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Committee Report: Favorable with amendments

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Offenses - Driving Without a License - Arrest, ~~Impoundment,~~ and**  
3 **Penalties**

4 FOR the purpose of ~~prohibiting a court from staying the entering of judgment and~~  
5 ~~placing a defendant on probation for a second or subsequent violation of the~~  
6 ~~offense of driving without a license; authorizing a law enforcement officer who~~  
7 ~~arrests or issues a citation to an individual for a violation of driving without a~~  
8 ~~license to immediately impound the vehicle that the individual was operating at~~  
9 ~~the time of the violation; establishing the conditions under which a vehicle~~  
10 ~~impounded under certain circumstances may be released; requiring the release~~  
11 ~~of a vehicle to the registered owner under certain circumstances; authorizing the~~  
12 ~~court to order a certain additional period of impoundment of a certain vehicle~~  
13 ~~under certain circumstances; authorizing a law enforcement agency that~~  
14 ~~impounds a certain vehicle to charge a certain fee and to retain the vehicle until~~  
15 ~~the fees are paid; requiring a law enforcement agency that impounds a certain~~  
16 ~~vehicle to provide a certain notice; establishing that certain provisions relating~~  
17 ~~to the rights of a lienholder are applicable to a certain impounded vehicle;~~  
18 ~~authorizing a police officer to arrest an individual without a warrant for the~~  
19 ~~violation of driving without a license if the officer has probable cause to believe~~  
20 ~~that the individual has committed the violation; altering a certain penalty;~~  
21 ~~providing that a court may order the impoundment of a certain vehicle involved~~  
22 ~~in a violation of driving without a license in the same manner as it may order an~~  
23 ~~impoundment for driving while a license is suspended or revoked; making~~  
24 ~~stylistic corrections; clarifying language; and generally relating to the~~  
25 enforcement and punishment of the offense of driving without a license.

1 ~~BY repealing and reenacting, with amendments,~~

2 ~~Article—Criminal Procedure~~

3 ~~Section 6-220(d)~~

4 ~~Annotated Code of Maryland~~

5 ~~(2001 Volume and 2005 Supplement)~~

6 BY repealing and reenacting, without amendments,

7 Article - Transportation

8 Section 16-101

9 Annotated Code of Maryland

10 (2002 Replacement Volume and 2005 Supplement)

11 BY repealing and reenacting, with amendments,

12 Article - Transportation

13 ~~Section 16-101, 26-202, 27-101(f)(1), and 27-111~~ Section 26-202 and

14 27-101(f)(1)

15 Annotated Code of Maryland

16 (2002 Replacement Volume and 2005 Supplement)

17 BY adding to

18 Article - Transportation

19 Section 27-101(y)

20 Annotated Code of Maryland

21 (2002 Replacement Volume and 2005 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

23 MARYLAND, That the Laws of Maryland read as follows:

24

**~~Article—Criminal Procedure~~**

25 ~~6-220.~~

26 ~~(d) Notwithstanding subsections (b) and (c) of this section, a court may not~~  
 27 ~~stay the entering of judgment and place a defendant on probation for:~~

28 ~~(1) a violation of § 21-902 of the Transportation Article or § 2-503, §~~

29 ~~2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article, if within the~~

30 ~~preceding 5 years the defendant has been convicted under § 21-902 of the~~

31 ~~Transportation Article or § 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the~~

32 ~~Criminal Law Article, or has been placed on probation in accordance with this section,~~

33 ~~after being charged with a violation of § 21-902 of the Transportation Article or §~~

34 ~~2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article;~~

35 ~~(2) a second or subsequent controlled dangerous substance crime under~~

36 ~~Title 5 of the Criminal Law Article;~~

1 (3) a violation of any of the provisions of §§ 3-303 through 3-307, §§  
2 3-309 through 3-312, § 3-315, or § 3-602 of the Criminal Law Article for a crime  
3 involving a person under the age of 16 years; [or]

4 (4) a moving violation, as defined in § 11-136.1 of the Transportation  
5 Article, if:

6 (i) the defendant holds a provisional license under § 16-111 of the  
7 Transportation Article; and

8 (ii) the defendant has previously been placed on probation under  
9 this section for the commission of a moving violation while the defendant held a  
10 provisional license; OR

11 (5) A SECOND OR SUBSEQUENT VIOLATION OF § 16-101 OF THE  
12 TRANSPORTATION ARTICLE.

13 **Article - Transportation**

14 16-101.

15 (a) An individual may not drive or attempt to drive a motor vehicle on any  
16 highway in this State unless:

17 (1) The individual holds a driver's license issued under this title;

18 (2) The individual is expressly exempt from the licensing requirements  
19 of this title; or

20 (3) The individual otherwise is specifically authorized by this title to  
21 drive vehicles of the class that the individual is driving or attempting to drive.

22 (b) Each individual operating on any highway in this State a moped, as  
23 defined in § 11-134.1 of this article or a motor scooter, as defined in § 11-134.4 of this  
24 article, shall have with the individual:

25 (1) A driver's license issued to the individual under this title, which  
26 license may be of any class issued by the Administration;

27 (2) If the individual is a nonresident of this State, a license to drive  
28 issued to the individual by the state or country of the individual's residence, which  
29 license may be for any class of vehicle; or

30 (3) A moped operator's permit issued to the individual under this  
31 subtitle.

32 (C) (1) ~~A LAW ENFORCEMENT OFFICER WHO ARRESTS OR ISSUES A~~  
33 ~~CITATION TO AN INDIVIDUAL FOR A VIOLATION OF THIS SECTION SHALL~~  
34 ~~IMMEDIATELY IMPOUND THE VEHICLE THAT THE INDIVIDUAL WAS OPERATING AT~~  
35 ~~THE TIME OF THE ALLEGED VIOLATION.~~

1           (2)     EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A VEHICLE  
2     IMPOUNDED UNDER THIS SUBSECTION MAY NOT BE RELEASED UNTIL:

3           (I)     THE INDIVIDUAL WHO WAS OPERATING THE VEHICLE AT THE  
4     TIME OF THE ALLEGED VIOLATION OF THIS SECTION IS FOUND NOT GUILTY OF THE  
5     VIOLATION OR THE CHARGES ARE OTHERWISE DISMISSED; OR

6           (II)    A COURT MAKES A SENTENCING DETERMINATION REGARDING  
7     THE VIOLATION OF THIS SECTION AND DOES NOT ORDER IMPOUNDMENT OF THE  
8     VEHICLE UNDER § 27-111 OF THIS ARTICLE.

9           (3)     IF THE INDIVIDUAL CHARGED WITH COMMITTING THE VIOLATION  
10    OF THIS SECTION IS NOT A REGISTERED OWNER OR LESSEE OF THE IMPOUNDED  
11    VEHICLE, THE VEHICLE SHALL BE RELEASED IF THE REGISTERED OWNER OR  
12    LESSEE OF THE VEHICLE CLAIMS THE VEHICLE BY PRESENTING:

13           (I)     A VALID DRIVER'S LICENSE;

14           (II)    VALID PROOF OF OWNERSHIP OR LEASE OF THE VEHICLE; AND

15           (III)   PROOF OF VALID VEHICLE INSURANCE.

16           (4)     THE COURT, UNDER § 27-111 OF THIS ARTICLE, MAY ORDER AN  
17    ADDITIONAL PERIOD OF IMPOUNDMENT OF A SOLELY OWNED VEHICLE THAT IS  
18    OPERATED BY THE REGISTERED OWNER OF THE VEHICLE DURING THE COMMISSION  
19    OF A VIOLATION OF THIS SECTION.

20           (5)     THE LAW ENFORCEMENT AGENCY THAT IMPOUNDS A VEHICLE  
21    UNDER THIS SECTION:

22           (I)     MAY CHARGE A REASONABLE FEE FOR TOWING AND STORAGE  
23    OF THE VEHICLE;

24           (II)    MAY RETAIN THE VEHICLE UNTIL ALL FEES ARE PAID; AND

25           (III)   SHALL PROVIDE WRITTEN NOTICE OF THE IMPOUNDMENT TO  
26    THE REGISTERED OWNER OF THE VEHICLE BY CERTIFIED MAIL, RETURN RECEIPT  
27    REQUESTED.

28           (6)     THE PROVISIONS OF § 27-111(D) OF THIS ARTICLE, AUTHORIZING A  
29    LIENHOLDER TO EXERCISE ITS RIGHTS UNDER APPLICABLE LAW RELATING TO AN  
30    IMPOUNDED VEHICLE, ARE APPLICABLE TO A VEHICLE IMPOUNDED UNDER THIS  
31    SUBSECTION.

32 26-202.

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

1 (1) The person has committed or is committing the violation within the  
2 view or presence of the officer, and the violation is any of the following:

3 (i) A violation of § 21-1411 or § 22-409 of this article, relating to  
4 vehicles transporting hazardous materials; or

5 (ii) A violation of § 24-111 or § 24-111.1 of this article, relating to  
6 the failure or refusal to submit a vehicle to a weighing or to remove excess weight  
7 from it;

8 (2) The person has committed or is committing the violation within the  
9 view or presence of the officer, and either:

10 (i) The person does not furnish satisfactory evidence of identity; or

11 (ii) The officer has reasonable grounds to believe that the person  
12 will disregard a traffic citation;

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

15 (i) Driving or attempting to drive while under the influence of  
16 alcohol, while impaired by alcohol, or in violation of an alcohol restriction;

17 (ii) Driving or attempting to drive while impaired by any drug, any  
18 combination of drugs, or any combination of one or more drugs and alcohol or while  
19 impaired by any controlled dangerous substance;

20 (iii) Failure to stop, give information, or render reasonable  
21 assistance, as required by §§ 20-102 and 20-104 of this article, in the event of an  
22 accident resulting in bodily injury to or death of any person;

23 (iv) Driving or attempting to drive a motor vehicle while the driver's  
24 license or privilege to drive is suspended or revoked;

25 (v) Failure to stop or give information, as required by §§ 20-103  
26 through 20-105 of this article, in the event of an accident resulting in damage to a  
27 vehicle or other property;

28 (vi) Any offense that caused or contributed to an accident resulting  
29 in bodily injury to or death of any person; [or]

30 (vii) Fleeing or attempting to elude a police officer; OR

31 (VIII) DRIVING OR ATTEMPTING TO DRIVE A VEHICLE IN VIOLATION  
32 OF § 16-101 OF THIS ARTICLE;

33 (4) The person is a nonresident and the officer has probable cause to  
34 believe that:

35 (i) The person has committed the violation; and

1 (ii) The violation contributed to an accident; or

2 (5) The officer has probable cause to believe that the person has  
3 committed the violation, and, subject to the procedures set forth in § 26-203 of this  
4 subtitle, the person is issued a traffic citation and refuses to acknowledge its receipt  
5 by signature.

6 (b) An arrest under this section shall be made in the same manner as, and  
7 without more force than, in misdemeanor cases.

8 (c) A person arrested under this section shall be taken without unnecessary  
9 delay before a District Court commissioner, as specified in § 26-401 of this title,  
10 unless the arresting officer in his discretion releases the individual upon the  
11 individual's written promise to appear for trial.

12 27-101.

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

15 (i) A violation of § 14-103 of this article ("Possession of motor  
16 vehicle master key"); or

17 (ii) [A] EXCEPT AS PROVIDED IN SUBSECTION (Q) OF THIS  
18 SECTION, A second or subsequent violation of:

19 1. [§ 16-101 of this article ("Drivers must be licensed"); or

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

21 A.] § 21-902(b) of this article ("Driving while impaired by  
22 alcohol"); or

23 [B.] 2. § 21-902(c) of this article ("Driving while impaired  
24 by drugs or drugs and alcohol").

25 (Y) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF § 16-101 OF THIS  
26 ARTICLE ("DRIVERS MUST BE LICENSED") IS SUBJECT TO:

27 (1) FOR A FIRST OFFENSE, A FINE OF NOT MORE THAN ~~\$100~~ \$500 OR  
28 IMPRISONMENT FOR NOT MORE THAN ~~90~~ 60 DAYS OR BOTH; AND

29 (2) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE OF NOT MORE  
30 THAN \$500 OR IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR BOTH.

31 ~~27-111.~~

32 (a) ~~In this section, "police department" has the [same] meaning [indicated]~~  
33 ~~STATED in § 25-201 of this article.~~

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

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

9 (c) (1) As a sentence, a part of a sentence, or a condition of probation, a court  
10 may order, for not more than 180 days, the impoundment or immobilization, OR  
11 CONTINUED IMPOUNDMENT, of a solely owned vehicle used in the commission of a  
12 violation of § 16-101 OR § 16-303(c) or (d) of this article if, at the time of the violation:

13 (i) The owner of the vehicle was driving the vehicle; and

14 (ii) 1. The owner's license was suspended or revoked under §  
15 16-205 of this article; OR

16 2. THE OWNER DID NOT HOLD A VALID DRIVER'S LICENSE.

17 (2) Among the factors that a court may consider in determining whether  
18 to order an impoundment or immobilization, OR CONTINUE AN IMPOUNDMENT, of a  
19 vehicle is whether the vehicle is the primary means of transportation available for the  
20 use of the individual's immediate family.

21 (3) (i) Subject to the provisions of subparagraph (ii) of this paragraph,  
22 impoundment or immobilization, OR CONTINUED IMPOUNDMENT, of a vehicle may  
23 not be ordered under this section, if the registered owner of the vehicle made a bona  
24 fide sale, gift, or other transfer of the vehicle to another person before the date of the  
25 finding of a violation of § 16-101 OR § 16-303(c) or (d) of this article.

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

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

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

35 (3) Subject to the provisions of this section, a police department that  
36 impounds a vehicle by taking the vehicle into custody or immobilizes a vehicle under  
37 this section promptly shall return possession or use of the vehicle to the registered  
38 owner of the vehicle on payment of all actual costs of immobilizing the vehicle, or

1 towing, preserving, and storing the impounded vehicle, and providing the notices  
2 required under subsection (f) of this section.

3 (e) If a court orders the impoundment or immobilization, ~~OR CONTINUED~~  
4 ~~IMPOUNDMENT~~, of a vehicle under this section, the court shall provide for the  
5 execution of the impoundment or immobilization, ~~OR CONTINUED IMPOUNDMENT~~, by  
6 a police department.

7 (f) (1) If a court orders the impoundment or immobilization, ~~OR CONTINUED~~  
8 ~~IMPOUNDMENT~~, of a vehicle under this section, the police department that executes  
9 the immobilization, or the impoundment by taking the vehicle into custody ~~OR THE~~  
10 ~~POLICE DEPARTMENT THAT RETAINS CUSTODY OF A PREVIOUSLY IMPOUNDED~~  
11 ~~VEHICLE~~, shall, as soon as reasonably possible and within 7 days after the police  
12 department executes the court order, send a notice by certified mail, return receipt  
13 requested, bearing a postmark from the United States Postal Service, to:

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

16 (ii) Each secured party, as shown in the records of the  
17 Administration.

18 (2) The notice shall:

19 (i) State that:

20 1. [the] ~~THE~~ vehicle has been immobilized[, or];

21 2. ~~THE VEHICLE HAS BEEN~~ impounded by being taken into  
22 custody; ~~OR~~

23 3. ~~THE IMPOUNDMENT OF THE VEHICLE IS BEING~~  
24 ~~CONTINUED~~;

25 (ii) Describe the year, make, model, and vehicle identification  
26 number of the vehicle;

27 (iii) Provide the location of where the vehicle is immobilized or the  
28 location of the facility where the vehicle is impounded;

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

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

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



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

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

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

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

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

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

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

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

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

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

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

34     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 October 1, 2006.

