
By: **Senator Frosh**

Introduced and read first time: February 3, 2006

Assigned to: Judicial Proceedings

A BILL ENTITLED

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.

26 BY repealing and reenacting, with amendments,
27 Article - Criminal Procedure
28 Section 6-220(d)
29 Annotated Code of Maryland
30 (2001 Volume and 2005 Supplement)

31 BY repealing and reenacting, with amendments,
32 Article - Transportation

1 Section 16-101, 26-202, 27-101(f)(1), and 27-111
2 Annotated Code of Maryland
3 (2002 Replacement Volume and 2005 Supplement)

4 BY adding to
5 Article - Transportation
6 Section 27-101(y)
7 Annotated Code of Maryland
8 (2002 Replacement Volume and 2005 Supplement)

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

11 **Article - Criminal Procedure**

12 6-220.

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

15 (1) a violation of § 21-902 of the Transportation Article or § 2-503, §
16 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article, if within the
17 preceding 5 years the defendant has been convicted under § 21-902 of the
18 Transportation Article or § 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the
19 Criminal Law Article, or has been placed on probation in accordance with this section,
20 after being charged with a violation of § 21-902 of the Transportation Article or §
21 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of the Criminal Law Article;

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

24 (3) a violation of any of the provisions of §§ 3-303 through 3-307, §§
25 3-309 through 3-312, § 3-315, or § 3-602 of the Criminal Law Article for a crime
26 involving a person under the age of 16 years; [or]

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

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

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

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

1 **Article - Transportation**

2 16-101.

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

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

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

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

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

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

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

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

20 (C) (1) A LAW ENFORCEMENT OFFICER WHO ARRESTS OR ISSUES A
21 CITATION TO AN INDIVIDUAL FOR A VIOLATION OF THIS SECTION MAY IMMEDIATELY
22 IMPOUND THE VEHICLE THAT THE INDIVIDUAL WAS OPERATING AT THE TIME OF
23 THE ALLEGED VIOLATION.

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

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

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

32 (3) IF THE INDIVIDUAL CHARGED WITH COMMITTING THE VIOLATION
33 OF THIS SECTION IS NOT A REGISTERED OWNER OR LESSEE OF THE IMPOUNDED
34 VEHICLE, THE VEHICLE SHALL BE RELEASED IF THE REGISTERED OWNER OR
35 LESSEE OF THE VEHICLE CLAIMS THE VEHICLE BY PRESENTING:

36 (I) A VALID DRIVER'S LICENSE;

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

2 (III) PROOF OF VALID VEHICLE INSURANCE.

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

7 (5) THE LAW ENFORCEMENT AGENCY THAT IMPOUNDS A VEHICLE
8 UNDER THIS SECTION:

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

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

12 (III) SHALL PROVIDE WRITTEN NOTICE OF THE IMPOUNDMENT TO
13 THE REGISTERED OWNER OF THE VEHICLE BY CERTIFIED MAIL, RETURN RECEIPT
14 REQUESTED.

15 (6) THE PROVISIONS OF § 27-111(D) OF THIS ARTICLE, AUTHORIZING A
16 LIENHOLDER TO EXERCISE ITS RIGHTS UNDER APPLICABLE LAW RELATING TO AN
17 IMPOUNDED VEHICLE, ARE APPLICABLE TO A VEHICLE IMPOUNDED UNDER THIS
18 SUBSECTION.

19 26-202.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 27-101.

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

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

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

8 1. [§ 16-101 of this article ("Drivers must be licensed"); or

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

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

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

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

16 (1) FOR A FIRST OFFENSE, A FINE OF NOT MORE THAN \$100 OR
17 IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH; AND

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

20 27-111.

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

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

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

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

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

1 (ii) 1. The owner's license was suspended or revoked under §
2 16-205 of this article; OR

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

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

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

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

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

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

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

28 (e) If a court orders the impoundment or immobilization, OR CONTINUED
29 IMPOUNDMENT, of a vehicle under this section, the court shall provide for the
30 execution of the impoundment or immobilization, OR CONTINUED IMPOUNDMENT, by
31 a police department.

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

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

1 (ii) Each secured party, as shown in the records of the
2 Administration.

3 (2) The notice shall:

4 (i) State that:

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

6 2. THE VEHICLE HAS BEEN impounded by being taken into
7 custody; OR

8 3. THE IMPOUNDMENT OF THE VEHICLE IS BEING
9 CONTINUED;

10 (ii) Describe the year, make, model, and vehicle identification
11 number of the vehicle;

12 (iii) Provide the location of where the vehicle is immobilized or the
13 location of the facility where the vehicle is impounded;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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