

SENATE BILL 24

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SB 178/01 - JPR

2002 Regular Session  
2lr0586

(PRE-FILED)

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By: **Senator Lawlah**  
Requested: October 3, 2001  
Introduced and read first time: January 9, 2002  
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(c)  
20 Annotated Code of Maryland  
21 (1999 Replacement Volume and 2001 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:

27 (1) Is convicted under § 21-902(a) or (d) of this article of driving or  
28 attempting to drive a motor vehicle while under the influence of alcohol, while under

1 the influence of alcohol per se, or while impaired by a controlled dangerous substance;  
2 or

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

8 (i) § 21-902(a) of this article of driving or attempting to drive a  
9 motor vehicle while under the influence of alcohol or while under the influence of  
10 alcohol per se;

11 (ii) § 21-902(b) of this article of driving or attempting to drive a  
12 motor vehicle while impaired by alcohol;

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

17 (iv) § 21-902(d) of this article of driving or attempting to drive a  
18 motor vehicle while impaired by a controlled dangerous substance.

19 (b) The Administration:

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

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26 license has been revoked under item (1) of this subsection during an administrative  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

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

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

4           (2)     § 21-902(b) of this article of driving or attempting to drive a motor  
5 vehicle while impaired by alcohol;

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

10          (4)     § 21-902(d) of this article of driving or attempting to drive a motor  
11 vehicle while impaired by a controlled dangerous substance.

12          (e)     The Administration may modify any suspension under this section or any  
13 suspension under § 16-205.1 of this article and issue a restrictive license to a licensee  
14 who participates in the Ignition Interlock System Program established under §  
15 16-404.1 of this title.

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

20 16-404.

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

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

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

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

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

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

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

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

1           (3)       The Administration may issue a restrictive license for the period of  
2 the suspension to an individual who participates in the Administration's Ignition  
3 Interlock System Program under § 16-404.1 of this subtitle.

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

6 27-111.

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

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

13                   [(ii)]    2.       The owner's license was suspended or revoked under §  
14 16-205 of this article.

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

19                   (2)       A COURT SHALL ORDER, FOR NOT MORE THAN 1 YEAR, THE  
20 IMPOUNDMENT OR IMMOBILIZATION OF A SOLELY OWNED VEHICLE USED IN THE  
21 COMMISSION OF A SECOND OR SUBSEQUENT VIOLATION OF ANY PROVISION OF §  
22 21-902 OF THIS ARTICLE.

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

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

31       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2002.