18 or issuance of a restrictive license under subsection (n)(1) and (2) of this section; and

19 4. A. The person refused to take the test; or

20 B. A test to determine alcohol concentration was taken and  
 21 the test result indicated an alcohol concentration of [0.10] 0.08 or more at the time of  
 22 testing.

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

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

27 2. The police officer who stopped or detained the person had  
 28 reasonable grounds to believe that the person was driving or attempting to drive  
 29 while [intoxicated] UNDER THE INFLUENCE OF ALCOHOL, while [under the  
 30 influence of] IMPAIRED BY alcohol, while so far [under the influence of] IMPAIRED BY  
 31 any drug, any combination of drugs, or a combination of one or more drugs and  
 32 alcohol that the person could not drive a vehicle safely, while [under the influence of]  
 33 IMPAIRED BY a controlled dangerous substance, in violation of an alcohol restriction,  
 34 or in violation of § 16-813 of this title;

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

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



1 (2) May not impose any additional periods of suspension for the  
2 remainder of the administrative offenses.

3 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be~~  
4 ~~construed to conform to the requirements of the federal government under 23 U.S.C.~~  
5 ~~§ 163 and regulations adopted to implement federal law in order for the State to~~  
6 ~~obtain full incentive grant funding under the Transportation Equity Act for the 21st~~  
7 ~~Century.~~

8 ~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be~~  
9 ~~construed only prospectively to administrative, criminal, and juvenile delinquency~~  
10 ~~offenses that are committed on or after September 30, 2001, and may not be applied~~  
11 ~~or interpreted to have any effect on administrative, criminal, and juvenile~~  
12 ~~delinquency offenses that are committed before September 30, 2001.~~

13 ~~SECTION 4. AND BE IT FURTHER ENACTED, That the Department of~~  
14 ~~Transportation and the Department of State Police may adopt regulations and forms~~  
15 ~~to implement this Act.~~

16 ~~SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Section 3 of~~  
17 ~~this Act, this Act shall take effect July 1, 2001.~~  
18 ~~16-205.2.~~

19 (a) A police officer who has reasonable grounds to believe that an individual is  
20 or has been driving or attempting to drive a motor vehicle while [intoxicated] UNDER  
21 THE INFLUENCE OF ALCOHOL or while [under the influence of] IMPAIRED BY alcohol  
22 may, without making an arrest and prior to the issuance of a citation, request the  
23 individual to submit to a preliminary breath test to be administered by the officer  
24 using a device approved by the State Toxicologist.

25 16-402.

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

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

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

1 18-105.

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

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

11 21-902.

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

14 (2) A person may not drive or attempt to drive any vehicle while the  
15 person is [intoxicated] UNDER THE INFLUENCE OF ALCOHOL per se.

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

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

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

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

30 26-202.

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

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

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

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

8 26-404.

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

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

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

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

18 (iii) Any felony.

19 26-405.

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

28 27-101.

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

32 (23) Except as provided in subsections (f) and (q) of this section, §  
 33 21-902(b) ("Driving while [under the influence of] IMPAIRED BY alcohol");

34 (24) Except as provided in subsections (f) and (q) of this section, §  
 35 21-902(c) ("Driving while [under influence of] IMPAIRED BY drugs or drugs and  
 36 alcohol");

1           (25)    Except as provided in subsections (f) and (q) of this section, §  
2 21-902(d) "Driving while [under influence of] IMPAIRED BY controlled dangerous  
3 substance"); or

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

6                   (ii)    A second or subsequent violation of:

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

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

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

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

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

18                          (i)    For a first offense, shall be subject to a fine of not more than  
19 \$1,000, or imprisonment for not more than 1 year, or both;

20                          (ii)   For a second offense, shall be subject to a fine of not more than  
21 \$2,000, or imprisonment for not more than 2 years, or both; and

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

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

29 27-107.

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

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

5     SECTION 3. AND BE IT FURTHER ENACTED, That the provisions of Article  
6 1, § 3 of the Annotated Code of Maryland apply to the provisions of this Act.

7     SECTION 4. AND BE IT FURTHER ENACTED, That this Act does not limit the  
8 application of any provision of law, including any criminal or administrative penalty,  
9 that is applicable to a subsequent criminal conviction or a subsequent administrative  
10 offense, and a conviction or an administrative offense, respectively, under the prior  
11 law shall be considered a prior conviction or prior administrative adjudication,  
12 respectively, for any purpose provided by law, including any criminal or  
13 administrative penalty for a subsequent conviction or a subsequent administrative  
14 offense.

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

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