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By: **Senators Lawlah, Conway, Currie, DeGrange, Harris, Hoffman, Hogan, Hooper, Kelley, and Teitelbaum**

Introduced and read first time: January 19, 2001

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Alcohol, Drug, or Controlled Dangerous Substance Related Driving**  
3 **Offenses - Mandatory License Suspension and Vehicle Impoundment or**  
4 **Immobilization for Subsequent Offenses**

5 FOR the purpose of requiring the Motor Vehicle Administration to suspend, for a  
6 certain period of time, the driver's license of a person who is convicted a certain  
7 number of times for certain alcohol, drug, or controlled dangerous substance  
8 related driving offenses under certain circumstances; requiring the  
9 Administration to suspend, for a certain period of time, the driver's license of a  
10 person who accumulates a certain number of points for certain alcohol, drug, or  
11 controlled dangerous substance related driving offenses under certain  
12 circumstances; requiring a court to order the impoundment or immobilization of  
13 a certain vehicle used in the commission of certain alcohol, drug, or controlled  
14 dangerous substance related driving offenses under certain circumstances; and  
15 generally relating to penalties for certain alcohol, drug, or controlled dangerous  
16 substance related driving offenses under certain circumstances.

17 BY repealing and reenacting, with amendments,  
18 Article - Transportation  
19 Section 16-205, 16-404(c), and 27-111  
20 Annotated Code of Maryland  
21 (1999 Replacement Volume and 2000 Supplement)

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

24 **Article - Transportation**

25 16-205.

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

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

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

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

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

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

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

20 (b) The Administration:

21 (1) Shall revoke the license of any person who has been convicted, under  
22 Article 27, § 388A of the Code, of homicide by a motor vehicle while intoxicated or  
23 under the influence of alcohol, drugs, or a controlled dangerous substance; and

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

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

32 (d) [The] EXCEPT AS PROVIDED IN § 16-404(C) OF THIS ARTICLE, THE  
33 Administration [may] SHALL suspend for [not more than 120 days] 1 YEAR the  
34 license of any person who[, within a 3-year period,] is convicted under § 21-902(b) or  
35 (c) of this article of driving or attempting to drive a motor vehicle while under the  
36 influence of alcohol or while so far under the influence of any drug, any combination  
37 of drugs, or a combination of one or more drugs and alcohol that the person cannot  
38 drive a motor vehicle safely and who was previously convicted of a violation under:

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

3 (2) § 21-902(b) of this article of driving or attempting to drive a motor  
4 vehicle while under the influence of alcohol;

5 (3) § 21-902(c) of this article of driving or attempting to drive a motor  
6 vehicle while so far under the influence of any drug, any combination of drugs, or a  
7 combination of one or more drugs and alcohol that the person cannot drive a motor  
8 vehicle safely; or

9 (4) § 21-902(d) of this article of driving or attempting to drive a motor  
10 vehicle while under the influence of a controlled dangerous substance.

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

15 16-404.

16 (c) (1) Except as provided in paragraphs (2) and (3) of this subsection:

17 (i) An initial suspension may not be for less than 2 days nor more  
18 than 30 days; and

19 (ii) Any subsequent suspension may not be for less than 15 days  
20 nor more than 90 days.

21 (2) Subject to the provisions of paragraph (3) of this subsection, the  
22 following suspension periods [may] SHALL apply to a suspension for an accumulation  
23 of points under § 16-402(a)(23) of this subtitle for a violation of § 21-902(b) or (c) of  
24 this article or a suspension imposed under § 16-404.1(b)(4)(iii) of this subtitle:

25 (i) For a first conviction, not more than 6 months;

26 (ii) For a second OR THIRD conviction [at least 5 years after the  
27 date of the first conviction, not more than 9 months;], 1 YEAR; AND

28 (iii) [For a second conviction less than 5 years after the date of the  
29 first conviction or for a third conviction, not more than 12 months; and

30 (iv)] For a fourth or subsequent conviction, not more than 24  
31 months.

32 (3) An individual who participates in the Administration's Ignition  
33 Interlock System Program under § 16-404.1 of this subtitle may have a suspension  
34 under paragraph (2) of this subsection reduced to:

35 (i) For a first conviction, up to 15 days, provided the individual  
36 maintains the ignition interlock system for not more than 5 months;

1 (ii) [For a second conviction at least 5 years after the date of the  
2 first conviction, up to 30 days, provided the individual maintains the ignition  
3 interlock system for not more than 9 months;

4 (iii) For a second OR THIRD conviction [less than 5 years after the  
5 date of the first conviction or for a third conviction], up to 45 days, provided the  
6 individual maintains the ignition interlock system for not more than 12 months; and

7 [(iv)] (III) For a fourth or subsequent conviction, 6 months, provided  
8 the individual maintains the ignition interlock system for not more than 24 months.

9 (4) This subsection does not limit the authority of the Administration to  
10 issue a restrictive license or modify a suspension imposed under this subsection.

11 27-111.

12 (a) In this section, "police department" has the same meaning indicated in §  
13 25-201 of this article.

14 (b) (1) For the purpose of impounding or immobilizing a vehicle under this  
15 section, the police department may use its own personnel, equipment, and facilities  
16 or, subject to the provisions of paragraph (2) of this subsection, use other persons,  
17 equipment, and facilities for immobilizing vehicles or removing, preserving, and  
18 storing impounded vehicles.

19 (2) A police department may not authorize the use of a tow truck under  
20 paragraph (1) of this subsection unless the tow truck is registered under § 13-920 of  
21 this article.

22 (c) (1) (I) [As] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
23 SUBSECTION, AS a sentence, a part of a sentence, or a condition of probation, a court  
24 may order, for not more than 180 days, the impoundment or immobilization of a solely  
25 owned vehicle used in the commission of a violation of § 16-303(c) or (d) of this article  
26 if, at the time of the violation:

27 [(i)] 1. The owner of the vehicle was driving the vehicle; and

28 [(ii)] 2. The owner's license was suspended or revoked under §  
29 16-205 of this article.

30 [(2)] (II) Among the factors that a court may consider in determining  
31 whether to order an impoundment or immobilization of a vehicle is whether the  
32 vehicle is the primary means of transportation available for the use of the individual's  
33 immediate family.

34 (2) A COURT SHALL ORDER, FOR NOT MORE THAN 1 YEAR, THE  
35 IMPOUNDMENT OR IMMOBILIZATION OF A SOLELY OWNED VEHICLE USED IN THE  
36 COMMISSION OF A SECOND OR SUBSEQUENT VIOLATION OF ANY PROVISION OF §  
37 21-902 OF THIS ARTICLE.

1           (3)   (i)    Subject to the provisions of subparagraph (ii) of this paragraph,  
2 impoundment or immobilization of a vehicle may not be ordered under this section, if  
3 the registered owner of the vehicle made a bona fide sale, gift, or other transfer of the  
4 vehicle to another person before the date of the finding of a violation of § 16-303(c) or  
5 (d) OR A SECOND OR SUBSEQUENT VIOLATION OF ANY PROVISION OF § 21-902 of this  
6 article.

7                   (ii)    The registered owner of the vehicle has the burden of proving  
8 that a bona fide sale, gift, or other transfer of the vehicle has occurred.

9   (d)   (1)    The registered owner of a vehicle impounded or immobilized under  
10 this section is responsible for all actual costs incurred as a result of the immobilizing  
11 of the vehicle, or the towing, preserving, and storing of the impounded vehicle.

12           (2)    The court may require the registered owner of a vehicle impounded or  
13 immobilized under this section to post a bond or other adequate security to equal the  
14 actual costs of immobilizing the vehicle, or towing, preserving, and storing the  
15 vehicle, and providing the notices required under subsection (f) of this section.

16           (3)    Subject to the provisions of this section, a police department that  
17 impounds a vehicle by taking the vehicle into custody or immobilizes a vehicle under  
18 this section promptly shall return possession or use of the vehicle to the registered  
19 owner of the vehicle on payment of all actual costs of immobilizing the vehicle, or  
20 towing, preserving, and storing the impounded vehicle, and providing the notices  
21 required under subsection (f) of this section.

22   (e)    If a court orders the impoundment or immobilization of a vehicle under  
23 this section, the court shall provide for the execution of the impoundment or  
24 immobilization by a police department.

25   (f)   (1)    If a court orders the impoundment or immobilization of a vehicle  
26 under this section, the police department that executes the immobilization, or the  
27 impoundment by taking the vehicle into custody, shall, as soon as reasonably possible  
28 and within 7 days after the police department executes the court order, send a notice  
29 by certified mail, return receipt requested, bearing a postmark from the United  
30 States Postal Service, to:

31                   (i)    Each registered owner of the vehicle as shown in the records of  
32 the Administration; and

33                   (ii)   Each secured party, as shown in the records of the  
34 Administration.

35           (2)    The notice shall:

36                   (i)    State that the vehicle has been immobilized, or impounded by  
37 being taken into custody;

38                   (ii)   Describe the year, make, model, and vehicle identification  
39 number of the vehicle;

1 (iii) Provide the location of where the vehicle is immobilized or the  
2 location of the facility where the vehicle is impounded;

3 (iv) Include the amount of the actual costs of immobilization, or  
4 towing, preservation, and storage of an impounded vehicle;

5 (v) Include the amount of the actual costs of the notices required  
6 under this paragraph; and

7 (vi) Provide that, if an impounded vehicle is not reclaimed as  
8 required under this subsection, within 10 days after the date specified in the court  
9 order, the impounded vehicle will be considered an abandoned vehicle and subject to  
10 the provisions of Title 25, Subtitle 2 of this article.

11 (3) If an impounded vehicle is not reclaimed within 10 days after the  
12 date specified in a court order under this section, the vehicle shall be considered an  
13 abandoned vehicle subject to the provisions of Title 25, Subtitle 2 of this article.

14 (g) (1) This section may not be construed to prohibit a lienholder from  
15 exercising its rights under applicable law, including the right to sell a vehicle that has  
16 been impounded or immobilized under this section, in the event of a default in the  
17 obligation giving rise to the lien.

18 (2) (i) A lienholder exercising the right to sell a vehicle that has been  
19 impounded or immobilized under this section shall notify, in writing, the police  
20 department with custody of the vehicle of the lienholder's intention to sell the vehicle.

21 (ii) The notice shall be accompanied by copies of documents giving  
22 rise to the lien and shall include an affidavit under oath by the lienholder that the  
23 underlying obligation is in default and the reasons for the default.

24 (iii) On request of the lienholder and on payment of all costs  
25 required under this section, the vehicle shall be released to the lienholder.

26 (3) Except as provided in paragraph (4) of this subsection, the rights and  
27 duties provided by law to the lienholder for the sale of collateral securing an  
28 obligation in default shall govern the repossession and sale of the vehicle.

29 (4) (i) The lienholder may not be required to take possession of the  
30 vehicle before a sale of the vehicle.

31 (ii) The proceeds of any sale shall be applied first to the actual costs  
32 of immobilization, or towing, preservation, and storage of an impounded vehicle, and  
33 the actual costs of the notices required under subsection (f) of this section, then as  
34 provided by law for distribution of proceeds of a sale by the lienholder.

35 (5) (i) If the interest of the owner in the vehicle is redeemed, the  
36 lienholder shall, within 10 days after the redemption, mail a notice of the redemption  
37 to the police department who impounded or immobilized the vehicle.

1                   (ii)       If the vehicle has been repossessed or otherwise lawfully taken  
2 by the lienholder and the time specified by a court order under this section has not  
3 expired, the lienholder shall return the vehicle within 21 days after the redemption to  
4 the police department who impounded or immobilized the vehicle.

5       (h)       This section does not affect the requirements of Title 25, Subtitle 2 of this  
6 article regarding abandoned vehicles.

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