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By: **Delegate Menes (Chairman, Special Committee on Drug and Alcohol Abuse) and Delegates Bronrott, Boschert, Burns, Eckardt, Kelley, and Petzold**

Introduced and read first time: January 28, 2004

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Driving or Boating While Impaired by a Controlled Dangerous**  
3 **Substance Per Se - Penalties**

4 FOR the purpose of making it a misdemeanor for a person to drive or attempt to drive  
5 a vehicle while the person has any amount of a controlled dangerous substance  
6 in the person's body under certain circumstances; defining "impaired by a  
7 controlled dangerous substance per se" for purposes of the State's criminal and  
8 vehicle laws; authorizing the admissibility of certain evidentiary tests for  
9 measuring any amount of a controlled dangerous substance in a person's body  
10 for purposes of being considered impaired by a controlled dangerous substance  
11 per se; making it a felony to cause the death of another by negligently driving,  
12 operating, or controlling a motor vehicle or vessel while impaired by a controlled  
13 dangerous substance per se; establishing penalties for the crime; making it a  
14 misdemeanor to cause life-threatening injury by negligently driving, operating,  
15 or controlling a motor vehicle or vessel while impaired by a controlled dangerous  
16 substance per se; establishing penalties for the crime; establishing exceptions to  
17 certain crimes for a person lawfully using a controlled dangerous substance;  
18 providing certain language for use in certain charging documents for certain  
19 crimes; authorizing the Motor Vehicle Administration to suspend or revoke a  
20 driver's license and assess points for driving while impaired by a controlled  
21 dangerous substance per se under certain circumstances; requiring the  
22 Administration to assess a certain number of points for a conviction for driving  
23 while impaired by a controlled dangerous substance per se; prohibiting the  
24 acceptance of a guaranteed arrest bond certificate if the offense charged is  
25 driving while impaired by a controlled dangerous substance per se; requiring the  
26 Administration to take certain action on a driver's record when it receives  
27 certain notice of conviction for driving while impaired by a controlled dangerous  
28 substance per se from a party state to the Driver's License Compact; making  
29 technical changes; providing for the application of this Act; providing for a  
30 delayed effective date for this Act; and generally relating to certain offenses of  
31 driving or boating while impaired by a controlled dangerous substance per se.

32 BY repealing and reenacting, with amendments,

1 Article - Courts and Judicial Proceedings  
2 Section 10-307(a)(1)  
3 Annotated Code of Maryland  
4 (2002 Replacement Volume and 2003 Supplement)

5 BY adding to  
6 Article - Courts and Judicial Proceedings  
7 Section 10-307(h)  
8 Annotated Code of Maryland  
9 (2002 Replacement Volume and 2003 Supplement)

10 BY adding to  
11 Article - Criminal Law  
12 Section 2-501.1 and 2-506.1  
13 Annotated Code of Maryland  
14 (2002 Volume and 2003 Supplement)

15 BY repealing and reenacting, without amendments,  
16 Article - Criminal Law  
17 Section 2-506  
18 Annotated Code of Maryland  
19 (2002 Volume and 2003 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article - Criminal Law  
22 Section 2-507(a), 3-211(a) and (f), and 3-212(a)  
23 Annotated Code of Maryland  
24 (2002 Volume and 2003 Supplement)

25 BY adding to  
26 Article - Transportation  
27 Section 11-174.1  
28 Annotated Code of Maryland  
29 (2002 Replacement Volume and 2003 Supplement)

30 BY repealing and reenacting, with amendments,  
31 Article - Transportation  
32 Section 16-205(a) and (d), 16-205.1(a), (b), (f)(1), (4), (7), and (8)(i) and (v), and  
33 (h), 16-402(a)(33), 16-402.1(a)(2), 21-902(d), 26-404(f), and 26-405  
34 Annotated Code of Maryland  
35 (2002 Replacement Volume and 2003 Supplement)

36 BY repealing and reenacting, without amendments,

1 Article - Transportation  
2 Section 21-902(a)  
3 Annotated Code of Maryland  
4 (2002 Replacement Volume and 2003 Supplement)

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

7 **Article - Courts and Judicial Proceedings**

8 10-307.

9 (a) (1) In any criminal, juvenile, or civil proceeding in which a person is  
10 alleged to have committed an act that would constitute a violation of Title 2, Subtitle  
11 5, § 2-209, or § 3-211 of the Criminal Law Article, or with driving or attempting to  
12 drive a vehicle in violation of § 16-113, § 16-813, or § 21-902 of the Transportation  
13 [Article,] ARTICLE:

14 (I) [the] THE amount of alcohol in the person's breath or blood  
15 shown by analysis as provided in this subtitle is admissible in evidence and has the  
16 effect set forth in subsections (b) through (g) of this section; AND

17 (II) ANY AMOUNT OF A CONTROLLED DANGEROUS SUBSTANCE  
18 PRESENT IN THE PERSON'S BODY, AS SHOWN BY ANALYSIS AS PROVIDED IN THIS  
19 SUBTITLE, IS ADMISSIBLE IN EVIDENCE AND HAS THE EFFECT SET FORTH IN  
20 SUBSECTION (H) OF THIS SECTION.

21 (H) IF AT THE TIME OF TESTING A PERSON HAS ANY AMOUNT OF A  
22 CONTROLLED DANGEROUS SUBSTANCE PRESENT IN THE PERSON'S BODY, AS  
23 DETERMINED BY AN ANALYSIS OF THE PERSON'S BLOOD, THE PERSON SHALL BE  
24 CONSIDERED IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE PER SE AS  
25 DEFINED IN § 11-174.1 OF THE TRANSPORTATION ARTICLE.

26 **Article - Criminal Law**

27 2-501.1.

28 IN THIS SUBTITLE, "IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE PER  
29 SE" MEANS HAVING ANY AMOUNT OF A CONTROLLED DANGEROUS SUBSTANCE AS  
30 DEFINED IN § 5-101 OF THIS ARTICLE PRESENT IN THE PERSON'S BODY AT THE TIME  
31 OF TESTING AS MEASURED IN THE PERSON'S BLOOD.

32 2-506.

33 (a) A person may not cause the death of another as a result of the person's  
34 negligently driving, operating, or controlling a motor vehicle or vessel while the  
35 person is impaired by a controlled dangerous substance, as defined in § 5-101 of this  
36 article.

1 (b) A violation of this section is homicide by motor vehicle or vessel while  
2 impaired by a controlled dangerous substance.

3 (c) A person who violates this section is guilty of a felony and on conviction is  
4 subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

5 (d) This section does not apply to a person who is entitled to use the controlled  
6 dangerous substance under the laws of this State.

7 2-506.1.

8 (A) A PERSON MAY NOT CAUSE THE DEATH OF ANOTHER AS A RESULT OF THE  
9 PERSON'S NEGLIGENTLY DRIVING, OPERATING, OR CONTROLLING A MOTOR VEHICLE  
10 OR VESSEL WHILE THE PERSON IS IMPAIRED BY A CONTROLLED DANGEROUS  
11 SUBSTANCE PER SE.

12 (B) A VIOLATION OF THIS SECTION IS HOMICIDE BY MOTOR VEHICLE OR  
13 VESSEL WHILE IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE PER SE.

14 (C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON  
15 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE  
16 NOT EXCEEDING \$5,000 OR BOTH.

17 (D) THIS SECTION DOES NOT APPLY TO A PERSON WHO IS ENTITLED TO USE  
18 THE CONTROLLED DANGEROUS SUBSTANCE UNDER THE LAWS OF THIS STATE.

19 2-507.

20 (a) An indictment, information, or other charging document for a crime under  
21 this subtitle is sufficient if it substantially states:

22 (1) "(name of defendant) on (date) in (county) committed homicide by  
23 motor vehicle or vessel while under the influence of alcohol by killing (name of victim)  
24 against the peace, government, and dignity of the State.";

25 (2) "(name of defendant) on (date) in (county) committed homicide by  
26 motor vehicle or vessel while under the influence of alcohol per se by killing (name of  
27 victim) against the peace, government, and dignity of the State.";

28 (3) "(name of defendant) on (date) in (county) committed homicide by  
29 motor vehicle or vessel while impaired by alcohol by killing (name of victim) against  
30 the peace, government, and dignity of the State.";

31 (4) "(name of defendant) on (date) in (county) committed homicide by  
32 motor vehicle or vessel while impaired by drugs by killing (name of victim) against  
33 the peace, government, and dignity of the State."; [or]

34 (5) "(name of defendant) on (date) in (county) committed homicide by  
35 motor vehicle or vessel while impaired by a controlled dangerous substance by killing  
36 (name of victim) against the peace, government, and dignity of the State."; OR

1 (6) "(NAME OF DEFENDANT) ON (DATE) IN (COUNTY) COMMITTED  
2 HOMICIDE BY MOTOR VEHICLE OR VESSEL WHILE IMPAIRED BY A CONTROLLED  
3 DANGEROUS SUBSTANCE PER SE BY KILLING (NAME OF VICTIM) AGAINST THE  
4 PEACE, GOVERNMENT, AND DIGNITY OF THE STATE."

5 3-211.

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

7 (2) "IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE PER SE"  
8 MEANS HAVING ANY AMOUNT OF A CONTROLLED DANGEROUS SUBSTANCE AS  
9 DEFINED IN § 5-101 OF THIS ARTICLE PRESENT IN THE PERSON'S BODY AT THE TIME  
10 OF TESTING AS MEASURED IN THE PERSON'S BLOOD.

11 [(2)] (3) "Under the influence of alcohol per se" means having an alcohol  
12 concentration at the time of testing of at least 0.08 as measured by grams of alcohol  
13 per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

14 [(3)] (4) (i) "Vessel" means any water craft that is used or is capable of  
15 being used as a means of transportation on water or ice.

16 (ii) "Vessel" does not include a seaplane.

17 (f) (1) This subsection does not apply to a person who is entitled to use the  
18 controlled dangerous substance under the laws of the State.

19 (2) A person may not cause a life-threatening injury to another as a  
20 result of the person's negligently driving, operating, or controlling a motor vehicle or  
21 vessel while the person is:

22 (I) impaired by a controlled dangerous substance as defined in §  
23 5-101 of this article; OR

24 (II) IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE PER SE  
25 AS DEFINED IN SUBSECTION (A) OF THIS SECTION.

26 (3) A violation of this subsection is life-threatening injury by motor  
27 vehicle or vessel while THE PERSON IS:

28 (I) impaired by a controlled dangerous substance; OR

29 (II) IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE PER SE.

30 (4) A person who violates this subsection is guilty of a misdemeanor and  
31 on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding  
32 \$3,000 or both.

33 3-212.

34 (a) An indictment, information, or other charging document for a crime  
35 described in § 3-211 of this subtitle is sufficient if it substantially states:

1 (1) "(name of defendant) on (date) in (county) caused a life-threatening  
2 injury to (name of victim) while under the influence of alcohol, in violation of §  
3 3-211(c)(1)(i) of the Criminal Law Article against the peace, government, and dignity  
4 of the State.";

5 (2) "(name of defendant) on (date) in (county) caused a life-threatening  
6 injury to (name of victim) while under the influence of alcohol per se, in violation of §  
7 3-211(c)(1)(ii) of the Criminal Law Article against the peace, government, and dignity  
8 of the State.";

9 (3) "(name of defendant) on (date) in (county) caused a life-threatening  
10 injury to (name of victim) while impaired by alcohol, in violation of § 3-211(d) of the  
11 Criminal Law Article against the peace, government, and dignity of the State.";

12 (4) "(name of defendant) on (date) in (county) caused a life-threatening  
13 injury to (name of victim) while impaired by drugs, in violation of § 3-211(e) of the  
14 Criminal Law Article against the peace, government, and dignity of the State."; [or]

15 (5) "(name of defendant) on (date) in (county) caused a life-threatening  
16 injury to (name of victim) while impaired by a controlled dangerous substance, in  
17 violation of [§ 3-211(f)] § 3-211(F)(2)(I) of the Criminal Law Article against the peace,  
18 government, and dignity of the State."; OR

19 (6) "(NAME OF DEFENDANT) ON (DATE) IN (COUNTY) CAUSED A  
20 LIFE-THREATENING INJURY TO (NAME OF VICTIM) WHILE IMPAIRED BY A  
21 CONTROLLED DANGEROUS SUBSTANCE PER SE, IN VIOLATION OF § 3-211(F)(2)(II) OF  
22 THE CRIMINAL LAW ARTICLE AGAINST THE PEACE, GOVERNMENT, AND DIGNITY OF  
23 THE STATE.".

24 **Article - Transportation**

25 11-174.1.

26 "IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE PER SE" MEANS  
27 HAVING ANY AMOUNT OF A CONTROLLED DANGEROUS SUBSTANCE AS DEFINED IN §  
28 5-101 OF THE CRIMINAL LAW ARTICLE PRESENT IN THE PERSON'S BODY AT THE TIME  
29 OF TESTING AS MEASURED IN THE PERSON'S BLOOD.

30 16-205.

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

32 (1) Is convicted under § 21-902(a) or (d) of this article of driving or  
33 attempting to drive a motor vehicle while under the influence of alcohol, while under  
34 the influence of alcohol per se, [or] while impaired by a controlled dangerous  
35 substance, OR WHILE IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE PER SE;  
36 or

37 (2) Within a 3-year period, is convicted under § 21-902(b) or (c) of this  
38 article of driving or attempting to drive a motor vehicle while impaired by alcohol or

1 while so far impaired by any drug, any combination of drugs, or a combination of one  
2 or more drugs and alcohol that the person cannot drive a vehicle safely and who was  
3 previously convicted of any combination of two or more violations under:

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

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

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

13 (iv) § 21-902(d) of this article of driving or attempting to drive a  
14 motor vehicle while impaired by a controlled dangerous substance OR WHILE  
15 IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE PER SE.

16 (d) The Administration may suspend for not more than 120 days the license of  
17 any person who, within a 3-year period, is convicted under § 21-902(b) or (c) of this  
18 article of driving or attempting to drive a motor vehicle while impaired by alcohol or  
19 while so far impaired by any drug, any combination of drugs, or a combination of one  
20 or more drugs and alcohol that the person cannot drive a motor vehicle safely and who  
21 was previously convicted of a violation under:

22 (1) § 21-902(a) of this article of driving or attempting to drive a motor  
23 vehicle while under the influence of alcohol or while under the influence of alcohol per  
24 se;

25 (2) § 21-902(b) of this article of driving or attempting to drive a motor  
26 vehicle while impaired by alcohol;

27 (3) § 21-902(c) of this article of driving or attempting to drive a motor  
28 vehicle while so far impaired by any drug, any combination of drugs, or a combination  
29 of one or more drugs and alcohol that the person cannot drive a motor vehicle safely;  
30 or

31 (4) § 21-902(d) of this article of driving or attempting to drive a motor  
32 vehicle while impaired by a controlled dangerous substance OR WHILE IMPAIRED BY A  
33 CONTROLLED DANGEROUS SUBSTANCE PER SE.

34 16-205.1.

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

37 (II) "IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE PER  
38 SE" HAS THE MEANING STATED IN § 11-174.1 OF THIS ARTICLE.

1                    [(ii)]    (III)    "Under the influence of alcohol" includes under the  
2 influence of alcohol per se as defined by § 11-127.1 of this article.

3                    [(iii)]    (IV)    "Specimen of blood" and "1 specimen of blood" means 1  
4 sample of blood that is taken, in a single procedure, in 2 or more portions in 2 or more  
5 separate vials.

6                    [(iv)]    (V)    "Test" means:

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

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

11                                   3.        Both:

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

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

16                    (2)        Any person who drives or attempts to drive a motor vehicle on a  
17 highway or on any private property that is used by the public in general in this State  
18 is deemed to have consented, subject to the provisions of §§ 10-302 through 10-309,  
19 inclusive, of the Courts [and Judicial Proceedings] Article, to take a test if the person  
20 should be detained on suspicion of driving or attempting to drive while under the  
21 influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any  
22 combination of drugs, or a combination of one or more drugs and alcohol that the  
23 person could not drive a vehicle safely, while impaired by a controlled dangerous  
24 substance, **WHILE IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE PER SE**, in  
25 violation of an alcohol restriction, or in violation of § 16-813 of this title.

26                    (b)        (1)        Except as provided in subsection (c) of this section, a person may not  
27 be compelled to take a test. However, the detaining officer shall advise the person  
28 that, on receipt of a sworn statement from the officer that the person was so charged  
29 and refused to take a test, or was tested and the result indicated an alcohol  
30 concentration of 0.08 or more **OR ANY AMOUNT OF A CONTROLLED DANGEROUS**  
31 **SUBSTANCE PRESENT IN THE PERSON'S BODY**, the Administration shall:

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

33    1.        For a test result indicating an alcohol concentration of  
34 0.08 or more, **OR ANY AMOUNT OF A CONTROLLED DANGEROUS SUBSTANCE**  
35 **PRESENT IN THE PERSON'S BODY**, at the time of testing:

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

- 1 B. For a second or subsequent offense, suspend the driver's  
2 license for 90 days; or
- 3 2. For a test refusal:
- 4 A. For a first offense, suspend the driver's license for 120  
5 days; or
- 6 B. For a second or subsequent offense, suspend the driver's  
7 license for 1 year;
- 8 (ii) In the case of a nonresident or unlicensed person:
- 9 1. For a test result indicating an alcohol concentration of  
10 0.08 or more, OR ANY AMOUNT OF A CONTROLLED DANGEROUS SUBSTANCE  
11 PRESENT IN THE PERSON'S BODY, at the time of testing:
- 12 A. For a first offense, suspend the person's driving privilege  
13 for 45 days; or
- 14 B. For a second or subsequent offense, suspend the person's  
15 driving privilege for 90 days; or
- 16 2. For a test refusal:
- 17 A. For a first offense, suspend the person's driving privilege  
18 for 120 days; or
- 19 B. For a second or subsequent offense, suspend the person's  
20 driving privilege for 1 year; and
- 21 (iii) In addition to any applicable driver's license suspensions  
22 authorized under this section, in the case of a person operating a commercial motor  
23 vehicle who refuses to take a test:
- 24 1. Disqualify the person's commercial driver's license for a  
25 period of 1 year for a first offense, 3 years for a first offense which occurs while  
26 transporting hazardous materials required to be placarded, and disqualify for life for  
27 a second or subsequent offense which occurs while operating any commercial motor  
28 vehicle; or
- 29 2. If the person is licensed as a commercial driver by another  
30 state, disqualify the person's privilege to operate a commercial motor vehicle and  
31 report the refusal and disqualification to the person's resident state which may result  
32 in further penalties imposed by the person's resident state.
- 33 (2) Except as provided in subsection (c) of this section, if a police officer  
34 stops or detains any person who the police officer has reasonable grounds to believe is  
35 or has been driving or attempting to drive a motor vehicle while under the influence  
36 of alcohol, while impaired by alcohol, while so far impaired by any drug, any

1 combination of drugs, or a combination of one or more drugs and alcohol that the  
2 person could not drive a vehicle safely, while impaired by a controlled dangerous  
3 substance, in violation of an alcohol restriction, or in violation of § 16-813 of this title,  
4 and who is not unconscious or otherwise incapable of refusing to take a test, the police  
5 officer shall:

6 (i) Detain the person;

7 (ii) Request that the person permit a test to be taken; and

8 (iii) Advise the person of the administrative sanctions that shall be  
9 imposed for refusal to take the test, including ineligibility for modification of a  
10 suspension or issuance of a restrictive license under subsection (n)(1) or (2) of this  
11 section, and for test results indicating an alcohol concentration of 0.08 or more, OR  
12 ANY AMOUNT OF A CONTROLLED DANGEROUS SUBSTANCE PRESENT IN THE  
13 PERSON'S BODY, at the time of testing.

14 (3) If the person refuses to take the test or takes a test which results in  
15 an alcohol concentration of 0.08 or more, OR ANY AMOUNT OF A CONTROLLED  
16 DANGEROUS SUBSTANCE PRESENT IN THE PERSON'S BODY, at the time of testing, the  
17 police officer shall:

18 (i) Confiscate the person's driver's license issued by this State;

19 (ii) Acting on behalf of the Administration, personally serve an  
20 order of suspension on the person;

21 (iii) Issue a temporary license to drive;

22 (iv) Inform the person that the temporary license allows the person  
23 to continue driving for 45 days if the person is licensed under this title;

24 (v) Inform the person that:

25 1. The person has a right to request, at that time or within  
26 10 days, a hearing to show cause why the driver's license should not be suspended  
27 concerning the refusal to take the test or for test results indicating an alcohol  
28 concentration of 0.08 or more, OR ANY AMOUNT OF A CONTROLLED DANGEROUS  
29 SUBSTANCE PRESENT IN THE PERSON'S BODY, at the time of testing, and the hearing  
30 will be scheduled within 45 days; and

31 2. If a hearing request is not made at that time or within 10  
32 days, but within 30 days the person requests a hearing, a hearing to show cause why  
33 the driver's license should not be suspended concerning the refusal to take the test or  
34 for test results indicating an alcohol concentration of 0.08 or more, OR ANY AMOUNT  
35 OF A CONTROLLED DANGEROUS SUBSTANCE PRESENT IN THE PERSON'S BODY, at the  
36 time of testing will be scheduled, but a request made after 10 days does not extend a  
37 temporary license issued by the police officer that allows the person to continue  
38 driving for 45 days;

1 (vi) Advise the person of the administrative sanctions that shall be  
2 imposed in the event of failure to request a hearing, failure to attend a requested  
3 hearing, or upon an adverse finding by the hearing officer; and

4 (vii) Within 72 hours after the issuance of the order of suspension,  
5 send any confiscated driver's license, copy of the suspension order, and a sworn  
6 statement to the Administration, that states:

7 1. The officer had reasonable grounds to believe that the  
8 person had been driving or attempting to drive a motor vehicle on a highway or on  
9 any private property that is used by the public in general in this State while under  
10 the influence of alcohol, while impaired by alcohol, while so far impaired by any drug,  
11 any combination of drugs, or a combination of one or more drugs and alcohol that the  
12 person could not drive a vehicle safely, while impaired by a controlled dangerous  
13 substance, in violation of an alcohol restriction, or in violation of § 16-813 of this title;

14 2. The person refused to take a test when requested by the  
15 police officer or the person submitted to the test which indicated an alcohol  
16 concentration of 0.08 or more, OR ANY AMOUNT OF A CONTROLLED DANGEROUS  
17 SUBSTANCE PRESENT IN THE PERSON'S BODY, at the time of testing; and

18 3. The person was fully advised of the administrative  
19 sanctions that shall be imposed, including the fact that a person who refuses to take  
20 the test is ineligible for modification of a suspension or issuance of a restrictive  
21 license under subsection (n)(1) or (2) of this section.

22 (f) (1) Subject to the provisions of this subsection, at the time of, or within  
23 30 days from the date of, the issuance of an order of suspension, a person may submit  
24 a written request for a hearing before an officer of the Administration if:

25 (i) The person is arrested for driving or attempting to drive a motor  
26 vehicle while under the influence of alcohol, WHILE UNDER THE INFLUENCE OF  
27 ALCOHOL PER SE, while impaired by alcohol, while so far impaired by any drug, any  
28 combination of drugs, or a combination of one or more drugs and alcohol that the  
29 person could not drive a vehicle safely, while impaired by a controlled dangerous  
30 substance, WHILE IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE PER SE, in  
31 violation of an alcohol restriction, or in violation of § 16-813 of this title; and

32 (ii) 1. There is an alcohol concentration of 0.08 or more, OR ANY  
33 AMOUNT OF A CONTROLLED DANGEROUS SUBSTANCE PRESENT IN THE PERSON'S  
34 BODY, at the time of testing; or

35 2. The person refused to take a test.

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

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

1 1. For a test result indicating an alcohol concentration of  
2 0.08 or more, OR ANY AMOUNT OF A CONTROLLED DANGEROUS SUBSTANCE  
3 PRESENT IN THE PERSON'S BODY, at the time of testing:

4 A. For a first offense, for 45 days; or

5 B. For a second or subsequent offense, for 90 days; or

6 2. For a test refusal:

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

8 B. For a second offense or subsequent offense, for 1 year; and

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

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

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

21 1. Whether the police officer who stops or detains a person  
22 had reasonable grounds to believe the person was driving or attempting to drive while  
23 under the influence of alcohol, while impaired by alcohol, while so far impaired by any  
24 drug, any combination of drugs, or a combination of one or more drugs and alcohol  
25 that the person could not drive a vehicle safely, while impaired by a controlled  
26 dangerous substance, in violation of an alcohol restriction, or in violation of § 16-813  
27 of this title;

28 2. Whether there was evidence of the use by the person of  
29 alcohol, any drug, any combination of drugs, a combination of one or more drugs and  
30 alcohol, or a controlled dangerous substance;

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

36 4. Whether the person refused to take the test;



- 1 B. For a second or subsequent offense, a suspension for 90  
 2 days; or
- 3 2. For a test refusal:
- 4 A. For a first offense, a suspension for 120 days; or
- 5 B. For a second or subsequent offense, a suspension for 1  
 6 year.

7 (h) Notwithstanding any other provision of this section, if a driver's license is  
 8 suspended based on multiple administrative offenses of refusal to take a test, or a test  
 9 to determine alcohol concentration taken that indicated an alcohol concentration of  
 10 0.08 or more, OR ANY AMOUNT OF A CONTROLLED DANGEROUS SUBSTANCE  
 11 PRESENT IN THE PERSON'S BODY, at the time of testing, or any combination of these  
 12 administrative offenses committed at the same time, or arising out of circumstances  
 13 simultaneous in time and place, or arising out of the same incident, the  
 14 Administration:

15 (1) Shall suspend the driver's license for the administrative offense that  
 16 results in the lengthiest period of suspension; and

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

19 16-402.

20 (a) After the conviction of an individual for a violation of Title 2, Subtitle 5, §  
 21 2-209, or § 3-211 of the Criminal Law Article, or of the vehicle laws or regulations of  
 22 this State or of any local authority, points shall be assessed against the individual as  
 23 of the date of violation and as follows:

24 (33) Driving while under the influence of alcohol, while under the  
 25 influence of alcohol per se, [or] while impaired by an illegally used controlled  
 26 dangerous substance, OR WHILE IMPAIRED BY AN ILLEGALLY USED CONTROLLED  
 27 DANGEROUS SUBSTANCE PER SE ..... 12 points

28 16-402.1.

29 (a) When the Administration receives a notice of conviction from a party state  
 30 to the Driver License Compact under Subtitle 7 of this title, the Administration may  
 31 not assess points against an individual, except upon receipt of reports of the following  
 32 convictions:

33 (2) Driving a motor vehicle while under the influence of intoxicating  
 34 liquor or a narcotic drug, while intoxicated per se, WHILE IMPAIRED BY A  
 35 CONTROLLED DANGEROUS SUBSTANCE PER SE, or while under the influence of any  
 36 other drug to a degree which renders the driver incapable of safely driving a motor  
 37 vehicle;

1 21-902.

2 (a) (1) A person may not drive or attempt to drive any vehicle while under  
3 the influence of alcohol.

4 (2) A person may not drive or attempt to drive any vehicle while the  
5 person is under the influence of alcohol per se.

6 (d) (1) A person may not drive or attempt to drive any vehicle while the  
7 person is impaired by any controlled dangerous substance, as that term is defined in  
8 § 5-101 of the Criminal Law Article, if the person is not entitled to use the controlled  
9 dangerous substance under the laws of this State.

10 (2) A PERSON MAY NOT DRIVE OR ATTEMPT TO DRIVE ANY VEHICLE  
11 WHILE THE PERSON IS IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE PER  
12 SE, AS THAT TERM IS DEFINED IN § 11-174.1 OF THIS ARTICLE, IF THAT PERSON IS  
13 NOT ENTITLED TO USE THE CONTROLLED DANGEROUS SUBSTANCE UNDER THE  
14 LAWS OF THIS STATE.

15 26-404.

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

17 (1) As a part of a surety undertaking or bail bond requirement of more  
18 than \$1,000; or

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

21 (i) Driving or attempting to drive while under the influence of  
22 alcohol or while driving under the influence of alcohol PER SE;

23 (ii) Driving or attempting to drive while impaired by any drug, any  
24 combination of drugs, or any combination of one or more drugs and [alcohol or]  
25 ALCOHOL, while impaired by any controlled dangerous substance, OR WHILE  
26 IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE PER SE; or

27 (iii) Any felony.

28 26-405.

29 If a person is charged with a violation of § 21-901.1 of this article ("Reckless and  
30 negligent driving") or § 21-902 of this article ("Driving while under the influence of  
31 alcohol, while under the influence of alcohol per se, while impaired by alcohol, or  
32 while impaired by a drug, a combination of drugs, a combination of one or more drugs  
33 and alcohol, [or] while impaired by a controlled dangerous substance, OR WHILE  
34 IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE PER SE"), the court may find  
35 the person guilty of any lesser included offense under any subsection of the respective  
36 section.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
2 construed to apply only prospectively and may not be applied or interpreted to have  
3 any effect on or application to any test to determine the presence of a controlled  
4 dangerous substance in a person's body before the effective date of this Act.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act does not limit the  
6 application of any provision of law, including any criminal or administrative penalty,  
7 that is applicable to a subsequent criminal conviction or a subsequent administrative  
8 offense, and a conviction or an administrative offense, respectively, under the prior  
9 law shall be considered a prior conviction or prior administrative adjudication,  
10 respectively, for any purpose provided by law, including any criminal or  
11 administrative penalty for a subsequent conviction or a subsequent administrative  
12 offense.

13 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 January 1, 2005.