
By: **Charles County Delegation**

Introduced and read first time: February 9, 2006

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Fleeing or Eluding a Police Officer - Penalty and Forfeiture**

3 FOR the purpose of making it a felony to commit a certain offense of fleeing or eluding
4 a police officer; authorizing a law enforcement officer to seize a motor vehicle
5 that is used by an individual in the commission of a certain violation of fleeing or
6 eluding a police officer; prohibiting a motor vehicle from being forfeited if it was
7 used to commit the violation without the knowledge of the registered owner of
8 the vehicle; authorizing a certain chief law enforcement officer to recommend
9 forfeiture to a certain forfeiting authority only after the officer takes certain
10 actions and after the individual accused of committing the violation is convicted;
11 providing that a sworn affidavit from a certain law enforcement officer is
12 admissible into evidence in a certain proceeding for a certain purpose;
13 prohibiting the chief law enforcement officer from being subpoenaed under
14 certain circumstances; requiring a certain forfeiting authority to surrender a
15 certain motor vehicle under certain circumstances; requiring a certain forfeiting
16 authority to file a certain complaint with the court under certain circumstances;
17 requiring the court to schedule a certain hearing; requiring that the registered
18 owner of a certain motor vehicle be sent a certain notice; requiring the court to
19 take certain actions after making certain determinations; requiring a lienholder
20 to sell a motor vehicle in a certain manner under certain circumstances;
21 providing for the distribution of the proceeds of a certain sale; authorizing a
22 political subdivision to sell a certain vehicle if no claim is lodged by a lienholder
23 and directing the distribution of the proceeds of the sale; defining certain terms;
24 and generally relating to the offense of fleeing or eluding a police officer.

25 BY repealing and reenacting, with amendments,
26 Article - Transportation
27 Section 21-904
28 Annotated Code of Maryland
29 (2002 Replacement Volume and 2005 Supplement)

30 BY repealing and reenacting, without amendments,
31 Article - Transportation
32 Section 27-101(p)

1 Annotated Code of Maryland
2 (2002 Replacement Volume and 2005 Supplement)

3 BY adding to
4 Article - Transportation
5 Section 27-114
6 Annotated Code of Maryland
7 (2002 Replacement Volume and 2005 Supplement)

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

10 **Article - Transportation**

11 21-904.

12 (a) In this section, "visual or audible signal" includes a signal by hand, voice,
13 emergency light or siren.

14 (b) If a police officer gives a visual or audible signal to stop and the police
15 officer is in uniform, prominently displaying the police officer's badge or other
16 insignia of office, a driver of a vehicle may not attempt to elude the police officer by:

17 (1) Willfully failing to stop the driver's vehicle;

18 (2) Fleeing on foot; or

19 (3) Any other means.

20 (c) If a police officer gives a visual or audible signal to stop and the police
21 officer, whether or not in uniform, is in a vehicle appropriately marked as an official
22 police vehicle, a driver of a vehicle may not attempt to elude the police officer by:

23 (1) Willfully failing to stop the driver's vehicle;

24 (2) Fleeing on foot; or

25 (3) Any other means.

26 (d) (1) A driver may not attempt to elude a police officer in violation of
27 subsection (b)(1) or (c)(1) of this section that results in bodily injury to another person.

28 (2) A driver may not attempt to elude a police officer in violation of
29 subsection (b)(1) or (c)(1) of this section that results in death of another person.

30 (E) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY.

1 27-101.

2 (p) (1) Except as provided in paragraphs (2) and (3) of this subsection, any
3 person who is convicted of a violation of any of the provisions of § 21-904 of this
4 article ("Fleeing or eluding police") is subject to:

5 (i) For a first offense, a fine of not more than \$1,000, or
6 imprisonment for not more than 1 year, or both; and

7 (ii) For any subsequent offense, a fine of not more than \$1,000, or
8 imprisonment for not more than 2 years, or both.

9 (2) Any person who is convicted of a violation of § 21-904(d)(1) of this
10 article is subject to a fine of not more than \$5,000, or imprisonment for not more than
11 3 years, or both.

12 (3) Any person who is convicted of a violation of § 21-904(d)(2) of this
13 article is subject to a fine of not more than \$5,000, or imprisonment for not more than
14 10 years, or both.

15 27-114.

16 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (2) "CHIEF LAW ENFORCEMENT OFFICER" MEANS THE CHIEF LAW
19 ENFORCEMENT OFFICER OF THE SEIZING UNIT.

20 (3) "FORFEITING AUTHORITY" MEANS THE OFFICE OR PERSON
21 DESIGNATED BY AGREEMENT BETWEEN THE STATE'S ATTORNEY FOR A COUNTY AND
22 THE CHIEF EXECUTIVE OFFICER OF THE POLITICAL SUBDIVISION THAT SEIZES A
23 MOTOR VEHICLE.

24 (4) "SEIZING UNIT" MEANS THE LAW ENFORCEMENT UNIT THAT SEIZES
25 A MOTOR VEHICLE.

26 (B) THIS SECTION APPLIES ONLY TO A MOTOR VEHICLE THAT IS USED BY AN
27 INDIVIDUAL IN THE COMMISSION OF A VIOLATION OF § 21-904 OF THIS ARTICLE.

28 (C) AN AUTHORIZED LAW ENFORCEMENT OFFICER MAY SEIZE AND
29 RECOMMEND FORFEITURE OF A MOTOR VEHICLE WHEN MAKING AN ARREST OR
30 ISSUING A CITATION FOR A VIOLATION OF § 21-904 OF THIS ARTICLE.

31 (D) A MOTOR VEHICLE MAY NOT BE FORFEITED IF, WITHOUT THE
32 KNOWLEDGE OF THE REGISTERED OWNER OF THE MOTOR VEHICLE, AN INDIVIDUAL
33 WHO IS NOT THE REGISTERED OWNER USED THE VEHICLE TO COMMIT A VIOLATION
34 OF § 21-904 OF THIS ARTICLE.

35 (E) (1) THE CHIEF LAW ENFORCEMENT OFFICER MAY RECOMMEND
36 FORFEITURE OF A MOTOR VEHICLE TO THE FORFEITING AUTHORITY ONLY AFTER:

1 (I) THE CHIEF LAW ENFORCEMENT OFFICER:

2 1. DETERMINES FROM THE RECORDS OF THE
3 ADMINISTRATION THE NAMES AND ADDRESSES OF ALL REGISTERED OWNERS AND
4 SECURED PARTIES;

5 2. PERSONALLY REVIEWS THE FACTS AND CIRCUMSTANCES
6 OF THE SEIZURE; AND

7 3. WRITES TO THE FORFEITING AUTHORITY THAT
8 FORFEITURE IS WARRANTED; AND

9 (II) THE INDIVIDUAL ARRESTED OR CITED FOR THE COMMISSION
10 OF A VIOLATION OF § 21-904 OF THIS ARTICLE DURING WHICH THE MOTOR VEHICLE
11 WAS SEIZED IS CONVICTED OF THE VIOLATION.

12 (2) IN A PROCEEDING FOR FORFEITURE OF A MOTOR VEHICLE, A SWORN
13 AFFIDAVIT BY THE CHIEF LAW ENFORCEMENT OFFICER THAT THE REQUIREMENTS
14 OF THIS SUBSECTION HAVE BEEN FOLLOWED IS ADMISSIBLE INTO EVIDENCE.

15 (3) THE CHIEF LAW ENFORCEMENT OFFICER MAY NOT BE SUBPOENAED
16 OR COMPELLED TO TESTIFY IF ANOTHER LAW ENFORCEMENT OFFICER WITH
17 PERSONAL KNOWLEDGE OF THE FACTS AND CIRCUMSTANCES SURROUNDING THE
18 SEIZURE AND THE RECOMMENDATION OF FORFEITURE TESTIFIES AT THE
19 PROCEEDING.

20 (4) IF THE FORFEITING AUTHORITY DETERMINES INDEPENDENTLY OF
21 THE DECISION OF THE SEIZING UNIT THAT THE MOTOR VEHICLE FALLS WITHIN THE
22 SCOPE OF SUBSECTION (D) OF THIS SECTION, THE FORFEITING AUTHORITY SHALL
23 SURRENDER THE MOTOR VEHICLE TO AN OWNER.

24 (F) (1) IF THE FORFEITING AUTHORITY DETERMINES THAT FORFEITURE IS
25 APPROPRIATE, THE FORFEITING AUTHORITY SHALL FILE A COMPLAINT WITH THE
26 CIRCUIT COURT FOR THE COUNTY IN WHICH THE MOTOR VEHICLE WAS SEIZED.

27 (2) THE COURT SHALL SCHEDULE A HEARING ON THE FORFEITURE AT
28 WHICH THE REGISTERED OWNER OF THE MOTOR VEHICLE SHALL BE GIVEN THE
29 OPPORTUNITY TO TESTIFY.

30 (3) THE REGISTERED OWNER OF THE MOTOR VEHICLE SHALL BE
31 SERVED NOTICE AT LEAST 10 DAYS BEFORE THE FORFEITURE HEARING.

32 (4) IF AFTER A FULL HEARING, THE COURT DETERMINES:

33 (I) THAT THE MOTOR VEHICLE SHOULD NOT BE FORFEITED, THE
34 COURT SHALL ORDER THAT THE MOTOR VEHICLE BE RELEASED TO A REGISTERED
35 OWNER;

1 (II) THAT THE MOTOR VEHICLE SHOULD BE FORFEITED, THE
2 COURT SHALL ORDER THAT THE MOTOR VEHICLE BE FORFEITED TO THE
3 APPROPRIATE GOVERNING BODY; OR

4 (III) THAT THE MOTOR VEHICLE IS SUBJECT TO A LIEN CREATED
5 WITHOUT ACTUAL KNOWLEDGE THAT THE MOTOR VEHICLE WAS USED IN
6 VIOLATION OF § 21-904 OF THIS ARTICLE, THE COURT SHALL ORDER THAT THE
7 MOTOR VEHICLE BE RELEASED WITHIN 5 DAYS TO THE FIRST PRIORITY
8 LIENHOLDER.

9 (G) (1) IF THE MOTOR VEHICLE IS RELEASED TO THE LIENHOLDER UNDER
10 SUBSECTION (F)(4)(III) OF THIS SECTION, THE LIENHOLDER SHALL SELL THE MOTOR
11 VEHICLE IN A COMMERCIALY REASONABLE MANNER.

12 (2) THE PROCEEDS OF THE SALE OF THE MOTOR VEHICLE SHALL BE
13 APPLIED IN THE FOLLOWING ORDER:

14 (I) TO THE COURT COSTS OF THE FORFEITURE PROCEEDING;

15 (II) TO THE BALANCE DUE THE LIENHOLDER, INCLUDING ALL
16 REASONABLE COSTS INCIDENT TO THE SALE;

17 (III) TO PAYMENT OF ALL OTHER EXPENSES OF THE PROCEEDINGS
18 FOR FORFEITURE, INCLUDING EXPENSES OF SEIZURE OR MAINTENANCE OF
19 CUSTODY; AND

20 (IV) TO THE GENERAL FUND OF THE STATE OR THE POLITICAL
21 SUBDIVISION THAT SEIZED THE MOTOR VEHICLE.

22 (H) IF A CLAIM IS NOT LODGED BY A LIENHOLDER:

23 (1) THE POLITICAL SUBDIVISION IN WHICH THE VEHICLE WAS SEIZED
24 MAY SELL THE FORFEITED VEHICLE; AND

25 (2) THE PROCEEDS OF SALE SHALL BE APPLIED IN THE FOLLOWING
26 ORDER:

27 (I) TO THE COURT COSTS OF THE FORFEITURE PROCEEDING; AND

28 (II) TO THE GENERAL FUND OF THE POLITICAL SUBDIVISION.

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