
By: **Delegates Petzold, Barkley, Dumais, Madaleno, Mandel, Menes,
Montgomery, and Simmons**

Introduced and read first time: February 10, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Moving Violations - Death - Notice to Appear**

3 FOR the purpose of providing that a person issued a traffic citation for a moving
4 violation contributing to an accident that results in the death of another person
5 may not comply with a notice to appear in court by prepayment of a fine and
6 must appear in person; providing that, if a person who receives a certain citation
7 fails to appear in court, the court may issue a warrant for the person's arrest or
8 notify the Motor Vehicle Administration of the noncompliance within a certain
9 period of time; providing that a person who receives a certain citation who fails
10 to appear in court is guilty of a misdemeanor and on conviction is subject to a
11 certain penalty; requiring a police officer who issues a certain citation to
12 indicate on the citation that the person to whom the citation is issued must
13 appear for trial when notified by the court; and generally relating to moving
14 violations contributing to accidents resulting in death.

15 BY repealing and reenacting, with amendments,
16 Article - Transportation
17 Section 26-201 and 26-204
18 Annotated Code of Maryland
19 (2002 Replacement Volume and 2004 Supplement)

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

22 **Article - Transportation**

23 26-201.

24 (a) A police officer may charge a person with a violation of any of the following,
25 if the officer has probable cause to believe that the person has committed or is
26 committing the violation:

27 (1) The Maryland Vehicle Law, including any rule or regulation adopted
28 under any of its provisions;

1 (2) A traffic law or ordinance of any local authority;

2 (3) Title 9, Subtitle 2 of the Tax - General Article;

3 (4) Title 9, Subtitle 3 of the Tax - General Article; or

4 (5) Title 10, Subtitle 4 of the Business Regulation Article.

5 (b) A police officer who charges a person under this section shall issue a
6 written traffic citation to the person charged.

7 (c) A traffic citation issued to a person under this section shall contain:

8 (1) A notice to appear in court, including a notice that, if the offense is
9 not punishable by incarceration, the person may request a hearing regarding
10 sentencing and disposition in lieu of a trial as provided in § 26-204(b)(2) of this
11 subtitle;

12 (2) The name and address of the person;

13 (3) The number of the person's license to drive, if applicable;

14 (4) The State registration number of the vehicle, if applicable;

15 (5) The violation charged;

16 (6) Unless otherwise to be determined by the court, the time when and
17 place where the person is required to appear in court;

18 (7) A statement acknowledging receipt of the citation, to be signed by the
19 person;

20 (8) On the side of the citation to be signed by the person, a clear and
21 conspicuous statement that:

22 (i) The signing of the citation by the person does not constitute an
23 admission of guilt; and

24 (ii) The failure to sign may subject the person to arrest;

25 (9) Any other necessary information.

26 (D) A POLICE OFFICER WHO ISSUES A TRAFFIC CITATION FOR A MOVING
27 VIOLATION THAT CONTRIBUTES TO AN ACCIDENT THAT RESULTS IN THE DEATH OF
28 ANOTHER PERSON SHALL CHECK THE APPROPRIATE BOX ON THE CITATION
29 INDICATING THAT THE PERSON TO WHOM THE CITATION IS ISSUED MUST APPEAR
30 FOR TRIAL WHEN NOTIFIED BY THE COURT.

31 [(d)] (E) Unless the person charged demands an earlier hearing, a time
32 specified in the notice to appear shall be at least 5 days after the alleged violation.

1 [(e)] (F) A place specified in the notice to appear shall be before a judge of the
2 District Court, as specified in § 26-401 of this title.

3 [(f)] (G) An officer who discovers a vehicle stopped, standing, or parked in
4 violation of § 21-1003 of this article shall:

5 (1) Deliver a citation to the driver or, if the vehicle is unattended, attach
6 a citation to the vehicle in a conspicuous place; and

7 (2) Keep a copy of the citation, bearing his certification under penalty of
8 perjury that the facts stated in the citation are true.

9 [(g)] (H) (1) A law enforcement officer who discovers a motor vehicle parked
10 in violation of § 13-402 of this article shall:

11 (i) Deliver a citation to the driver or, if the motor vehicle is
12 unattended, attach a citation to the motor vehicle in a conspicuous place; and

13 (ii) Keep a copy of the citation, bearing the law enforcement
14 officer's certification under penalty of perjury that the facts stated in the citation are
15 true.

16 (2) In the absence of the driver, the owner of the motor vehicle is
17 presumed to be the person receiving the citation or warning.

18 26-204.

19 (a) A person shall comply with the notice to appear contained:

20 (1) In a traffic citation issued to the person under this subtitle; or

21 (2) In a summons, other writ, or a trial notice issued by either the
22 District Court or a circuit court in an action on a traffic citation.

23 (b) (1) For purposes of this section AND SUBJECT TO PARAGRAPH (3) OF THIS
24 SUBSECTION, the person may comply with the notice to appear by:

25 (i) Appearance in person;

26 (ii) Appearance by counsel; or

27 (iii) Payment of the fine, if provided for in the citation.

28 (2) (i) Subject to the provisions of subparagraph (iii) of this paragraph,
29 a person who intends to comply with the notice to appear contained in a traffic
30 citation by appearance in person or by counsel may return a copy of the citation to the
31 District Court within the time allowed for payment of the fine indicating in the
32 appropriate space on the citation that the person:

33 1. Does not dispute the truth of the facts as alleged in the
34 citation; and

1 2. Requests, in lieu of a trial, a hearing before the Court
2 regarding sentencing and disposition.

3 (ii) A person who requests a hearing under the provisions of
4 subparagraph (i) of this paragraph waives:

5 1. Any right to a trial of the facts as alleged in the citation;
6 and

7 2. Any right to compel the appearance of the law
8 enforcement officer who issued the citation.

9 (iii) A person may request a hearing under the provisions of
10 subparagraph (i) of this paragraph only if the traffic citation is for an offense that is
11 not punishable by incarceration.

12 (3) IF A TRAFFIC CITATION IS ISSUED FOR A MOVING VIOLATION THAT
13 CONTRIBUTES TO AN ACCIDENT THAT RESULTS IN THE DEATH OF ANOTHER
14 PERSON, THE PERSON ISSUED THE CITATION:

15 (I) MAY NOT COMPLY WITH THE NOTICE TO APPEAR BY
16 PREPAYMENT OF A FINE UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION; AND

17 (II) SHALL APPEAR IN COURT IN PERSON.

18 (c) If a person fails to comply with the notice to appear, the District Court or a
19 circuit court may:

20 (1) Except as provided in subsection (f) of this section, issue a warrant
21 for the person's arrest; or

22 (2) After 5 days, notify the Administration of the person's
23 noncompliance.

24 (d) On receipt of a notice of noncompliance from the District Court or a circuit
25 court, the Administration shall notify the person that the person's driving privileges
26 shall be suspended unless, by the end of the 15th day after the date on which the
27 notice is mailed, the person:

28 (1) Pays the fine on the original charge as provided for in the original
29 citations; or

30 (2) Posts bond or a penalty deposit and requests a new date for a trial or
31 a hearing on sentencing and disposition.

32 (e) If a person fails to pay the fine or post the bond or penalty deposit under
33 subsection (d) of this section, the Administration may suspend the driving privileges
34 of the person.

35 (f) (1) [When] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
36 SUBSECTION, WHEN the offense is not punishable by incarceration, if the court

1 notifies the Administration of the person's noncompliance under subsection (c) of this
2 section, a warrant may not be issued for the person under this section until 20 days
3 after the original trial date.

4 (2) THIS SUBSECTION DOES NOT APPLY WHEN THE OFFENSE IS A
5 MOVING VIOLATION THAT CONTRIBUTES TO AN ACCIDENT THAT RESULTS IN THE
6 DEATH OF ANOTHER PERSON.

7 (g) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON WHO
8 FAILS TO APPEAR IN COURT IN RESPONSE TO A CITATION ISSUED FOR A MOVING
9 VIOLATION THAT CONTRIBUTES TO AN ACCIDENT THAT RESULTS IN THE DEATH OF
10 ANOTHER PERSON IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT
11 TO A FINE NOT EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 90 DAYS OR
12 BOTH.

13 (H) With the cooperation of the District Court and circuit courts, the
14 Administration shall develop procedures to carry out those provisions of this section
15 that relate to the suspension of driving privileges.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
17 effect October 1, 2005.