

*ENROLLED BILL*  
*-- Judicial Proceedings/Judiciary --*

Introduced by ~~Senator Frosh~~ Senators Frosh and Forehand

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

1 authorizing a police officer to arrest an individual without a warrant for the  
 2 violation of driving without a license if the officer has probable cause to believe  
 3 that the individual has committed the violation; altering a certain penalty;  
 4 ~~providing that a court may order the impoundment of a certain vehicle involved~~  
 5 ~~in a violation of driving without a license in the same manner as it may order an~~  
 6 ~~impoundment for driving while a license is suspended or revoked; making~~  
 7 ~~stylistic corrections; clarifying language; and generally relating to the~~  
 8 enforcement and punishment of the offense of driving without a license.

9 ~~BY repealing and reenacting, with amendments,~~  
 10 ~~Article—Criminal Procedure~~  
 11 ~~Section 6-220(d)~~  
 12 ~~Annotated Code of Maryland~~  
 13 ~~(2001 Volume and 2005 Supplement)~~

14 BY repealing and reenacting, without amendments,  
 15 Article - Transportation  
 16 Section 16-101  
 17 Annotated Code of Maryland  
 18 (2002 Replacement Volume and 2005 Supplement)

19 BY repealing and reenacting, with amendments,  
 20 Article - Transportation  
 21 Section ~~16-101~~, 26-202, and 27-101(f)(1), ~~and 27-111~~  
 22 Annotated Code of Maryland  
 23 (2002 Replacement Volume and 2005 Supplement)

24 BY adding to  
 25 Article - Transportation  
 26 Section 27-101(y)  
 27 Annotated Code of Maryland  
 28 (2002 Replacement Volume and 2005 Supplement)

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

31 **~~Article—Criminal Procedure~~**

32 ~~6-220.~~

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

35 ~~(1) a violation of § 21-902 of the Transportation Article or § 2-503, §~~  
 36 ~~2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article, if within the~~  
 37 ~~preceding 5 years the defendant has been convicted under § 21-902 of the~~

~~1 Transportation Article or § 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the  
2 Criminal Law Article, or has been placed on probation in accordance with this section,  
3 after being charged with a violation of § 21-902 of the Transportation Article or §  
4 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article;~~

~~5 (2) a second or subsequent controlled dangerous substance crime under  
6 Title 5 of the Criminal Law Article;~~

~~7 (3) a violation of any of the provisions of §§ 3-303 through 3-307, §§  
8 3-309 through 3-312, § 3-315, or § 3-602 of the Criminal Law Article for a crime  
9 involving a person under the age of 16 years; [or]~~

~~10 (4) a moving violation, as defined in § 11-136.1 of the Transportation  
11 Article, if:~~

~~12 (i) the defendant holds a provisional license under § 16-111 of the  
13 Transportation Article; and~~

~~14 (ii) the defendant has previously been placed on probation under  
15 this section for the commission of a moving violation while the defendant held a  
16 provisional license; OR~~

~~17 (5) A SECOND OR SUBSEQUENT VIOLATION OF § 16-101 OF THE  
18 TRANSPORTATION ARTICLE.~~

19 **Article - Transportation**

20 16-101.

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

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

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

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

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

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

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

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

3 ~~(C) (1) A LAW ENFORCEMENT OFFICER WHO ARRESTS OR ISSUES A  
4 CITATION TO AN INDIVIDUAL FOR A VIOLATION OF THIS SECTION MAY IMMEDIATELY  
5 IMPOUND THE VEHICLE THAT THE INDIVIDUAL WAS OPERATING AT THE TIME OF  
6 THE ALLEGED VIOLATION.~~

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

9 ~~(I) THE INDIVIDUAL WHO WAS OPERATING THE VEHICLE AT THE  
10 TIME OF THE ALLEGED VIOLATION OF THIS SECTION IS FOUND NOT GUILTY OF THE  
11 VIOLATION OR THE CHARGES ARE OTHERWISE DISMISSED; OR~~

12 ~~(II) A COURT MAKES A SENTENCING DETERMINATION REGARDING  
13 THE VIOLATION OF THIS SECTION AND DOES NOT ORDER IMPOUNDMENT OF THE  
14 VEHICLE UNDER § 27-111 OF THIS ARTICLE.~~

15 ~~(3) IF THE INDIVIDUAL CHARGED WITH COMMITTING THE VIOLATION  
16 OF THIS SECTION IS NOT A REGISTERED OWNER OR LESSEE OF THE IMPOUNDED  
17 VEHICLE, THE VEHICLE SHALL BE RELEASED IF THE REGISTERED OWNER OR  
18 LESSEE OF THE VEHICLE CLAIMS THE VEHICLE BY PRESENTING:~~

19 ~~(I) A VALID DRIVER'S LICENSE;~~

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

21 ~~(III) PROOF OF VALID VEHICLE INSURANCE.~~

22 ~~(4) THE COURT, UNDER § 27-111 OF THIS ARTICLE, MAY ORDER AN  
23 ADDITIONAL PERIOD OF IMPOUNDMENT OF A SOLELY OWNED VEHICLE THAT IS  
24 OPERATED BY THE REGISTERED OWNER OF THE VEHICLE DURING THE COMMISSION  
25 OF A VIOLATION OF THIS SECTION.~~

26 ~~(5) THE LAW ENFORCEMENT AGENCY THAT IMPOUNDS A VEHICLE  
27 UNDER THIS SECTION:~~

28 ~~(I) MAY CHARGE A REASONABLE FEE FOR TOWING AND STORAGE  
29 OF THE VEHICLE;~~

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

31 ~~(III) SHALL PROVIDE WRITTEN NOTICE OF THE IMPOUNDMENT TO  
32 THE REGISTERED OWNER OF THE VEHICLE BY CERTIFIED MAIL, RETURN RECEIPT  
33 REQUESTED.~~

34 ~~(6) THE PROVISIONS OF § 27-111(D) OF THIS ARTICLE, AUTHORIZING A  
35 LIENHOLDER TO EXERCISE ITS RIGHTS UNDER APPLICABLE LAW RELATING TO AN~~

1 ~~IMPOUNDED VEHICLE, ARE APPLICABLE TO A VEHICLE IMPOUNDED UNDER THIS~~  
2 ~~SUBSECTION.~~

3 26-202.

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

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

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

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

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

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

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

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

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

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 while  
25 impaired by any controlled dangerous substance;

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

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

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

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

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

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

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

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

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

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

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

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

18 27-101.

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

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

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

25 1. [§ 16-101 of this article ("Drivers must be licensed"); or

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

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

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

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

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

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

3 ~~27-111.~~

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

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

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

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

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

19 (ii) 1. The owner's license was suspended or revoked under §  
20 16-205 of this article; OR

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

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

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

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

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

36 (2) The court may require the registered owner of a vehicle impounded or  
37 immobilized under this section to post a bond or other adequate security to equal the

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

3 (3) Subject to the provisions of this section, a police department that  
 4 impounds a vehicle by taking the vehicle into custody or immobilizes a vehicle under  
 5 this section promptly shall return possession or use of the vehicle to the registered  
 6 owner of the vehicle on payment of all actual costs of immobilizing the vehicle, or  
 7 towing, preserving, and storing the impounded vehicle, and providing the notices  
 8 required under subsection (f) of this section.

9 (e) If a court orders the impoundment or immobilization, OR CONTINUED  
 10 IMPOUNDMENT, of a vehicle under this section, the court shall provide for the  
 11 execution of the impoundment or immobilization, OR CONTINUED IMPOUNDMENT, by  
 12 a police department.

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

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

22 (ii) Each secured party, as shown in the records of the  
 23 Administration.

24 (2) The notice shall:

25 (i) State that:

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

27 2. THE VEHICLE HAS BEEN impounded by being taken into  
 28 eustody; OR

29 3. THE IMPOUNDMENT OF THE VEHICLE IS BEING  
 30 CONTINUED;

31 (ii) Describe the year, make, model, and vehicle identification  
 32 number of the vehicle;

33 (iii) Provide the location of where the vehicle is immobilized or the  
 34 location of the facility where the vehicle is impounded;

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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