
By: **Delegate Simmons**

Introduced and read first time: February 2, 2006

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Driving While Impaired and Refusal to Take a Blood or Breath Test - Points**

3 FOR the purpose of requiring the Motor Vehicle Administration to assess a certain
4 number of points against an individual for a conviction of a certain drunk or
5 drugged driving offense for which a certain additional penalty for refusal to take
6 a blood or breath test is imposed; requiring the Administration to assess a
7 certain number of points against an individual for a conviction of a certain
8 drunk or drugged driving offense for which a certain additional penalty for
9 refusal to take a blood or breath test is imposed if the individual was previously
10 convicted of a certain drunk or drugged driving offense for which a certain
11 additional penalty for refusal to take a blood or breath test was imposed; and
12 generally relating to drunk and drugged driving.

13 BY renumbering

14 Article - Transportation
15 Section 16-402(a)(29) through (37), respectively
16 to be Section 16-402(a)(31) through (39), respectively
17 Annotated Code of Maryland
18 (2002 Replacement Volume and 2005 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article - Transportation
21 Section 16-402(a)(24)
22 Annotated Code of Maryland
23 (2002 Replacement Volume and 2005 Supplement)

24 BY adding to

25 Article - Transportation
26 Section 16-402(a)(29) and (30)
27 Annotated Code of Maryland
28 (2002 Replacement Volume and 2005 Supplement)

29 BY repealing and reenacting, without amendments,

1 Article - Transportation
 2 Section 21-902 and 27-101(x)
 3 Annotated Code of Maryland
 4 (2002 Replacement Volume and 2005 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 6 MARYLAND, That Section(s) 16-402(a)(29) through (37), respectively, of Article -
 7 Transportation of the Annotated Code of Maryland be renumbered to be Section(s)
 8 16-402(a)(31) through (39), respectively.

9 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 10 read as follows:

11 **Article - Transportation**

12 16-402.

13 (a) After the conviction of an individual for a violation of Title 2, Subtitle 5, §
 14 2-209, or § 3-211 of the Criminal Law Article, or of the vehicle laws or regulations of
 15 this State or of any local authority, points shall be assessed against the individual as
 16 of the date of violation and as follows:

17 (24) Driving while impaired by alcohol or while impaired by a drug,
 18 combination of drugs, or a combination of one or more drugs and alcohol, or driving
 19 within 12 hours after arrest under § 21-902.1 of this article, IF AN ADDITIONAL
 20 PENALTY WAS NOT IMPOSED UNDER § 27-101(X) OF THIS ARTICLE 8 points

21 (29) A VIOLATION OF § 21-902(B) OR (C) OF THIS ARTICLE FOR WHICH AN
 22 ADDITIONAL PENALTY IS IMPOSED UNDER § 27-101(X) OF THIS ARTICLE 9 POINTS

23 (30) A VIOLATION OF § 21-902(B) OR (C) OF THIS ARTICLE FOR WHICH AN
 24 ADDITIONAL PENALTY IS IMPOSED ON AN INDIVIDUAL WHO PREVIOUSLY WAS
 25 CONVICTED OF A VIOLATION FOR WHICH AN ADDITIONAL PENALTY WAS IMPOSED
 26 UNDER § 27-101(X) OF THIS ARTICLE 12 POINTS

27 21-902.

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

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

32 (3) A person may not violate paragraph (1) or (2) of this subsection while
 33 transporting a minor.

34 (b) (1) A person may not drive or attempt to drive any vehicle while
 35 impaired by alcohol.

1 (2) A person may not violate paragraph (1) of this subsection while
2 transporting a minor.

3 (c) (1) A person may not drive or attempt to drive any vehicle while he is so
4 far impaired by any drug, any combination of drugs, or a combination of one or more
5 drugs and alcohol that he cannot drive a vehicle safely.

6 (2) It is not a defense to any charge of violating this subsection that the
7 person charged is or was entitled under the laws of this State to use the drug,
8 combination of drugs, or combination of one or more drugs and alcohol, unless the
9 person was unaware that the drug or combination would make the person incapable
10 of safely driving a vehicle.

11 (3) A person may not violate paragraph (1) or (2) of this subsection while
12 transporting a minor.

13 (d) (1) A person may not drive or attempt to drive any vehicle while the
14 person is impaired by any controlled dangerous substance, as that term is defined in
15 § 5-101 of the Criminal Law Article, if the person is not entitled to use the controlled
16 dangerous substance under the laws of this State.

17 (2) A person may not violate paragraph (1) of this subsection while
18 transporting a minor.

19 (e) For purposes of the application of subsequent offender penalties under §
20 27-101 of this article, a conviction for a crime committed in another state or federal
21 jurisdiction that, if committed in this State, would constitute a violation of subsection
22 (a), (b), (c), or (d) of this section shall be considered a violation of subsection (a), (b),
23 (c), or (d) of this section.

24 27-101.

25 (x) (1) In this section, "test" has the meaning stated in § 16-205.1 of this
26 article.

27 (2) The penalties in this subsection are in addition to any other penalty
28 under this title imposed for a violation of § 21-902 of this article.

29 (3) Subject to paragraph (4) of this subsection, if a person is convicted of
30 a violation of § 21-902 of this article and the trier of fact finds beyond a reasonable
31 doubt that the person knowingly refused to take a test arising out of the same
32 circumstances as the violation, the person is subject to a fine of not more than \$500 or
33 imprisonment for not more than 2 months or both.

34 (4) A court may not impose an additional penalty under this subsection
35 unless the State's Attorney serves notice of the alleged test refusal on the defendant
36 or the defendant's counsel before the acceptance of a plea of guilty or nolo contendere
37 or at least 15 days before trial in a circuit court or 5 days before trial in the District
38 Court, whichever is earlier.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2006.